

IC 5-10-13

Chapter 13. Emergency and Public Safety Employee Death and Disability Presumed Incurred in the Line of Duty

IC 5-10-13-1

"Exposure risk disease" defined

Sec. 1. As used in this chapter, "exposure risk disease" refers to:

- (1) acquired immune deficiency syndrome (AIDS);
- (2) anthrax;
- (3) hepatitis;
- (4) human immunodeficiency virus (HIV);
- (5) meningococcal meningitis;
- (6) smallpox; and
- (7) tuberculosis.

As added by P.L.185-2002, SEC.3.

IC 5-10-13-2

"Employee" defined

Sec. 2. As used in this chapter, "employee" means an individual who:

- (1) is employed full time by the state or a political subdivision of the state as:
 - (A) a member of a fire department (as defined in IC 36-8-1-8);
 - (B) an emergency medical services provider (as defined in IC 16-41-10-1);
 - (C) a member of a police department (as defined in IC 36-8-1-9);
 - (D) a correctional officer (as defined in IC 5-10-10-1.5);
 - (E) a state police officer;
 - (F) a county police officer;
 - (G) a county sheriff;
 - (H) an excise police officer;
 - (I) a conservation enforcement officer;
 - (J) a town marshal;
 - (K) a deputy town marshal; or
 - (L) a member of a consolidated law enforcement department established under IC 36-3-1-5.1;
- (2) in the course of the individual's employment is at high risk for occupational exposure to an exposure risk disease; and
- (3) is not employed elsewhere in a similar capacity.

As added by P.L.185-2002, SEC.3. Amended by P.L.227-2005, SEC.4.

IC 5-10-13-3

"High risk for occupational exposure" defined

Sec. 3. As used in this chapter, "high risk for occupational exposure" means that risk is incurred by an individual in performing the basic duties of the individual's employment, including:

- (1) providing emergency medical treatment in a nonhealth care

setting where there is a potential for transfer of body fluids between individuals;

(2) working at the scene of an accident, a fire, or other rescue or public safety operation or in an emergency rescue vehicle or public safety vehicle during which the individual has contact with body fluids, containers of body fluids, hypodermic needles, or other materials that have been exposed to body fluids;

(3) engaging in the pursuit, apprehension, and arrest of law violators or suspected law violators during which the individual may be exposed to body fluids; or

(4) maintaining custody and physical restraint of prisoners or inmates of a prison, a jail, or other criminal detention facility during which the individual may be exposed to body fluids.

As added by P.L.185-2002, SEC.3.

IC 5-10-13-4

"Political subdivision" defined

Sec. 4. As used in this chapter, "political subdivision" has the meaning set forth in IC 6-3.5-2-1.

As added by P.L.185-2002, SEC.3.

IC 5-10-13-5

Presumption that disability or death incurred in the line of duty

Sec. 5. (a) Except as provided in section 6 of this chapter, an employee who:

(1) is diagnosed with a health condition caused by an exposure risk disease that:

(A) requires medical treatment; and

(B) results in total or partial disability or death;

(2) by written affidavit has provided to the employee's employer a verification described in subsection (b), (c), (d), (e), or (f); and

(3) before the employee is diagnosed with a health condition caused by hepatitis or tuberculosis, tests negative for evidence of hepatitis or tuberculosis through medical testing;

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

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

(1) outside the scope of the employee's current employment, been exposed through transfer of body fluids to an individual known to have a medical condition caused by hepatitis;

(2) received blood products other than a transfusion received because of an injury to the employee that occurred in the scope of the employee's current employment;

(3) received blood products for the treatment of a coagulation

disorder since testing negative for hepatitis;

(4) engaged in sexual practices or other behavior identified as high risk by the Centers for Disease Control and Prevention or the Surgeon General of the United States;

(5) had sexual relations with another individual known to the employee to have engaged in sexual practices or other behavior described in subdivision (4); or

(6) used intravenous drugs that were not prescribed by a physician.

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

(1) have meningococcal meningitis; or

(2) be an asymptomatic carrier of meningococcal meningitis; outside the scope of the employee's current employment.

(d) An employee who is diagnosed with a health condition caused by tuberculosis and, if the health condition results in disability or death, wishes to have a presumption of disability or death incurred in the line of duty apply to the employee shall, by written affidavit executed before death, provide verification that the employee has not, outside the scope of the employee's current employment, been exposed to another individual known to have tuberculosis.

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

(1) outside the scope of the employee's current employment, been exposed through transfer of body fluids to an individual known to have a medical condition caused by AIDS or HIV;

(2) received blood products other than a transfusion received because of an injury to the employee that occurred in the scope of the employee's current employment;

(3) received blood products for the treatment of a coagulation disorder since testing negative for AIDS or HIV;

(4) engaged in sexual practices or other behavior identified as high risk by the Centers for Disease Control and Prevention or the Surgeon General of the United States;

(5) had sexual relations with another individual known to the employee to have engaged in sexual practices or other behavior described in subdivision (4); or

(6) used intravenous drugs that were not prescribed by a physician.

(f) An employee who is diagnosed with a health condition caused by smallpox and, if the health condition results in disability or death,

wishes to have a presumption of disability or death incurred in the line of duty apply to the employee shall, by written affidavit executed before death, provide verification that the employee has not, outside the scope of the employee's current employment, been exposed to another individual known to have smallpox.

(g) A presumption of disability or death incurred in the line of duty may be rebutted by competent evidence.

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

As added by P.L.185-2002, SEC.3.

IC 5-10-13-6

Exception to presumption for vaccine or prevention measure

Sec. 6. If a standard, medically recognized vaccine or other measure exists for the prevention of an exposure risk disease and the vaccine or other measure is medically indicated for an employee according to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, the following apply:

(1) If:

(A) the employee receives the vaccine or other measure as required by the employee's employer; or

(B) the employee's physician provides written notice to the employer that the vaccine or other measure would pose a significant risk to the employee's health;

and the employee meets the other requirements of this chapter, a presumption of disability or death incurred in the line of duty under this chapter applies to the employee.

(2) If:

(A) the employee does not receive the vaccine or other measure as required by the employee's employer; and

(B) the employee's physician has not provided written notice that the vaccine or other measure would pose a significant risk to the employee's health;

a presumption of disability or death incurred in the line of duty under this chapter does not apply to the employee.

As added by P.L.185-2002, SEC.3.

IC 5-10-13-7

Employee report

Sec. 7. (a) An employee shall file a report with the employee's employer of each known or reasonably suspected exposure to an exposure risk disease in the scope of the employee's employment.

(b) The employer shall maintain a permanent record of a report filed by an employee under subsection (a).

As added by P.L.185-2002, SEC.3.

IC 5-10-13-8

Insurance coverage for disability or death presumed incurred in

the line of duty

Sec. 8. (a) The state or a political subdivision of the state may provide, in the life and disability insurance that covers employees of the state or political subdivision, accidental death coverage or double indemnity coverage for a health condition caused by a communicable disease that results in total or partial disability or death that is presumed to be a disability or death incurred in the line of duty under this chapter.

(b) This chapter does not require an insurer that issues a noncompulsory life insurance policy or a noncompulsory disability insurance policy to include in the policy coverage for a disability or death presumed incurred in the line of duty as described in this chapter.

As added by P.L.185-2002, SEC.3.

IC 5-10-13-9

Other requirements for disability benefits not affected

Sec. 9. This chapter does not affect the requirements for determining eligibility for disability benefits provided by the state or a political subdivision of the state except to the extent of determining whether an employee incurred a disability in the line of duty.

As added by P.L.185-2002, SEC.3.