

REFERENCE TITLE: law enforcement; workers' compensation; exposure

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1417

Introduced by
Senator Quezada

AN ACT

AMENDING SECTIONS 23-901, 23-1043.02, 23-1043.03 AND 23-1043.04, ARIZONA
REVISED STATUTES; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-901, Arizona Revised Statutes, is amended to
3 read:

4 23-901. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Award" means the finding or decision of an administrative law
7 judge or the commission as to the amount of compensation or benefit due an
8 injured employee or the dependents of a deceased employee.

9 2. "Client" means an individual, association, company, firm,
10 partnership, corporation or any other legally recognized entity that is
11 subject to this chapter and that enters into a professional employer
12 agreement with a professional employer organization.

13 3. "Co-employee" means every person employed by an injured
14 employee's employer.

15 4. "Commission" means the industrial commission of Arizona.

16 5. "Compensation" means the compensation and benefits provided by
17 this chapter.

18 6. "Employee", "workman", "worker" and "operative" means:

19 (a) Every person in the service of the state or a county, city,
20 town, municipal corporation or school district, including regular members
21 of lawfully constituted police and fire departments of cities and towns,
22 whether by election, appointment or contract of hire.

23 (b) Every person in the service of any employer subject to this
24 chapter, including aliens and minors legally or illegally permitted to
25 work for hire, but not including a person whose employment is both:

26 (i) Casual.

27 (ii) Not in the usual course of the trade, business or occupation
28 of the employer.

29 (c) Lessees of mining property and ~~their~~ THE LESSEES' employees and
30 contractors engaged in the performance of work that is a part of the
31 business conducted by the lessor and over which the lessor retains
32 supervision or control are within the meaning of this paragraph employees
33 of the lessor, and are deemed to be drawing wages as are usually paid
34 employees for similar work. The lessor may deduct from the proceeds of
35 ores mined by the lessees the premium required by this chapter to be paid
36 for such employees.

37 (d) Regular members of volunteer fire departments organized
38 pursuant to title 48, chapter 5, article 1, regular firemen of any
39 volunteer fire department, including private fire protection service
40 organizations, organized pursuant to title 10, chapters 24 through 40,
41 volunteer firemen serving as members of a fire department of any
42 incorporated city or town or an unincorporated area without pay or without
43 full pay and on a part-time basis, and voluntary policemen and volunteer
44 firemen serving in any incorporated city, town or unincorporated area
45 without pay or without full pay and on a part-time basis, are deemed to be

1 employees, but for the purposes of this chapter, the basis for computing
2 wages for premium payments and compensation benefits for regular members
3 of volunteer fire departments organized pursuant to title 48, chapter 5,
4 article 1, or organized pursuant to title 10, chapters 24 through 40,
5 regular members of any private fire protection service organization,
6 volunteer firemen and volunteer policemen of these departments or
7 organizations shall be the salary equal to the beginning salary of the
8 same rank or grade in the full-time service with the city, town, volunteer
9 fire department or private fire protection service organization, provided
10 if there is no full-time equivalent then the salary equivalent shall be as
11 determined by resolution of the governing body of the city, town or
12 volunteer fire department or corporation.

13 (e) Members of the department of public safety reserve, organized
14 pursuant to section 41-1715, are deemed to be employees. For the purposes
15 of this chapter, the basis for computing wages for premium payments and
16 compensation benefits for a member of the department of public safety
17 reserve who is a peace officer shall be the salary received by officers of
18 the department of public safety for ~~their~~ THE OFFICERS' first month of
19 regular duty as an officer. For members of the department of public
20 safety reserve who are not peace officers, the basis for computing
21 premiums and compensation benefits is four hundred dollars a month.

22 (f) Any person placed in on-the-job evaluation or in on-the-job
23 training under the department of economic security's temporary assistance
24 for needy families program or vocational rehabilitation program shall be
25 deemed to be an employee of the department for the purpose of coverage
26 under the state workers' compensation laws only. The basis for computing
27 premium payments and compensation benefits shall be two hundred dollars
28 per month. Any person receiving vocational rehabilitation services under
29 the department of economic security's vocational rehabilitation program
30 whose major evaluation or training activity is academic, whether as an
31 enrolled attending student or by correspondence, or who is confined to a
32 hospital or penal institution, shall not be deemed to be an employee of
33 the department for any purpose.

34 (g) Regular members of a volunteer sheriff's reserve, which may be
35 established by resolution of the county board of supervisors, to assist
36 the sheriff in the performance of the sheriff's official duties. A roster
37 of the current members shall monthly be certified to the clerk of the
38 board of supervisors by the sheriff and shall not exceed the maximum
39 number authorized by the board. Certified members of an authorized
40 volunteer sheriff's reserve shall be deemed to be employees of the county
41 for the purpose of coverage under the Arizona workers' compensation laws
42 and occupational disease disability laws and shall be entitled to receive
43 the benefits of these laws for any compensable injuries or disabling
44 conditions that arise out of and occur in the course of the performance of
45 duties authorized and directed by the sheriff. Compensation benefits and

1 premium payments shall be based ~~upon~~ ON the salary received by a regular
2 full-time deputy sheriff of the county involved for the first month of
3 regular patrol duty as an officer for each certified member of a volunteer
4 sheriff's reserve. This subdivision ~~shall not be construed to~~ DOES NOT
5 provide compensation coverage for any member of a sheriff's posse who is
6 not a certified member of an authorized volunteer sheriff's reserve except
7 as a participant in a search and rescue mission or a search and rescue
8 training mission.

9 (h) A working member of a partnership may be deemed to be an
10 employee entitled to the benefits provided by this chapter ~~upon~~ ON written
11 acceptance, by endorsement, at the discretion of the insurance carrier for
12 the partnership of an application for coverage by the working partner.
13 The basis for computing premium payments and compensation benefits for the
14 working partner shall be an assumed average monthly wage of not less than
15 six hundred dollars nor more than the maximum wage provided in section
16 23-1041 and is subject to the discretionary approval of the insurance
17 carrier. Any compensation for permanent partial or permanent total
18 disability payable to the partner shall be computed on the lesser of the
19 assumed monthly wage agreed to by the insurance carrier on the acceptance
20 of the application for coverage or the actual average monthly wage
21 received by the partner at the time of injury.

22 (i) The sole proprietor of a business subject to this chapter may
23 be deemed to be an employee entitled to the benefits provided by this
24 chapter on written acceptance, by endorsement, at the discretion of the
25 insurance carrier of an application for coverage by the sole proprietor.
26 The basis for computing premium payments and compensation benefits for the
27 sole proprietor shall be an assumed average monthly wage of not less than
28 six hundred dollars nor more than the maximum wage provided by section
29 23-1041 and is subject to the discretionary approval of the insurance
30 carrier. Any compensation for permanent partial or permanent total
31 disability payable to the sole proprietor shall be computed on the lesser
32 of the assumed monthly wage agreed to by the insurance carrier on the
33 acceptance of the application for coverage or the actual average monthly
34 wage received by the sole proprietor at the time of injury.

35 (j) A member of the Arizona national guard, Arizona state guard or
36 unorganized militia shall be deemed a state employee and entitled to
37 coverage under the Arizona workers' compensation law at all times while
38 the member is receiving the payment of the member's military salary from
39 ~~the~~ THIS state ~~of Arizona~~ under competent military orders or ~~upon~~ ON order
40 of the governor. Compensation benefits shall be based ~~upon~~ ON the monthly
41 military pay rate to which the member is entitled at the time of injury,
42 but not less than a salary of four hundred dollars per month, nor more
43 than the maximum provided by the workers' compensation law. ~~No~~ Arizona
44 compensation benefits shall NOT inure to a member compensable under
45 federal law.

1 (k) Certified ambulance drivers and attendants who serve without
2 pay or without full pay on a part-time basis are deemed to be employees
3 and entitled to the benefits provided by this chapter and the basis for
4 computing wages for premium payments and compensation benefits for
5 certified ambulance personnel shall be four hundred dollars per month.

6 (l) Volunteer workers of a licensed health care institution may be
7 deemed to be employees and entitled to the benefits provided by this
8 chapter ~~upon~~ ON written acceptance by the insurance carrier of an
9 application by the health care institution for coverage of such
10 volunteers. The basis for computing wages for premium payments and
11 compensation benefits for volunteers shall be four hundred dollars per
12 month.

13 (m) Personnel who participate in a search or rescue operation or a
14 search or rescue training operation that carries a mission identifier
15 assigned by the division of emergency management as provided in section
16 35-192.01 and who serve without compensation as volunteer state employees.
17 The basis for computation of wages for premium purposes and compensation
18 benefits is the total volunteer man-hours recorded by the division of
19 emergency management in a given quarter multiplied by the amount
20 determined by the appropriate risk management formula.

21 (n) Personnel who participate in emergency management training,
22 exercises or drills that are duly enrolled or registered with the division
23 of emergency management or any political subdivision as provided in
24 section 26-314, subsection C and who serve without compensation as
25 volunteer state employees. The basis for computation of wages for premium
26 purposes and compensation benefits is the total volunteer man-hours
27 recorded by the division of emergency management or political subdivision
28 during a given training session, exercise or drill multiplied by the
29 amount determined by the appropriate risk management formula.

30 (o) Regular members of the Arizona game and fish department
31 reserve, organized pursuant to section 17-214. The basis for computing
32 wages for premium payments and compensation benefits for a member of the
33 reserve is the salary received by game rangers and wildlife managers of
34 the Arizona game and fish department for ~~their~~ THE GAME RANGERS' AND
35 WILDLIFE MANAGERS' first month of regular duty.

36 (p) Every person employed pursuant to a professional employer
37 agreement.

38 7. "General order" means an order applied generally throughout the
39 state to all persons under jurisdiction of the commission.

40 8. "Heart-related or perivascular injury, illness or death" means
41 myocardial infarction, coronary thrombosis or any other similar sudden,
42 violent or acute process involving the heart or perivascular system, or
43 any death resulting therefrom, and any weakness, disease or other
44 condition of the heart or perivascular system, or any death resulting
45 therefrom.

1 9. "Insurance carrier" means every insurance carrier duly
2 authorized by the director of insurance to write workers' compensation or
3 occupational disease compensation insurance in ~~the~~ THIS state ~~of Arizona~~.

4 10. "Interested party" means the employer, the employee, or if the
5 employee is deceased, the employee's estate, the surviving spouse or
6 dependents, the commission, the insurance carrier or their representative.

7 11. "Mental injury, illness or condition" means any mental,
8 emotional, psychotic or neurotic injury, illness or condition.

9 12. "Order" means and includes any rule, direction, requirement,
10 standard, determination or decision other than an award or a directive by
11 the commission or an administrative law judge relative to any entitlement
12 to compensation benefits, or to the amount thereof, and any procedural
13 ruling relative to the processing or adjudicating of a compensation
14 matter.

15 13. "Personal injury by accident arising out of and in the course
16 of employment" means any of the following:

17 (a) Personal injury by accident arising out of and in the course of
18 employment.

19 (b) An injury caused by the wilful act of a third person directed
20 against an employee because of the employee's employment, but does not
21 include a disease unless resulting from the injury.

22 (c) An occupational disease that is due to causes and conditions
23 characteristic of and peculiar to a particular trade, occupation, process
24 or employment, and not the ordinary diseases to which the general public
25 is exposed, and subject to section 23-901.01.

26 (d) A SIGNIFICANT EXPOSURE AS PRESCRIBED IN SECTION 23-1043.02,
27 23-1043.03 OR 23-1043.04, IF THE EMPLOYEE IS A LAW ENFORCEMENT OFFICER AND
28 THE SIGNIFICANT EXPOSURE OCCURS IN THE LINE OF DUTY, IN THE COURSE OF AN
29 ARREST OR AS A RESULT OF AN ASSAULT ON THE LAW ENFORCEMENT OFFICER.

30 14. "Professional employer agreement" means a written contract
31 between a client and a professional employer organization:

32 (a) In which the professional employer organization expressly
33 agrees to co-employ all or a majority of the employees providing services
34 for the client. In determining whether the professional employer
35 organization employs all or a majority of the employees of a client, any
36 person employed pursuant to the terms of the professional employer
37 agreement after the initial placement of client employees on the payroll
38 of the professional employer organization shall be included.

39 (b) That is intended to be ongoing rather than temporary in nature.

40 (c) In which employer responsibilities for worksite employees,
41 including hiring, firing and disciplining, are expressly allocated between
42 the professional employer organization and the client in the agreement.

43 15. "Professional employer organization" means any person engaged
44 in the business of providing professional employer services. Professional

1 employer organization does not include a temporary help firm or an
2 employment agency.

3 16. "Professional employer services" means the service of entering
4 into co-employment relationships under this chapter to which all or a
5 majority of the employees providing services to a client or to a division
6 or work unit of a client are covered employees.

7 17. "Special order" means an order other than a general order.

8 18. "Weakness, disease or other condition of the heart or
9 perivascular system" means arteriosclerotic heart disease, cerebral
10 vascular disease, peripheral vascular disease, cardiovascular disease,
11 angina pectoris, congestive heart trouble, coronary insufficiency,
12 ischemia and all other similar weaknesses, diseases and conditions, and
13 also previous episodes or instances of myocardial infarction, coronary
14 thrombosis or any similar sudden, violent or acute process involving the
15 heart or perivascular system.

16 19. "Workers' compensation" means workmen's compensation as used in
17 article XVIII, section 8, Constitution of Arizona.

18 Sec. 2. Section 23-1043.02, Arizona Revised Statutes, is amended to
19 read:

20 23-1043.02. Human immunodeficiency virus; establishing
21 exposure; definitions

22 A. A claim for a condition, infection, disease or disability
23 involving or related to the human immunodeficiency virus or acquired
24 immune deficiency syndrome shall include the occurrence of a significant
25 exposure as defined in this section and, except as provided in subsection
26 B of this section, shall be processed and determined under ~~the provisions~~
27 ~~of~~ this chapter and applicable principles of law.

28 B. Notwithstanding any other law, an employee who satisfies the
29 following conditions presents a prima facie claim for a condition,
30 infection, disease or disability involving or related to the human
31 immunodeficiency virus or acquired immune deficiency syndrome if the
32 medical evidence shows to a reasonable degree of medical probability that
33 the employee sustained a significant exposure within the meaning of this
34 section:

35 1. The employee's regular course of employment involves handling ~~OF~~
36 or exposure to blood or body fluids, other than tears, ~~saliva~~ or
37 perspiration, including health care providers as defined in ~~title 36,~~
38 ~~chapter 6, article 4~~ SECTION 36-661, forensic laboratory workers, ~~fire~~
39 ~~fighters~~ FIREFIGHTERS, law enforcement officers, emergency medical
40 technicians, paramedics and correctional officers.

41 2. Within ten calendar days after a possible significant exposure
42 ~~which~~ THAT arises out of and in the course of ~~his~~ employment, the employee
43 reports in writing to the employer the details of the exposure. The
44 employer shall notify its insurance carrier or claims processor of the

1 report. Failure of the employer to notify the insurance carrier is not a
2 defense to a claim by the employee.

3 3. The employee has blood drawn within ten days after the possible
4 significant exposure, the blood is tested for the human immunodeficiency
5 virus by antibody testing within thirty days after the exposure and the
6 test results are negative.

7 4. The employee is tested or diagnosed, according to clinical
8 standards established by the centers for disease control of the United
9 States public health service, as positive for the presence of the human
10 immunodeficiency virus within eighteen months after the date of the
11 possible significant exposure.

12 C. On presentation or showing of a prima facie claim under this
13 section, the employer may produce specific, relevant and probative
14 evidence to dispute the underlying facts, to contest whether the exposure
15 was significant as defined in this section, or to establish an alternative
16 significant exposure involving the presence of the human immunodeficiency
17 virus.

18 D. A person alleged to be a source of a significant exposure shall
19 not be compelled by subpoena or other court order to release confidential
20 human immunodeficiency virus related information either by document or by
21 oral testimony. Evidence of the alleged source's human immunodeficiency
22 virus status may be introduced by either party if the alleged source
23 knowingly and willingly consents to the release of that information.

24 E. Notwithstanding title 36, chapter 6, article 4, medical
25 information regarding the employee obtained by a physician or surgeon is
26 subject to ~~the provisions of~~ section 23-908, subsection D.

27 F. The commission by rule shall prescribe requirements and forms
28 regarding employee notification of the requirements of this section and
29 the proper documentation of a significant exposure.

30 G. A LAW ENFORCEMENT OFFICER THAT SUSTAINS A SIGNIFICANT EXPOSURE
31 WITHIN THE MEANING OF THIS SECTION SHALL RECEIVE COMPENSATION PURSUANT TO
32 THIS CHAPTER BEGINNING ON THE DATE ON WHICH THE SIGNIFICANT EXPOSURE
33 OCCURRED.

34 H. IF AN EXPOSURE IS A LEVEL I, LEVEL II, LEVEL III OR LEVEL IV, IN
35 ADDITION TO COVERAGE FOR ANY EVENTUAL CONTRACTION OF THE HUMAN
36 IMMUNODEFICIENCY VIRUS OR ACQUIRED IMMUNE DEFICIENCY SYNDROME AFTER A
37 SIGNIFICANT EXPOSURE, A LAW ENFORCEMENT OFFICER WILL BE COVERED FOR BOTH
38 MEDICAL AND COMPENSATION BENEFITS AND ANY TIME LOST AS A RESULT OF
39 MEDICATION TAKEN AS A RESULT OF THE EXPOSURE.

40 ~~G.~~ I. For the purposes of this section: ~~;~~

41 1. "LEVEL I" MEANS EXPOSURE OF THE SKIN, MUCOUS MEMBRANE OR AREA OF
42 THE EYE TO AN INFECTED PERSON'S BLOOD OR BODY FLUIDS. LEVEL I INCLUDES
43 NEEDLE PUNCTURES AND HUMAN BITES.

44 2. "LEVEL II" MEANS CONTAMINATION OF CLOTHING OR EQUIPMENT BY AN
45 INFECTED PERSON'S BLOOD OR BODY FLUIDS.

1 3. "LEVEL III" MEANS CONTACT LIMITED TO MERELY BEING IN THE
2 PRESENCE OF A PERSON SUSPECTED OF HAVING A COMMUNICABLE DISEASE.

3 4. "LEVEL IV" MEANS EXPOSURE OF THE SKIN, MUCOUS MEMBRANE OR AREA
4 OF THE EYE TO A PERSON'S BLOOD OR BODY FLUIDS WHEN THE PERSON'S MEDICAL
5 BACKGROUND IS UNKNOWN AND THERE IS NOT SUFFICIENT INFORMATION TO BELIEVE
6 THE PERSON IS IN A HIGH-RISK GROUP.

7 5. "Significant exposure" means contact of an employee's ruptured
8 or broken skin or mucous membrane with a person's blood or body fluids,
9 other than tears, ~~saliva~~ or perspiration, of a magnitude that the centers
10 for disease control have epidemiologically demonstrated can result in
11 transmission of the human immunodeficiency virus. For purposes of filing
12 a claim under this section, significant exposure does not include sexual
13 activity or illegal drug use.

14 Sec. 3. Section 23-1043.03, Arizona Revised Statutes, is amended to
15 read:

16 23-1043.03. Hepatitis C; establishing exposure; definitions

17 A. A claim for a condition, infection, disease or disability
18 involving or related to hepatitis C shall include the occurrence of a
19 significant exposure as defined in this section and, except as provided in
20 subsection B of this section, shall be processed and determined under this
21 chapter and applicable principles of law.

22 B. Notwithstanding any other law, an employee who satisfies the
23 following conditions presents a prima facie claim for a condition,
24 infection, disease or disability involving or related to hepatitis C if
25 the medical evidence shows to a reasonable degree of medical probability
26 that the employee sustained a significant exposure within the meaning of
27 this section:

28 1. The employee's regular course of employment involves handling of
29 or exposure to blood or body fluids, other than tears, ~~saliva~~ or
30 perspiration, including health care providers as defined in section
31 36-661, forensic laboratory workers, ~~fire fighters~~ **FIREFIGHTERS**, law
32 enforcement officers, emergency medical technicians, paramedics and
33 correctional officers.

34 2. Within ten calendar days after a possible significant exposure
35 that arises out of and in the course of ~~his~~ employment, the employee
36 reports in writing to the employer the details of the exposure. The
37 employer shall notify its insurance carrier or claims processor of the
38 report. Failure of the employer to notify the insurance carrier is not a
39 defense to a claim by the employee.

40 3. The employee has blood drawn within ten days after the possible
41 significant exposure, the blood is tested for hepatitis C by antibody
42 testing within thirty days after the exposure and the test results are
43 negative.

1 4. The employee is tested or diagnosed, according to clinical
2 standards established by the centers for disease control of the United
3 States public health service, as positive for the presence of hepatitis C
4 within seven months after the date of the possible significant exposure.

5 C. On presentation or showing of a prima facie claim under this
6 section, the employer may produce specific, relevant and probative
7 evidence to dispute the underlying facts, to contest whether the exposure
8 was significant as defined in this section, or to establish an alternative
9 significant exposure involving the presence of hepatitis C.

10 D. A person alleged to be a source of a significant exposure shall
11 not be compelled by subpoena or other court order to release confidential
12 hepatitis C related information either by document or by oral testimony.
13 Evidence of the alleged source's hepatitis C status may be introduced by
14 either party if the alleged source knowingly and willingly consents to the
15 release of that information.

16 E. Notwithstanding title 36, chapter 6, article 4, medical
17 information regarding the employee obtained by a physician or surgeon is
18 subject to section 23-908, subsection D.

19 F. The commission by rule shall prescribe requirements and forms
20 regarding employee notification of the requirements of this section and
21 the proper documentation of a significant exposure.

22 G. A LAW ENFORCEMENT OFFICER THAT SUSTAINS A SIGNIFICANT EXPOSURE
23 WITHIN THE MEANING OF THIS SECTION SHALL RECEIVE COMPENSATION PURSUANT TO
24 THIS CHAPTER BEGINNING ON THE DATE ON WHICH THE SIGNIFICANT EXPOSURE
25 OCCURRED.

26 H. IF AN EXPOSURE IS A LEVEL I, LEVEL II, LEVEL III OR LEVEL IV, IN
27 ADDITION TO COVERAGE FOR ANY EVENTUAL CONTRACTION OF HEPATITIS C AFTER A
28 SIGNIFICANT EXPOSURE, A LAW ENFORCEMENT OFFICER WILL BE COVERED FOR BOTH
29 MEDICAL AND COMPENSATION BENEFITS AND ANY TIME LOST AS A RESULT OF
30 MEDICATION TAKEN AS A RESULT OF THE EXPOSURE.

31 ~~G.~~ I. For the purposes of this section: ~~;~~

32 1. "LEVEL I" MEANS EXPOSURE OF THE SKIN, MUCOUS MEMBRANE OR AREA OF
33 THE EYE TO AN INFECTED PERSON'S BLOOD OR BODY FLUIDS. LEVEL I INCLUDES
34 NEEDLE PUNCTURES AND HUMAN BITES.

35 2. "LEVEL II" MEANS CONTAMINATION OF CLOTHING OR EQUIPMENT BY AN
36 INFECTED PERSON'S BLOOD OR BODY FLUIDS.

37 3. "LEVEL III" MEANS CONTACT LIMITED TO MERELY BEING IN THE
38 PRESENCE OF A PERSON SUSPECTED OF HAVING A COMMUNICABLE DISEASE.

39 4. "LEVEL IV" MEANS EXPOSURE OF THE SKIN, MUCOUS MEMBRANE OR AREA
40 OF THE EYE TO A PERSON'S BLOOD OR BODY FLUIDS WHEN THE PERSON'S MEDICAL
41 BACKGROUND IS UNKNOWN AND THERE IS NOT SUFFICIENT INFORMATION TO BELIEVE
42 THE PERSON IS IN A HIGH-RISK GROUP.

43 5. "Significant exposure" means contact of an employee's ruptured
44 or broken skin or mucous membrane or other significant unbroken surface
45 area with a person's blood or body fluids, other than tears, ~~saliva~~ or

1 perspiration, of a magnitude that the centers for disease control have
2 epidemiologically demonstrated can result in transmission of hepatitis C.
3 For purposes of filing a claim under this section, significant exposure
4 does not include sexual activity or illegal drug use.

5 Sec. 4. Section 23-1043.04, Arizona Revised Statutes, is amended to
6 read:

7 23-1043.04. Methicillin-resistant staphylococcus aureus;
8 spinal meningitis; tuberculosis; establishing
9 exposure; definitions

10 A. A claim for a condition, infection, disease or disability
11 involving or related to methicillin-resistant staphylococcus aureus,
12 spinal meningitis or tuberculosis shall include the occurrence of a
13 significant exposure as defined in this section and, except as provided in
14 subsection B of this section, shall be processed and determined under this
15 chapter and applicable principles of law.

16 B. Notwithstanding any other law, an employee who satisfies the
17 following criteria presents a prima facie claim for a condition,
18 infection, disease or disability involving or related to
19 methicillin-resistant staphylococcus aureus, spinal meningitis or
20 tuberculosis if the medical evidence shows to a reasonable degree of
21 medical probability that the employee sustained a significant exposure
22 within the meaning of this section:

23 1. The employee's regular course of employment involves handling of
24 or exposure to methicillin-resistant staphylococcus aureus, spinal
25 meningitis or tuberculosis.

26 2. Within thirty calendar days after a possible significant
27 exposure that arises out of and in the course of employment, the employee
28 reports in writing to the employer the details of the exposure. The
29 employer shall notify its insurance carrier or claims processor of the
30 report. Failure of the employer to notify the insurance carrier is not a
31 defense to a claim by the employee.

32 3. For a claim involving methicillin-resistant staphylococcus
33 aureus, the employee must be diagnosed with methicillin-resistant
34 staphylococcus aureus within fifteen days after the employee reports
35 pursuant to paragraph 2 of this subsection.

36 4. For a claim involving spinal meningitis, the employee is
37 diagnosed with spinal meningitis within two to eighteen days ~~of~~ AFTER the
38 possible significant exposure.

39 5. For a claim involving tuberculosis, the employee is diagnosed
40 with tuberculosis within twelve weeks ~~of~~ AFTER the possible significant
41 exposure.

42 C. On presentation or showing of a prima facie claim under this
43 section, the employer may produce specific, relevant and probative
44 evidence to dispute the underlying facts, to contest whether the exposure
45 was significant as defined in this section or to establish an alternative

1 significant exposure involving the presence of methicillin-resistant
2 staphylococcus aureus, spinal meningitis or tuberculosis.

3 D. A person alleged to be a source of a significant exposure shall
4 not be compelled by subpoena or other court order to release confidential
5 information relating to methicillin-resistant staphylococcus aureus,
6 spinal meningitis or tuberculosis either by document or by oral testimony.
7 Evidence of the alleged source's methicillin-resistant staphylococcus
8 aureus, spinal meningitis or tuberculosis status may be introduced by
9 either party if the alleged source knowingly and willingly consents to the
10 release of that information.

11 E. Notwithstanding title 36, chapter 6, article 4, medical
12 information regarding the employee obtained by a physician or surgeon is
13 subject to section 23-908, subsection D.

14 F. The commission by rule shall prescribe requirements and forms
15 regarding employee notification of the requirements of this section and
16 the proper documentation of a significant exposure.

17 G. Notwithstanding any other law, expenses for postexposure
18 evaluation and follow-up, including reasonably required prophylactic
19 treatment, for spinal meningitis or tuberculosis, shall be a medical
20 benefit under section 23-1061 or 23-1062 for any significant exposure that
21 arises out of and in the course of employment if the employee files a
22 claim under this article for the significant exposure or the employee
23 reports in writing to the employer the details of the exposure. Providing
24 postexposure evaluation and follow-up, including prophylactic treatment,
25 does not constitute acceptance of a claim for a condition, infection,
26 disease or disability involving or related to the significant exposure.

27 H. A LAW ENFORCEMENT OFFICER THAT SUSTAINS A SIGNIFICANT EXPOSURE
28 WITHIN THE MEANING OF THIS SECTION SHALL RECEIVE COMPENSATION PURSUANT TO
29 THIS CHAPTER BEGINNING ON THE DATE ON WHICH THE SIGNIFICANT EXPOSURE
30 OCCURRED.

31 I. IF AN EXPOSURE IS A LEVEL I, LEVEL II, LEVEL III OR LEVEL IV, IN
32 ADDITION TO COVERAGE FOR ANY EVENTUAL CONTRACTION OF METHICILLIN-RESISTANT
33 STAPHYLOCOCCUS AUREUS, SPINAL MENINGITIS OR TUBERCULOSIS AFTER A
34 SIGNIFICANT EXPOSURE, A LAW ENFORCEMENT OFFICER WILL BE COVERED FOR BOTH
35 MEDICAL AND COMPENSATION BENEFITS AND ANY TIME LOST AS A RESULT OF
36 MEDICATION TAKEN AS A RESULT OF THE EXPOSURE.

37 ~~H.~~ J. For the purposes of this section:

38 1. "Employee" means firefighters, law enforcement officers,
39 corrections officers, probation officers, emergency medical technicians
40 and paramedics who are not employed by a health care institution as
41 defined in section 36-401.

42 2. "LEVEL I" MEANS EXPOSURE OF THE SKIN, MUCOUS MEMBRANE OR AREA OF
43 THE EYE TO AN INFECTED PERSON'S BLOOD OR BODY FLUIDS. LEVEL I INCLUDES
44 NEEDLE PUNCTURES AND HUMAN BITES.

- 1 3. "LEVEL II" MEANS CONTAMINATION OF CLOTHING OR EQUIPMENT BY AN
2 INFECTED PERSON'S BLOOD OR BODY FLUIDS.
- 3 4. "LEVEL III" MEANS CONTACT LIMITED TO MERELY BEING IN THE
4 PRESENCE OF A PERSON SUSPECTED OF HAVING A COMMUNICABLE DISEASE.
- 5 5. "LEVEL IV" MEANS EXPOSURE OF THE SKIN, MUCOUS MEMBRANE OR AREA
6 OF THE EYE TO A PERSON'S BLOOD OR BODY FLUIDS WHEN THE PERSON'S MEDICAL
7 BACKGROUND IS UNKNOWN AND THERE IS NOT SUFFICIENT INFORMATION TO BELIEVE
8 THE PERSON IS IN A HIGH-RISK GROUP.
- 9 ~~2.~~ 6. "Significant exposure" means exposure in the course of
10 employment to aerosolized bacteria for claims under this section relating
11 to methicillin-resistant staphylococcus aureus, spinal meningitis or
12 tuberculosis. Significant exposure includes exposure in the course of
13 employment to bodily fluids or skin for claims under this section relating
14 to methicillin-resistant staphylococcus aureus.