

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 698

H.P. 474

House of Representatives, March 5, 2015

**An Act To Establish a Presumption of Impairment in the Line of
Duty for Corrections Officers under the Workers' Compensation
Laws**

Reference to the Committee on Labor, Commerce, Research and Economic Development
suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TUCKER of Brunswick.
Cosponsored by Senator GERZOFSKY of Cumberland and
Representative: CHENETTE of Saco.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 39-A MRSA §328-C** is enacted to read:

3 **§328-C. Heart disease or hypertension suffered by a corrections officer**

4 Heart disease or hypertension suffered by a corrections officer is governed by this
5 section.

6 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
7 following terms have the following meanings.

8 A. "Corrections officer" means an employee of the State or of a county whose place
9 of employment is a correctional facility as defined in Title 34-A, section 1001,
10 subsection 6 or a county detention facility under Title 34-A, section 1208 or 1208-A
11 and who is responsible for the care, custody or direct supervision of a person
12 confined in a jail, prison or state correctional facility pursuant to an order of a court
13 or as a result of an arrest.

14 B. "Heart disease" means a structural or functional abnormality of the heart, or of the
15 blood vessels supplying the heart, that impairs the heart's normal functioning.

16 C. "Hypertension" means a chronic medical condition in which the blood pressure in
17 the arteries is elevated.

18 **2. Presumption.** If a corrections officer who contracts heart disease or hypertension
19 has met the requirements of subsections 3, 6 and 7, there is a rebuttable presumption that
20 the corrections officer contracted the heart disease or hypertension in the course of
21 employment as a corrections officer and as a result of that employment, that sufficient
22 notice of the heart disease or hypertension has been given and that the heart disease or
23 hypertension was not occasioned by any willful act of the corrections officer to cause the
24 heart disease or hypertension.

25 **3. Medical tests.** In order to be entitled to the presumption in subsection 2, during
26 the time of employment as a corrections officer, the corrections officer must have
27 undergone a standard, medically acceptable test for evidence of the heart disease or
28 hypertension for which the presumption is sought or evidence of the medical conditions
29 derived from the heart disease or hypertension, which test failed to indicate the presence
30 or condition of heart disease or hypertension.

31 **4. Liability if services performed for more than one employer.** If a corrections
32 officer who contracts heart disease or hypertension was employed as a corrections officer
33 by more than one employer and qualifies for the presumption under subsection 2, and that
34 presumption has not been rebutted, the employer and insurer at the time of the last
35 substantial exposure to the risk of the heart disease or hypertension are liable under this
36 Part.

37 **5. Retired corrections officer.** This section applies to a corrections officer who is
38 diagnosed with heart disease or hypertension within 10 years of the corrections officer's

1 last active employment as a corrections officer or prior to attaining 70 years of age,
2 whichever occurs first.

3 **6. Length of service.** In order to qualify for the presumption under subsection 2, the
4 corrections officer must have been employed as a corrections officer for 5 years.

5 **7. Written verification.** In order to qualify for the presumption under subsection 2,
6 a corrections officer must sign a written affidavit declaring, to the best of the corrections
7 officer's knowledge and belief, that the corrections officer's diagnosed heart disease or
8 hypertension is not prevalent among the corrections officer's blood-related parents,
9 grandparents or siblings and that the corrections officer has no substantial lifetime habits
10 or personal activities that are associated with the corrections officer's diagnosed heart
11 disease or hypertension.

12 SUMMARY

13 This bill amends the workers' compensation laws by adding a presumption that heart
14 disease or hypertension suffered by a corrections officer was caused in the course of
15 employment as a corrections officer, similar to the provisions presuming that cancer
16 contracted by a firefighter was caused by exposure to carcinogens through firefighting
17 duties.