

AN ACT

Bill 19-616
Act 19-679
effective
February 13,
2013

Codification
District of
Columbia
Official Code
2001 Edition

To amend the Fire and Police Medical Leave and Limited Duty Amendment Act of 2004 to create a presumption that certain diseases or conditions are associated with the occupational duties of Fire and Emergency Medical Services Department personnel, and that personnel diagnosed with such diseases or conditions are entitled to the same rights and benefits that accompany a performance-of-duty injury or occupational disease.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Fire and Emergency Medical Services Employee Presumptive Disability Amendment Act of 2012”.

Fire and
Emergency
Medical
Services
Employee
Presumptive
Disability
Amendment
Act of 2012

Sec. 2. The Fire and Police Medical Leave and Limited Duty Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-631 *et seq.*), is amended by adding a new Subtitle D to read as follows:

New
Subchapter II,
Chapter 6A,
Title 5

**“SUBTITLE D. FIRE AND EMERGENCY MEDICAL SERVICES EMPLOYEE
PRESUMPTIVE DISABILITY**

“Sec. 651. Definitions.

New
§ 5-651

“For the purposes of this subtitle, the term:

“(1) “Department” means the Fire and Emergency Medical Services Department.

“(2) “Director” means the medical services officer for the Fire and Emergency Medical Services Department.

“(3) “Documented” means the member or EMS employee gave notice to the Fire and Emergency Medical Services Department, in writing, of his or her occupational exposure to blood or bodily fluids.

“(4) “EMS employee” means a person that qualifies as an “emergency medical services personnel” as defined by section 2(7) of the Emergency Medical Services Act of 2008, effective March 25, 2009 (D.C. Law 17-357; D.C. Official Code § 7-2341.01(7)), is employed by the Fire and Emergency Medical Services Department, and is not a sworn member of the Department.

“(5) “Full range of duties” shall have the same meaning as provided in section 621(5).

“(6) “Member ” means a sworn member of the Fire and Emergency Medical Services Department.

“(7) “Pre-employment physical examination” means a physical examination that:

“(A) Is the same as or similar to the physical examination required under

section 721 of the Police and Fire Minimum Standards Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-451);

“(B) Is conducted before making any claims under this title that rely on a presumption in this subtitle;

“(C) Is conducted by a physician or physicians at the Police and Fire Clinic or as prescribed by the District; and

“(D) Includes such appropriate laboratory and other diagnostic studies prescribed by the Police and Fire Clinic.

“Sec. 652. Presumption as to disability or death from heart disease, hypertension, or respiratory disease.

New
§ 5-652

“(a) A member shall be presumed to have a performance-of-duty injury or illness that is covered by Subtitle B of Title VI of this act, section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-701 *passim*), sections 1 through 3 of An Act To provide for the payment of the cost of medical, surgical, hospital, or related health care services provided certain retired, disabled officers and members of the Metropolitan Police force of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police force, the Executive Protective Service, and the United States Secret Service, and for other purposes, approved August 16, 1971 (85 Stat. 341; D.C. Official Code § 5-708), sections 204(c), 205(c), 206(b), 208(b), and 209(a)(2) of An Act To establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, approved November 17, 1979 (93 Stat. 866; D.C. Official Code §§ 5-711, 5-715, 5-702, 5-705, and 5-719, respectively), section 122 of An Act To increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for the District of Columbia; and for other purposes, approved September 3, 1974 (88 Stat. 1041; D.C. Official Code § 5-722), sections 4,6, and 7 of the Policemen and Firemen’s Retirement and Disability Act amendments of 1957, approved August 21, 1957 (71 Stat. 399; D.C. Official Code § 5-731 *et seq.*), section 1 of An Act Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1936, and for other purposes, approved June 14, 1935 (49 Stat. 358; D.C. Official Code § 5-741), An Act To credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen’s relief fund, District of Columbia, approved July 21, 1947 (61 Stat. 398; D.C. Official Code § 5-742), section 6 of An Act To fix the salaries of officers and members of the Metropolitan police force and the fire department of the District of Columbia, approved July 1, 1930 (46 Stat. 841; D.C. Official Code § 5-743), section 3 of An Act to provide increased pensions for widows and children of deceased members and retired members of the Police Department and the Fire Department of the District of

Columbia, approved August 4, 1949 (63 Stat. 566; D.C. Official Code § 5-744), sections 301 and 302 of An Act To adjust the salaries of officers and members of the Metropolitan Police force, the United States Park Police, the White House Police, and the Fire Department of the District of Columbia, and for other purposes, approved June 20, 1953 (67 Stat. 75; D.C. Official Code §§ 7-745 and 7-746), sections 1 and 2 of An Act To extend benefits of the Policemen and Firemen's Retirement and Disability Act Amendments of 1957 to widows and surviving children of former members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the White House Police force, or the United States Secret Service Division, who were retired or who died in the service of any such organization prior to the effective date of such amendments, approved August 24, 1962 (76 Stat. 402; D.C. Official Code § 5-747), section 2 of Retired Police Officer Redeployment Act of 1992, effective September 29, 1992 (D.C. Law 9-163; D.C. Official Code § 5-761), and section 2 of the Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994, effective July 23, 1994 (D.C. Law 10-136; D.C. Official Code § 5-762), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to section 655, if:

“(1) The member has been diagnosed with heart disease, hypertension, or respiratory disease;

“(2) The heart disease, hypertension, or respiratory disease results in the member's inability to perform the full range of duties or in death;

“(3) The member has undergone a pre-employment physical examination and the member was found, at the time of the examination, to be free of the performance-of-duty injury or illness underlying the presumption provided for in this subsection; and

“(4) The member, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“(b) An EMS employee shall be presumed to have an occupational disease suffered in the line of duty that is covered by the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501 *et seq.*), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to section 655, if:

“(1) The EMS employee has been diagnosed with heart disease, hypertension, or respiratory disease;

“(2) The heart disease, hypertension, or respiratory disease results in the EMS employee's disability, as defined by section 2(8) of the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501(8)), or in death;

“(3) The EMS employee has undergone a pre-employment physical examination and the EMS employee was found, at the time of the examination, to be free of the occupational disease underlying the presumption provided for in this subsection; and

“(4) The EMS employee, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“Sec. 653. Presumption as to disability or death from cancer.

New
§ 5-653

“(a) A member shall be presumed to have a performance-of-duty injury or illness that is covered by Subtitle B of Title VI of this act, section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-701 *passim*), sections 1 through 3 of An Act To provide for the payment of the cost of medical, surgical, hospital, or related health care services provided certain retired, disabled officers and members of the Metropolitan Police force of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police force, the Executive Protective Service, and the United States Secret Service, and for other purposes, approved August 16, 1971 (85 Stat. 341; D.C. Official Code § 5-708), sections 204(c), 205(c), 206(b), 208(b), and 209(a)(2) of An Act To establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, approved November 17, 1979 (93 Stat. 866; D.C. Official Code §§ 5-711, 5-715, 5-702, 5-705, and 5-719, respectively), section 122 of An Act To increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for the District of Columbia; and for other purposes, approved September 3, 1974 (88 Stat. 1041; D.C. Official Code § 5-722), sections 4, 6, and 7 of the Policemen and Firemen’s Retirement and Disability Act amendments of 1957, approved August 21, 1957 (71 Stat. 399; D.C. Official Code § 5-731 *et seq.*), section 1 of An Act Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1936, and for other purposes, approved June 14, 1935 (49 Stat. 358; D.C. Official Code § 5-741), An Act To credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen’s relief fund, District of Columbia, approved July 21, 1947 (61 Stat. 398; D.C. Official Code § 5-742), section 6 of An Act To fix the salaries of officers and members of the Metropolitan police force and the fire department of the District of Columbia, approved July 1, 1930 (46 Stat. 841; D.C. Official Code § 5-743), section 3 of An Act to provide increased pensions for widows and children of deceased members and retired members of the Police Department and the Fire Department of the District of Columbia, approved August 4, 1949 (63 Stat. 566; D.C. Official Code § 5-744), sections 301 and 302 of An Act To adjust the salaries of officers and members of the Metropolitan Police force, the United States Park Police, the White House Police, and the Fire Department of the District of Columbia, and for other purposes, approved June 20, 1953 (67 Stat. 75; D.C. Official Code §§ 7-745 and 7-746), sections 1 and 2 of An Act To extend benefits of the Policemen and Firemen’s Retirement and Disability Act Amendments of 1957 to widows and surviving children of former members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the White House Police force, or the United States Secret Service Division, who were retired or who died in the service of any such organization prior to the effective date of such

amendments, approved August 24, 1962 (76 Stat. 402; D.C. Official Code § 5-747), section 2 of Retired Police Officer Redeployment Act of 1992, effective September 29, 1992 (D.C. Law 9-163; D.C. Official Code § 5-761), and section 2 of the Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994, effective July 23, 1994 (D.C. Law 10-136; D.C. Official Code § 5-762), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to section 655, if:

“(1) The member has been diagnosed with leukemia or breast, ovarian, pancreatic, prostate, rectal, testicular, or throat cancer, and that member has been in contact with or exposed to a toxic substance while in the line of duty that is associated with an increased risk of leukemia or cancer;

“(2) The member has completed at least 10 years of service with the Department;

“(3) The leukemia or cancer results in the members’ inability to perform the full range of duties or in death;

“(4) The member has undergone a pre-employment physical examination and the member was found, at the time of the examination, to be free of the performance-of-duty injury or illness underlying the presumption provided for in this subsection; and

“(5) The member, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“(b) An EMS employee shall be presumed to have an occupational disease suffered in the line of duty that is covered by the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501 *et seq.*), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to section 655, if:

“(1) The EMS employee has been diagnosed with leukemia or breast, ovarian, pancreatic, prostate, rectal, testicular, or throat cancer, and that EMS employee has been in contact with or exposed to a toxic substance while in the line of duty that is associated with an increased risk of leukemia or cancer;

“(2) The EMS employee has completed at least 10 years of service with the Department;

“(3) The leukemia or cancer results in the EMS employee’s disability, as defined by section 2(8) of the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501(8)), or in death;

“(4) The EMS employee has undergone a pre-employment physical examination and the EMS employee was found, at the time of the examination, to be free of the occupational disease underlying the presumption provided for in this subsection; and

“(5) The EMS employee, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“Sec. 654. Presumption as to disability or death from infectious disease.

“(a) A member shall be presumed to have a performance-of-duty injury or illness that is covered by Subtitle B of Title VI of this act, section 12 of An Act Making appropriations to

provide for the expenses of the government of the District of Columbia for fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-701 *passim*), sections 1 through 3 of An Act To provide for the payment of the cost of medical, surgical, hospital, or related health care services provided certain retired, disabled officers and members of the Metropolitan Police force of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police force, the Executive Protective Service, and the United States Secret Service, and for other purposes, approved August 16, 1971 (85 Stat. 341; D.C. Official Code § 5-708), sections 204(c), 205(c), 206(b), 208(b), and 209(a)(2) of An Act To establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, approved November 17, 1979 (93 Stat. 866; D.C. Official Code §§ 5-711, 5-715, 5-702, 5-705, and 5-719, respectively), section 122 of An Act To increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for the District of Columbia; and for other purposes, approved September 3, 1974 (88 Stat. 1041; D.C. Official Code § 5-722), sections 4, 6, and 7 of the Policemen and Firemen's Retirement and Disability Act amendments of 1957, approved August 21, 1957 (71 Stat. 399; D.C. Official Code § 5-731 *et seq.*), section 1 of An Act Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1936, and for other purposes, approved June 14, 1935 (49 Stat. 358; D.C. Official Code § 5-741), An Act To credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia, approved July 21, 1947 (61 Stat. 398; D.C. Official Code § 5-742), section 6 of An Act To fix the salaries of officers and members of the Metropolitan police force and the fire department of the District of Columbia, approved July 1, 1930 (46 Stat. 841; D.C. Official Code § 5-743), section 3 of An Act to provide increased pensions for widows and children of deceased members and retired members of the Police Department and the Fire Department of the District of Columbia, approved August 4, 1949 (63 Stat. 566; D.C. Official Code § 5-744), sections 301 and 302 of An Act To adjust the salaries of officers and members of the Metropolitan Police force, the United States Park Police, the White House Police, and the Fire Department of the District of Columbia, and for other purposes, approved June 20, 1953 (67 Stat. 75; D.C. Official Code §§ 7-745 and 7-746), sections 1 and 2 of An Act To extend benefits of the Policemen and Firemen's Retirement and Disability Act Amendments of 1957 to widows and surviving children of former members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the White House Police force, or the United States Secret Service Division, who were retired or who died in the service of any such organization prior to the effective date of such amendments, approved August 24, 1962 (76 Stat. 402; D.C. Official Code § 5-747), section 2 of Retired Police Officer Redeployment Act of 1992, effective September 29, 1992 (D.C. Law 9-163; D.C. Official Code § 5-761), and section 2 of the Retired Police Officer Public Schools

Security Personnel Deployment Amendment Act of 1994, effective July 23, 1994 (D.C. Law 10-136; D.C. Official Code § 5-762), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to section 655, if:

“(1) The member has been diagnosed with hepatitis, meningococcal meningitis, tuberculosis, or human immunodeficiency virus (“HIV”);

“(2) The member has had a documented exposure to blood or bodily fluids during the performance of job duties;

“(3) The hepatitis, meningococcal meningitis, tuberculosis, or HIV results in the member’s inability to perform the full range of duties or in death;

“(4) The member has undergone a pre-employment physical examination and the was found, at the time of the examination, to be free of the performance-of-duty injury or illness underlying the presumption provided for in this subsection; and

“(5) The member, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“(b) An EMS employee shall be presumed to have an occupation disease suffered in the line of duty that is covered by the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501 *et seq.*), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to section 655, if:

“(1) The EMS employee has been diagnosed with hepatitis, meningococcal meningitis, tuberculosis, or human immunodeficiency virus (“HIV”);

“(2) The EMS employee has had a documented exposure to blood or bodily fluids during the performance of job duties;

“(3) The hepatitis, meningococcal meningitis, tuberculosis, or HIV results in the EMS employee’s disability, as defined by section 2(8) of the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501(8)), or in death;

“(4) The EMS employee has undergone a pre-employment physical examination and the EMS employee was found, at the time of the examination, to be free of the occupational disease underlying the presumption provided for in this subsection; and

“(5) The EMS employee, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“Sec. 655. Disqualification from presumption as to disability or death.

“A member or an EMS employee shall be disqualified from a presumption under this subtitle if:

“(1) Any standard, medically recognized vaccine or other form of immunization or prophylaxis exists for the prevention of any injury or illness for which a presumption is established under this subtitle, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service;

“(2) The member or EMS employee is required by the Department to undergo the immunization or prophylaxis, unless the member or EMS employee has a written declaration from his or her physician stating that the immunization or prophylaxis would pose a significant risk to the person’s health; and

“(3) The member or EMS employee has failed to or refused to undergo such immunization or prophylaxis.

“Sec. 656. Applicability.

“This subtitle shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.”.

New
§ 5-656

Delayed
Applicability

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.