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# HOUSE BILL No. 1082

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10-13.

**Synopsis:** Public safety disability presumption. Provides that an individual who: (1) is employed full time as an emergency or public safety employee; and (2) also serves as a volunteer firefighter, emergency medical technician, or first responder; is entitled to a presumption that, if the individual is diagnosed with certain health conditions resulting in disability or death, for purposes of qualification for certain benefits the disability or death was incurred in the line of duty.

**Effective:** July 1, 2006.

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January 5, 2006, read first time and referred to Committee on Public Safety and Homeland Security.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

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# HOUSE BILL No. 1082



A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-10-13-2, AS AMENDED BY P.L.227-2005,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2006]: Sec. 2. As used in this chapter, "employee" means an  
4 individual who:  
5 (1) is employed full time by the state or a political subdivision of  
6 the state as:  
7 (A) a member of a fire department (as defined in IC 36-8-1-8);  
8 (B) an emergency medical services provider (as defined in  
9 IC 16-41-10-1);  
10 (C) a member of a police department (as defined in  
11 IC 36-8-1-9);  
12 (D) a correctional officer (as defined in IC 5-10-10-1.5);  
13 (E) a state police officer;  
14 (F) a county police officer;  
15 (G) a county sheriff;  
16 (H) an excise police officer;  
17 (I) a conservation enforcement officer;



- 1 (J) a town marshal;
- 2 (K) a deputy town marshal; or
- 3 (L) a member of a consolidated law enforcement department
- 4 established under IC 36-3-1-5.1;
- 5 (2) in the course of the individual's employment is at high risk for
- 6 occupational exposure to an exposure risk disease; and
- 7 (3) is not employed elsewhere in a similar capacity, **except for an**
- 8 **individual's service as a volunteer.**

9 SECTION 2. IC 5-10-13-4.5 IS ADDED TO THE INDIANA CODE  
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 11 1, 2006]: **Sec. 4.5. As used in this chapter, "service as a volunteer"**  
 12 **means service by an individual in any of the following capacities on**  
 13 **behalf of the state or a political subdivision of the state:**

- 14 (1) **A volunteer firefighter (as defined in IC 36-8-12-2).**
- 15 (2) **An emergency medical technician (as defined in**
- 16 **IC 16-18-2-112) in a volunteer capacity.**
- 17 (3) **A first responder (as defined in IC 16-18-2-131) in a**
- 18 **volunteer capacity.**

19 SECTION 3. IC 5-10-13-5 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) Except as  
 21 provided in section 6 of this chapter, an employee who:

- 22 (1) is diagnosed with a health condition caused by an exposure
- 23 risk disease that:
- 24 (A) requires medical treatment; and
- 25 (B) results in total or partial disability or death;
- 26 (2) by written affidavit has provided to the employee's employer
- 27 a verification described in subsection (b), (c), (d), (e), or (f); and
- 28 (3) before the employee is diagnosed with a health condition
- 29 caused by hepatitis or tuberculosis, tests negative for evidence of
- 30 hepatitis or tuberculosis through medical testing;

31 is presumed to have a disability or death incurred in the line of duty.

32 (b) An employee who is diagnosed with a health condition caused  
 33 by hepatitis and, if the health condition results in disability or death,  
 34 wishes to have a presumption of disability or death incurred in the line  
 35 of duty apply to the employee shall, by written affidavit executed  
 36 before death, provide verification that the employee has not:

- 37 (1) outside the scope of the employee's:
- 38 (A) current employment; **or**
- 39 (B) **service as a volunteer;**
- 40 been exposed through transfer of body fluids to an individual
- 41 known to have a medical condition caused by hepatitis;
- 42 (2) received blood products other than a transfusion received

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1 because of an injury to the employee that occurred in the scope of  
2 the employee's:

- 3 (A) current employment; **or**
- 4 (B) **service as a volunteer;**
- 5 (3) received blood products for the treatment of a coagulation
- 6 disorder since testing negative for hepatitis;
- 7 (4) engaged in sexual practices or other behavior identified as
- 8 high risk by the Centers for Disease Control and Prevention or the
- 9 Surgeon General of the United States;
- 10 (5) had sexual relations with another individual known to the
- 11 employee to have engaged in sexual practices or other behavior
- 12 described in subdivision (4); or
- 13 (6) used intravenous drugs that were not prescribed by a
- 14 physician.

15 (c) An employee who is diagnosed with a health condition caused  
16 by meningococcal meningitis and, if the health condition results in  
17 disability or death, wishes to have a presumption of disability or death  
18 incurred in the line of duty apply to the employee shall, by written  
19 affidavit executed before death, provide verification that the employee,  
20 in the ten (10) days immediately preceding the diagnosis, was not  
21 exposed to another individual known to:

- 22 (1) have meningococcal meningitis; or
- 23 (2) be an asymptomatic carrier of meningococcal meningitis;
- 24 outside the scope of the employee's current employment **or service as**
- 25 **a volunteer.**

26 (d) An employee who is diagnosed with a health condition caused  
27 by tuberculosis and, if the health condition results in disability or death,  
28 wishes to have a presumption of disability or death incurred in the line  
29 of duty apply to the employee shall, by written affidavit executed  
30 before death, provide verification that the employee has not, outside the  
31 scope of the employee's:

- 32 (1) current employment; **or**
- 33 (2) **service as a volunteer;**
- 34 been exposed to another individual known to have tuberculosis.

35 (e) An employee who is diagnosed with a health condition caused  
36 by AIDS or HIV and, if the health condition results in disability or  
37 death, wishes to have a presumption of disability or death incurred in  
38 the line of duty apply to the employee shall, by written affidavit  
39 executed before death, provide verification that the employee has not:

- 40 (1) outside the scope of the employee's:
- 41 (A) current employment; **or**
- 42 (B) **service as a volunteer;**

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- 1           been exposed through transfer of body fluids to an individual
- 2           known to have a medical condition caused by AIDS or HIV;
- 3           (2) received blood products other than a transfusion received
- 4           because of an injury to the employee that occurred in the scope of
- 5           the employee's:
- 6                 (A) current employment; **or**
- 7                 (B) **service as a volunteer;**
- 8           (3) received blood products for the treatment of a coagulation
- 9           disorder since testing negative for AIDS or HIV;
- 10          (4) engaged in sexual practices or other behavior identified as
- 11          high risk by the Centers for Disease Control and Prevention or the
- 12          Surgeon General of the United States;
- 13          (5) had sexual relations with another individual known to the
- 14          employee to have engaged in sexual practices or other behavior
- 15          described in subdivision (4); or
- 16          (6) used intravenous drugs that were not prescribed by a
- 17          physician.

18           (f) An employee who is diagnosed with a health condition caused by  
 19           smallpox and, if the health condition results in disability or death,  
 20           wishes to have a presumption of disability or death incurred in the line  
 21           of duty apply to the employee shall, by written affidavit executed  
 22           before death, provide verification that the employee has not, outside the  
 23           scope of the employee's:

- 24                 (1) current employment; **or**
- 25                 (2) **service as a volunteer;**

26           been exposed to another individual known to have smallpox.

27           (g) A presumption of disability or death incurred in the line of duty  
 28           may be rebutted by competent evidence, **including evidence that a**  
 29           **health condition caused by an exposure risk disease was contracted**  
 30           **during the employee's service as a volunteer.**

31           (h) **If an employee who has service as a volunteer is diagnosed**  
 32           **with a health condition caused by an exposure risk disease, the**  
 33           **employee shall document to the employee's employer each known**  
 34           **or reasonably suspected exposure that occurred during the**  
 35           **employee's service as a volunteer to the exposure risk disease that**  
 36           **has resulted in the employee's diagnosed health condition.**

37           ~~(h)~~ (i) A meeting or hearing held to rebut a presumption of disability  
 38           or death incurred in the line of duty may be held as an executive  
 39           session under IC 5-14-1.5-6.1(b)(1).

40           SECTION 4. IC 5-10-13-7.5 IS ADDED TO THE INDIANA CODE  
 41           AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
 42           **1, 2006]: Sec. 7.5. (a) As used in this section, "volunteer fire**

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1 department" has the meaning set forth in IC 36-8-12-2.

2 (b) An employee who performs service as a volunteer shall file  
3 a report with the volunteer fire department or other entity with  
4 whom the employee volunteers of each known or reasonably  
5 suspected exposure to an exposure risk disease that occurred while  
6 the employee was performing service as a volunteer.

7 (c) The volunteer fire department or other entity with whom an  
8 employee performs service as a volunteer shall maintain a  
9 permanent record of a report filed under subsection (b).

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