

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: H1/30/03 H2/25/03 H3/21/03*

# A Bill

HOUSE BILL 1236

5 By: Representative Judy  
6  
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## For An Act To Be Entitled

9 AN ACT TO PROVIDE *THAT POLICE OFFICERS AND*  
10 *FIREFIGHTERS WITH CERTAIN DISEASES WILL BE*  
11 *PRESUMED TO HAVE BEEN INJURED IN THE LINE OF DUTY*  
12 *FOR DISABILITY RETIREMENT BENEFITS UNDER THE*  
13 *LOCAL POLICE AND FIRE RETIREMENT SYSTEM AND UNDER*  
14 *FIRE PENSION FUNDS; AND FOR OTHER PURPOSES.*

## Subtitle

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17 TO PROVIDE *THAT POLICE OFFICERS AND*  
18 *FIREFIGHTERS WITH CERTAIN DISEASES WILL*  
19 *BE PRESUMED TO HAVE BEEN INJURED IN THE*  
20 *LINE OF DUTY FOR DISABILITY RETIREMENT*  
21 *BENEFITS.*

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23  
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code § 24-10-607(c), concerning the disability  
27 benefits for members of the Local Police and Fire Retirement System, is  
28 amended to read as follows:

29 (c)(1)(A)(i) Any active member who becomes totally and permanently  
30 physically or mentally incapacitated for any suitable duty as an employee as  
31 the result of a personal injury or disease which the board finds to have  
32 arisen out of, and in the course of, his or her actual performance of duty as  
33 an employee may be retired by the board upon written application filed with  
34 the board by or on behalf of the member.

35 (ii)(a) As used in this subdivision  
36 (c)(1)(A)(ii) of this section:



1 (1)(A) "Blood or body fluids" means  
2 blood and body fluids containing visible blood and other body fluids to which  
3 universal precautions for prevention of occupational transmission of blood-  
4 borne pathogens, as established by the Centers for Disease Control, apply;  
5 and

6 (B) Includes respiratory,  
7 salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and  
8 any other fluid through which infectious airborne or blood-borne organisms  
9 can be transmitted between persons for the purpose of determining the  
10 potential transmission of hepatitis, meningococcal meningitis, HIV, or  
11 tuberculosis;

12 (2) "Hepatitis" means hepatitis A,  
13 hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other  
14 strain of hepatitis generally recognized by the medical community;

15 (3) "HIV" means the medically recognized  
16 retrovirus known as human immunodeficiency virus, type I or type II, causing  
17 immunodeficiency syndrome; and

18 (4) "Occupational exposure" means, in  
19 the case of hepatitis, meningococcal meningitis, HIV, or tuberculosis, an  
20 exposure that occurs during the performance of job duties that places a  
21 police officer or fire fighter at risk of infection.

22 (b) A police officer or fire fighter in paid  
23 service who becomes totally or permanently incapacitated for any suitable  
24 duty as an employee from a condition or impairment of health caused by  
25 hepatitis, meningococcal meningitis, HIV, or tuberculosis shall be presumed  
26 to have suffered the condition or impairment as one arising out of, and in  
27 the course of, the police officer's or fire fighter's actual performance of  
28 duty as an employee unless the contrary is shown by medical evidence.

29 (c) The presumption under subdivision  
30 (c)(1)(A)(ii)(b) of this section is conditioned on the police officer or fire  
31 fighter:

32 (1) Having successfully passed a  
33 physical examination before entering into employment and the examination  
34 failing to reveal any evidence of the hepatitis, meningococcal meningitis,  
35 HIV, or tuberculosis; and

36 (2) Having a documented occupational

1 exposure to blood or bodily fluids potentially transmitting hepatitis,  
 2 meningococcal meningitis, HIV, or tuberculosis.

3 (B) The employee shall be retired only if, after a medical  
 4 examination of the member made by or under the direction of a physician or  
 5 physicians designated by the board, the physician reports to the plan in  
 6 writing that the member is physically or mentally totally incapacitated for  
 7 the further performance of any suitable duty, that the incapacity will  
 8 probably be permanent, and that the member should be retired.

9 (2)(A) The written application that is to be filed with the  
 10 board by the member or on behalf of the member shall be made to the board not  
 11 later than one (1) year after the termination of active membership.

12 (B) If the application is based on a presumed duty  
 13 disability under subdivision (c)(1)(A)(ii) of this section, then a written  
 14 application shall be made to the board not later than five (5) years after  
 15 the termination of active membership.

16 ~~(2)(3)~~ The disability annuity shall be effective the first day  
 17 of the calendar month next following the later of:

18 (A) His or her termination of active membership; or

19 (B) Six (6) months before the date the written application  
 20 is filed with the board.

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 22 SECTION 2. Arkansas Code § 24-11-423(a)(1)(C), concerning the  
 23 disability retirement benefits for police officers under a policemen's  
 24 pension and relief fund, is amended to read as follows:

25 (C)(i) If, however, a police officer is injured in the  
 26 line of duty, the monthly disability benefit shall either be equal to sixty-  
 27 five percent (65%) of the salary attached to the rank held by the member in  
 28 the police department or shall be equal to the benefit paid to normal service  
 29 retirants, whichever is greater.

30 (ii) ~~For~~ Except as presumed under subdivision  
 31 (a)(1)(C)(iii)(c)(1) of this section, for purposes of this section, "injured  
 32 in the line of duty" means a disabling injury or disease which occurs while  
 33 conducting official police department operations or while in training to  
 34 become a police officer.

35 (iii)(a) The board shall determine whether the  
 36 disability occurred in the line of duty and may require any medical evidence,

1 official reports, expert testimony, or other information to be supplied by  
2 the applicant in addition to the required physician's examination. The  
3 additional benefits provided in this subdivision (a)(1)(C) shall be effective  
4 for all qualifying applications first received by the board on or after  
5 January 1, 1987.

6 (b) As used in this subdivision

7 (a)(1)(C)(iii)(c) of this section:

8 (1)(A) "Blood or body fluids" means  
9 blood and body fluids containing visible blood and other body fluids to which  
10 universal precautions for prevention of occupational transmission of blood-  
11 borne pathogens, as established by the Centers for Disease Control, apply;  
12 and

13 (B) Includes respiratory,  
14 salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and  
15 any other fluid through which infectious airborne or blood-borne organisms  
16 can be transmitted between persons for the purpose of determining the  
17 potential transmission of hepatitis, meningococcal meningitis, HIV, or  
18 tuberculosis;

19 (2) "Hepatitis" means hepatitis A,  
20 hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other  
21 strain of hepatitis generally recognized by the medical community;

22 (3) "HIV" means the medically recognized  
23 retrovirus known as human immunodeficiency virus, type I or type II, causing  
24 immunodeficiency syndrome; and

25 (4) "Occupational exposure" means, in the  
26 case of hepatitis, meningococcal meningitis, HIV, or tuberculosis, an  
27 exposure that occurs during the performance of job duties that places a  
28 police officer at risk of infection.

29 (c)(1) A member of the police department who  
30 becomes disabled or injured by hepatitis, meningococcal meningitis, HIV, or  
31 tuberculosis shall be presumed to have been injured in the line of duty  
32 unless the contrary is shown by medical evidence.

33 (2) The presumption under subdivision  
34 (a)(1)(C)(iii)(c)(1) of this section is conditioned on the police officer  
35 having successfully passed a physical examination before entering into  
36 employment and the examination failing to reveal any evidence of the

1 hepatitis, meningococcal meningitis, HIV, or tuberculosis.

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3 SECTION 3. Arkansas Code § 24-11-819(a)(2)(B)(ii), concerning the  
4 disability retirement benefits for full-paid fire fighters under a firemen's  
5 pension and relief fund, is amended to read as follows:

6 (ii)(a) ~~For~~ Except as presumed under subdivision  
7 (a)(2)(B)(ii)(c)(2) of this section, for purposes of this section, "injured  
8 in the line of duty" means a disabling injury or disease that occurs while  
9 conducting official fire department operations or while in training to become  
10 a fire fighter.

11 (b) The board shall determine whether the  
12 disability occurred in the line of duty and may require any medical evidence,  
13 official reports, expert testimony, or other information to be supplied by  
14 the applicant in addition to the required physician's examination and report.

15 (c)(1) As used in this subdivision  
16 (a)(2)(B)(ii)(c) of this section:

17 (A)(i) "Blood or body fluids"  
18 means blood and body fluids containing visible blood and other body fluids to  
19 which universal precautions for prevention of occupational transmission of  
20 blood-borne pathogens, as established by the Centers for Disease Control,  
21 apply; and

22 (ii) Includes respiratory,  
23 salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and  
24 any other fluid through which infectious airborne or blood-borne organisms  
25 can be transmitted between persons for the purpose of determining the  
26 potential transmission of hepatitis, meningococcal meningitis, HIV, or  
27 tuberculosis;

28 (B) "Hepatitis" means hepatitis A,  
29 hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other  
30 strain of hepatitis generally recognized by the medical community;

31 (C) "HIV" means the medically  
32 recognized retrovirus known as human immunodeficiency virus, type I or type  
33 II, causing immunodeficiency syndrome; and

34 (D) "Occupational exposure" means,  
35 in the case of hepatitis, meningococcal meningitis, HIV, or tuberculosis, an  
36 exposure that occurs during the performance of job duties that places a fire

1 fighter at risk of infection.

2 (2) A full-paid fire fighter who becomes  
3 disabled or injured by hepatitis, meningococcal meningitis, HIV, or  
4 tuberculosis shall be presumed to have been injured in the line of duty  
5 unless the contrary is shown by medical evidence.

6 (3) The presumption under subdivision  
7 (a)(2)(B)(ii)(c)(2) of this section is conditioned on the firefighter having  
8 successfully passed a physical examination before entering into employment  
9 and the examination failing to reveal any evidence of the hepatitis,  
10 meningococcal meningitis, HIV, or tuberculosis.

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12 /s/ Judy  
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