

Testimony in Opposition to LD 1123  
*An Act to Create a Presumption That a Cardiovascular Injury or Disease or Pulmonary Disease Suffered by Certain Law Enforcement Officers is in the Course of Employment*  
April 6, 2023  
Presented by Elizabeth Brogan

Senator Tipping, Representative Roeder and members of the Joint Committee on Labor and Housing, my name is Elizabeth Brogan and I am the Executive Director of the Workers' Compensation Coordinating Council and Maine Council of Self-Insurers. I appear before you today in opposition to LD 1123.

Injuries should be presumed to have arisen out of and in the course of employment (basically, at work and because of work) where the factual circumstances are so compelling that the only rational inference can be that the injury is work-related. Presumptions should be rare because they are essentially a thumb on the scales, favoring one party over another, forcing the employer to *disprove* the presumed facts. Where there is no presumption, claims by law enforcement officers and claims by *all other groups of workers, for all types of injuries*, are decided based on the individual merits of the case with a level playing field. The Workers' Compensation Act should ideally provide a fair system for all of Maine's workers and employers, not one with different standards, depending on the type of work performed, with some groups of employees favored and not others.

Cardiovascular and pulmonary disease are unfortunately widespread, progressive in nature and caused by any number of non-work factors, including diet, smoking, drinking, genetics and age. Heart disease has long been the leading cause of death in the United States, only overtaken by Covid-19 in 2021. Pulmonary disease is among the top ten causes of death in the United States.

An expansion of the presumptions in our Workers' Compensation Act to include underlying heart or pulmonary disease of law enforcement officers should be backed up with strong and unbiased scientific data. To date, I've seen no such data.

Finally, unlike most provisions of the Workers' Compensation Act, presumptions generally favor public employees, rather than all workers across the board. The resulting costs are borne primarily by public employers—our state, counties and municipalities—potentially impacting all the various services they provide.

For these reasons, we urge the committee to vote "ought not to pass" on LD 1123. I am happy to answer any questions.