

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1385

S.P. 429

In Senate, March 26, 2019

**An Act To Amend the Laws Governing Corrections Officers Who
Suffer Certain Injuries, Impairments or Medical Conditions**

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator DESCHAMBAULT of York.
Cosponsored by Representative PICKETT of Dixfield and
Senators: BELLOWS of Kennebec, CYRWAY of Kennebec, DIAMOND of Cumberland,
Representatives: COOPER of Yarmouth, COSTAIN of Plymouth, SHARPE of Durham.

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

2 **Sec. 1. 25 MRSA Pt. 14** is enacted to read:

3 **PART 14**

4 **BENEFITS FOR CORRECTIONS OFFICERS**

5 **CHAPTER 651**

6 **SUPPLEMENTAL BENEFIT**

7 **§5501. Supplemental benefit for corrections officer**

8 **1. Corrections officer; definition.** "Corrections officer," as used in this chapter, has
9 the same meaning as in section 2801-A, subsection 2.

10 **2. Supplemental benefit.** A corrections officer who while in the performance of
11 duty suffers bodily injury resulting from acts of a patient or prisoner in the custody of the
12 jail, prison or state correctional facility where the corrections officer works and as a result
13 of the injury is entitled to benefits under Title 39-A is entitled to a supplemental benefit in
14 the amount of the difference between the weekly cash benefits to which the corrections
15 officer is entitled under Title 39-A and the corrections officer's regular salary.

16 **3. Not chargeable against sick leave.** Any absence from work resulting from the
17 injury described in subsection 2 may not be charged against available sick leave credits.

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

19 **§328-C. Impairment of health caused by infectious disease suffered by a corrections**
20 **officer**

21 Impairment of health by infectious disease suffered by a corrections officer is
22 governed by this section.

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

25 **A. "Corrections officer"** means an employee of the State or of a county whose place
26 of employment is a correctional facility as defined in Title 34-A, section 1001,
27 subsection 6 or a county or regional jail under Title 30-A, chapter 13 and who is
28 responsible for the care, custody or direct supervision of a person confined in a jail,
29 prison or state correctional facility pursuant to an order of a court or as a result of an
30 arrest.

31 **B. "Infectious disease"** means a disease resulting from the presence and activity of a
32 pathogenic microbial agent, including, but not limited to, bacteria, viruses, fungi or
33 parasites.

34 **2. Presumption.** If a corrections officer successfully passed a physical examination
35 upon entry into service as a corrections officer, or subsequently successfully passed a

1 physical examination, and the examination or examinations failed to reveal any evidence
2 of a condition of impairment of health caused by an infectious disease, then a condition of
3 impairment of health caused by an infectious disease resulting in total or partial disability
4 or death of that corrections officer is presumed to have been suffered in the line of duty,
5 unless the contrary is shown by competent evidence.

6 **Sec. 3. 39-A MRSA §328-D** is enacted to read:

7 **§328-D. Heart disease or hypertension suffered by a corrections officer**

8 Heart disease or hypertension suffered by a corrections officer is governed by this
9 section.

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

12 A. "Corrections officer" means an employee of the State or of a county whose place
13 of employment is a correctional facility as defined in Title 34-A, section 1001,
14 subsection 6 or a county or regional jail under Title 30-A, chapter 13 and who is
15 responsible for the care, custody or direct supervision of a person confined in a jail,
16 prison or state correctional facility pursuant to an order of a court or as a result of an
17 arrest.

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

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

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

29 **3. Medical tests.** In order to be entitled to the presumption in subsection 2, during
30 the time of employment as a corrections officer, the corrections officer must have
31 undergone a standard, medically acceptable test for evidence of the heart disease or
32 hypertension for which the presumption is sought or evidence of the medical conditions
33 derived from the heart disease or hypertension, and that test did not indicate the presence
34 or condition of heart disease or hypertension.

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

