

2023 -- H 5373

LC000238

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- RELIEF OF INJURED AND DECEASED
FIREFIGHTERS AND POLICE OFFICERS

Introduced By: Representatives Casey, Kazarian, O'Brien, Solomon, Hull, Noret,
Messier, Craven, Edwards, and Baginski

Date Introduced: February 03, 2023

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-19-1 of the General Laws in Chapter 45-19 entitled "Relief of
2 Injured and Deceased Fire Fighters and Police Officers" is hereby amended to read as follows:

3 **45-19-1. Salary payment during line of duty illness or injury.**

4 (a)(1) Whenever any police officer of the Rhode Island airport corporation or whenever
5 any police officer, firefighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or
6 deputy fire marshal of any city, town, fire district, or the state of Rhode Island is wholly or partially
7 incapacitated by reason of injuries received or sickness contracted in the performance of his or her
8 duties or due to their rendering of emergency assistance within the physical boundaries of the state
9 of Rhode Island at any occurrence involving the protection or rescue of human life which
10 necessitates that they respond in a professional capacity when they would normally be considered
11 by their employer to be officially off-duty, the respective city, town, fire district, state of Rhode
12 Island, or Rhode Island airport corporation by which the police officer, firefighter, crash rescue
13 crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, is employed, shall,
14 during the period of the incapacity, pay the police officer, firefighter, crash rescue crewperson, fire
15 marshal, chief deputy fire marshal, or deputy fire marshal, the salary or wage and benefits to which
16 the police officer, firefighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or
17 deputy fire marshal, would be entitled had he or she not been incapacitated, and shall pay the
18 medical, surgical, dental, optical, or other attendance, or treatment, nurses, and hospital services,

1 medicines, crutches, and apparatus for the necessary period, except that if any city, town, fire
2 district, the state of Rhode Island, or Rhode Island airport corporation provides the police officer,
3 firefighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal,
4 with insurance coverage for the related treatment, services, or equipment, then the city, town, fire
5 district, the state of Rhode Island, or Rhode Island airport corporation is only obligated to pay the
6 difference between the maximum amount allowable under the insurance coverage and the actual
7 cost of the treatment, service, or equipment. In addition, the cities, towns, fire districts, the state of
8 Rhode Island, or Rhode Island airport corporation shall pay all similar expenses incurred by a
9 member who has been placed on a disability pension and suffers a recurrence of the injury or illness
10 that dictated his or her disability retirement, subject to the provisions of subsection (j) herein.

11 (2) Post-traumatic stress disorder (as described in the Diagnostic and Statistical Manual of
12 Mental Disorders, current edition, published by the American Psychiatric Association) related to
13 the exposure of potentially traumatic events, resulting from a police officer or firefighter acting
14 within the course of their employment or from the rendering of emergency assistance in the state
15 of Rhode Island, at any occurrence involving the protection or the rescue of human life while off-
16 duty, as set forth in subsection (h) of this section, and diagnosed with a post-traumatic stress injury
17 by a licensed mental health professional, with a master's degree or higher, shall be deemed to have
18 sustained an injury in the line of duty, as that term is used in subsection (a)(1) of this section. The
19 benefits provided for under this section shall not be extended to a police officer or firefighter, if
20 their post-traumatic stress injury diagnosis, arises out of any disciplinary action, work evaluation,
21 job transfer, layoff, demotion, termination or similar adverse job actions.

22 (b) As used in this section, “police officer” means and includes any chief or other member
23 of the police department of any city or town regularly employed at a fixed salary or wage and any
24 deputy sheriff, member of the fugitive task force, or capitol police officer, permanent
25 environmental police officer or criminal investigator of the department of environmental
26 management, or airport police officer.

27 (c) As used in this section, “firefighter” means and includes any chief or other member of
28 the fire department or rescue personnel of any city, town, or fire district, and any person employed
29 as a member of the fire department of the town of North Smithfield, or fire department or district
30 in any city or town.

31 (d) As used in this section, “crash rescue crewperson” means and includes any chief or
32 other member of the emergency crash rescue section, division of airports, or department of
33 transportation of the state of Rhode Island regularly employed at a fixed salary or wage.

34 (e) As used in this section, “fire marshal,” “chief deputy fire marshal,” and “deputy fire

1 marshal” mean and include the fire marshal, chief deputy fire marshal, and deputy fire marshals
2 regularly employed by the state of Rhode Island pursuant to the provisions of chapter 28.2 of title
3 23.

4 (f) Any person employed by the state of Rhode Island, except for sworn employees of the
5 Rhode Island state police, who is otherwise entitled to the benefits of chapter 19 of this title shall
6 be subject to the provisions of chapters 29 — 38 of title 28 for all case management procedures and
7 dispute resolution for all benefits.

8 (g) In order to receive the benefits provided for under this section, a police officer or
9 firefighter must prove to his or her employer that he or she had reasonable grounds to believe that
10 there was an emergency that required an immediate need for their assistance for the protection or
11 rescue of human life.

12 (h) Any claims to the benefits provided for under this section resulting from the rendering
13 of emergency assistance in the state of Rhode Island at any occurrence involving the protection or
14 rescue of human life while off-duty, shall first require those covered by this section to submit a
15 sworn declaration to their employer attesting to the date, time, place, and nature of the event
16 involving the protection or rescue of human life causing the professional assistance to be rendered
17 and the cause and nature of any injuries sustained in the protection or rescue of human life. Sworn
18 declarations shall also be required from any available witness to the alleged emergency involving
19 the protection or rescue of human life.

20 (i) All declarations required under this section shall contain the following language:

21 “Under penalty of perjury, I declare and affirm that I have examined this declaration,
22 including any accompanying schedules and statements, and that all statements contained herein are
23 true and correct.”

24 (j) Any person, not employed by the state of Rhode Island, receiving injured on-duty
25 benefits pursuant to this section, and subject to the jurisdiction of the state retirement board for
26 accidental retirement disability, for an injury occurring on or after July 1, 2011, shall apply for an
27 accidental disability retirement allowance from the state retirement board not later than the later of
28 eighteen (18) months after the date of the person’s injury that resulted in the person’s injured-on-
29 duty status or sixty (60) days from the date on which the treating physician certifies that the person
30 has reached maximum medical improvement. Nothing herein shall be construed to limit or alter
31 any and all rights of the parties with respect to independent medical examination or otherwise, as
32 set forth in the applicable collective bargaining agreement. Notwithstanding the forgoing, any
33 person receiving injured-on-duty benefits as the result of a static and incapacitating injury whose
34 permanent nature is readily obvious and ascertainable shall be required to apply for an accidental

1 disability retirement allowance within sixty (60) days from the date on which the treating physician
2 certifies that the person's injury is permanent, or sixty (60) days from the date on which the
3 determination of permanency is made in accordance with the independent medical examination
4 procedures as set forth in the applicable collective bargaining agreement.

5 (1) If a person with injured-on-duty status fails to apply for an accidental disability
6 retirement allowance from the state retirement board within the time frame set forth above, that
7 person's injured on duty payment shall terminate. Further, any person suffering a static and
8 incapacitating injury as set forth in subsection (j) above and who fails to apply for an accidental
9 disability benefit allowance as set forth in subsection (j) shall have his or her injured-on-duty
10 payment terminated.

11 (2) A person who so applies shall continue to receive injured-on-duty payments, and the
12 right to continue to receive IOD payments of a person who so applies shall terminate in the event
13 of a final ruling of the workers compensation court allowing accidental disability benefits. Nothing
14 herein shall be construed to limit or alter any and all rights of the parties with respect to independent
15 medical examination or otherwise, as set forth in the applicable collective bargaining agreement.

16 (k) Any person employed by the state of Rhode Island who is currently receiving injured-
17 on-duty benefits or any person employed by the state of Rhode Island who in the future is entitled
18 to injured-on-duty benefits pursuant to this chapter, and subject to the jurisdiction of the state
19 retirement board for accidental retirement disability, shall apply for an accidental disability
20 retirement allowance from the state retirement board not later than sixty (60) days from the date on
21 which a treating physician or an independent medical examiner certifies that the person has reached
22 maximum medical improvement, and in any event not later than eighteen (18) months after the date
23 of the person's injury that resulted in the person being on injured-on-duty. Nothing herein shall be
24 construed to limit or alter any and all rights of the parties with respect to independent medical
25 examination or otherwise, as set forth in the applicable collective bargaining agreement.
26 Notwithstanding the forgoing, any person receiving injured on duty benefits as the result of a static
27 and incapacitating injury whose permanent nature is readily obvious and ascertainable shall be
28 required to apply for an accidental disability retirement allowance within sixty (60) days from the
29 date on which a treating physician or an independent medical examiner certifies that the person's
30 injury is permanent, or sixty (60) days from the date on which such determination of permanency
31 is made in accordance with the independent medical examination procedures as set forth in the
32 applicable collective bargaining agreement.

33 (1) If a person employed by the state of Rhode Island with injured-on-duty status fails to
34 apply for an accidental disability retirement allowance from the state retirement board within the

1 time frame set forth in subsection (k) above, that person's injured-on-duty payment shall terminate.
2 Further, any person employed by the state of Rhode Island suffering a static and incapacitating
3 injury as set forth in subsection (k) above and who fails to apply for an accidental disability benefit
4 allowance as set forth in subsection (k) shall have his or her injured on duty payment terminated.

5 (2) A person employed by the state of Rhode Island who so applies shall continue to receive
6 injured on duty payments, and the right to continue to receive injured on-duty payments of a person
7 who so applies shall terminate upon final adjudication by the state retirement board approving or
8 denying either ordinary or accidental disability payments and, notwithstanding § 45-31.2-9, this
9 termination of injured-on-duty benefits shall not be stayed.

10 (3)(i) Notwithstanding any other provision of law, all persons employed by the state of
11 Rhode Island entitled to benefits under this section who were injured prior to July 1, 2019, and who
12 have been receiving injured-on-duty benefits pursuant to this section for a period of eighteen (18)
13 months or longer as of July 1, 2019, shall have up to ninety (90) days from July 1, 2019, to apply
14 for an accidental disability retirement benefit allowance. Any person employed by the state of
15 Rhode Island receiving injured-on-duty benefits for a period less than eighteen (18) months as of
16 July 1, 2019, shall apply for an accidental disability retirement benefit allowance within eighteen
17 (18) months of the date of injury that resulted in the person receiving injured-on-duty pay; provided
18 however, said person shall have a minimum of ninety (90) days to apply.

19 Applications for disability retirement received by the state retirement board by any person
20 employed by the State of Rhode Island receiving injured-on-duty payments that shall be deemed
21 untimely pursuant to § 36-10-14(b) shall have ninety (90) days from July 1, 2019, to apply for an
22 accidental disability retirement benefit allowance. Failure to apply for an accidental disability
23 retirement benefit allowance within the timeframe set forth herein shall result in the termination of
24 injured-on-duty benefits.

25 (ii) Any person employed by the state of Rhode Island receiving injured-on-duty payments
26 who has been issued a final adjudication of the state retirement board on an application for an
27 ordinary or accidental disability benefit, either approving or denying the application, shall have his
28 or her injured-on-duty payments terminated.

29 (4) If awarded an accidental disability pension, any person employed by the state of Rhode
30 Island covered under this section shall receive benefits consistent with § 36-10-15.

31 SECTION 2. Section 45-21.2-9 of the General Laws in Chapter 45-21.2 entitled "Optional
32 Retirement for Members of Police Force and Firefighters" is hereby amended to read as follows:

33 **45-21.2-9. Retirement for accidental disability.**

34 (a) Any member in active service, regardless of length of service, is entitled to an accidental

1 disability retirement allowance. Application for the allowance is made by the member or on the
2 member's behalf, stating that the member is physically or mentally incapacitated for further service
3 as the result of an injury or illness sustained while in the performance of duty and certifying to the
4 time, place, and conditions of the duty performed by the member that resulted in the alleged
5 disability and that the alleged disability was not the result of the willful negligence or misconduct
6 on the part of the member, and was not the result of age or length of service. The application shall
7 be made within eighteen (18) months of the alleged accident from which the injury has resulted in
8 the member's present disability and shall be accompanied by an accident report and a physician's
9 report certifying to the disability. If the member was able to return to his or her employment and
10 subsequently reinjures or aggravates the same injury or illness, the member shall make another
11 application within eighteen (18) months of the reinjury or aggravation that shall be accompanied
12 by a physician's report certifying to the reinjury or aggravation causing the disability. If a medical
13 examination made by three (3) physicians engaged by the retirement board, and other investigations
14 as the board may make, confirms the statements made by the member, the board may grant the
15 member an accidental disability retirement allowance.

16 (b) For the purposes of subsection (a), "aggravation" shall mean an intervening work-
17 related trauma that independently contributes to a member's original injury or illness that amounts
18 to more than the natural progression of the preexisting disease or condition and is not the result of
19 age or length of service. The intervening independent trauma causing the aggravation must be an
20 identifiable event or series of work-related events that are the proximate cause of the member's
21 present condition of disability.

22 (c) "Occupational cancer," as used in this section, means a cancer arising out of
23 employment as a firefighter, due to injury or illness due to exposures to smoke, fumes, or
24 carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty in
25 the fire department.

26 (d) For purposes of subsection (a), "reinjury" shall mean a recurrence of the original work-
27 related injury or illness from a specific ascertainable event. The specific event must be the
28 proximate cause of the member's present condition of disability.

29 (e) Any firefighter, including one employed by the state, or a municipal firefighter
30 employed by a municipality that participates in the optional retirement for police officers and
31 firefighters as provided in this chapter, who is unable to perform his or her duties in the fire
32 department by reason of a disabling occupational cancer (as defined in §§ 45-19.1-2 and 45-19.1-
33 4) that develops or manifests itself during a period while the firefighter is in the service of the
34 department, and any retired member of the fire force of any city or town who develops occupational

1 cancer (as defined in §§ 45-19.1-2 and 45-19.1-4), is entitled to receive an occupational cancer
2 disability and he or she is entitled to all of the benefits provided for in this chapter, chapters 19,
3 19.1, and 21 of this title and chapter 10 of title 36 if the firefighter is employed by the state.

4 (f) Any police officer or firefighter as defined in §§ 45-19-1(b) and (c) who is unable to
5 perform his or her duties by reason of post-traumatic stress injury as set forth in § 45-19-1(a)(2) is
6 entitled to receive an accidental disability retirement allowance and he or she is entitled to all of
7 the benefits provided for in this chapter, chapters 19, 19.1 and 21 of this title, and chapter 10 of
8 title 36 if the firefighter is employed by the state.

9 ~~(g)~~ In the event that any party is aggrieved by the determination of the retirement board
10 pursuant to § 45-19-1, for an injury or illness occurring on or after July 1, 2011, the party may
11 submit an appeal to the Rhode Island workers' compensation court. The appellant shall file a notice
12 of appeal with the retirement board and with the workers' compensation court within twenty (20)
13 days of the entry of the retirement board's decision and shall serve a copy of the notice of appeal
14 upon the opposing party.

15 ~~(g)~~(h) Within twenty (20) days of the receipt of the notice of appeal, the retirement board
16 shall transmit the entire record of proceedings before it, together with its order, to the workers'
17 compensation court.

18 ~~(h)~~(i) In the event that a party files a notice of appeal to the workers' compensation court,
19 the order of the retirement board shall be stayed pending further action by the court pursuant to the
20 provisions of § 28-35-20.

21 ~~(i)~~(j) Upon receipt of the notice of appeal, the court shall assign the matter to a judge and
22 shall issue a notice at the time advising the parties of the judge to whom the case has been assigned
23 and the date for pretrial conference in accordance with § 28-35-20.

24 ~~(j)~~(k) All proceedings filed with the workers' compensation court pursuant to this section
25 shall be de novo and shall be subject to the provisions of chapters 29 — 38 of title 28 for all case
26 management procedures and dispute resolution processes, as provided under the rules of the
27 workers' compensation court. The workers' compensation court shall enter a pretrial order in
28 accordance with § 28-35-20(c) that grants or denies, in whole or in part, the relief sought by the
29 petitioner. The pretrial order shall be effective upon entry and any payments ordered by it shall be
30 paid within fourteen (14) days of the entry of the order. Provided, however, that in the event that
31 the retirement board files a claim for trial of the pretrial order entered by the court, the order of the
32 court shall be stayed until a final order or decree is entered by the court. If after trial and the entry
33 of a final decree the court sustains the findings and orders entered in the pretrial order, the
34 retirement board shall reimburse the municipality all benefits paid by it from the time the pretrial

1 order was entered until the time the final decree is entered by the court. Where the matter has been
2 heard and decided by the workers' compensation court, the court shall retain jurisdiction to review
3 any prior orders or decrees entered by it. The petitions to review shall be filed directly with the
4 workers' compensation court and shall be subject to the case management and dispute resolution
5 procedures set forth in chapters 29 — 38 of title 28 ("Labor and Labor Relations").

6 ~~(b)~~(1) If the court determines that a member qualifies for accidental disability retirement,
7 the member shall receive a retirement allowance equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$)
8 of the rate of the member's compensation at the date of the member's retirement, subject to the
9 provisions of § 45-21-31.

10 SECTION 3. This act shall take effect upon passage.

=====
LC000238
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- RELIEF OF INJURED AND DECEASED
FIREFIGHTERS AND POLICE OFFICERS

1 This act would extend injured-on-duty (IOD) benefits to police officers and firefighters
2 that suffer from diagnosed post-traumatic stress injuries, except under certain conditions. This act
3 would also provide that municipal police officers and firefighters that are unable to perform their
4 duties by reason of post-traumatic stress injury (PTSI) would be entitled to receive an accidental
5 disability retirement allowance as well as IOD benefits.

6 This act would take effect upon passage.

=====
LC000238
=====