

# HOUSE BILL 1101

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By: **The Speaker (By Request – Administration) and Delegates Barkley, Barnes, Guzzone, Hucker, Ivey, Malone, McHale, Ross, Valentino–Smith, and Vaughn**

Introduced and read first time: February 10, 2012

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Medical Presumptions**

3 FOR the purpose of providing that certain occupational disease presumptions under  
4 the workers' compensation law apply only for a certain number of years after an  
5 individual separates from service; providing that certain diseases and cancers  
6 are considered occupational diseases suffered in the line of duty and are  
7 compensable in a certain manner; limiting a jurisdiction's total benefit payout  
8 for certain workers' compensation benefits to a certain amount; and generally  
9 relating to the occupational disease presumption for certain diseases and  
10 cancers under the workers' compensation law.

11 BY repealing and reenacting, with amendments,  
12 Article – Labor and Employment  
13 Section 9–503  
14 Annotated Code of Maryland  
15 (2008 Replacement Volume and 2011 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Labor and Employment**

19 9–503.

20 (a) **(1)** A paid firefighter, paid fire fighting instructor, or sworn member of  
21 the Office of the State Fire Marshal employed by an airport authority, a county, a fire  
22 control district, a municipality, or the State or a volunteer firefighter, volunteer fire  
23 fighting instructor, volunteer rescue squad member, or volunteer advanced life

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 support unit member who is a covered employee under § 9–234 of this title is  
2 presumed to have an occupational disease that was suffered in the line of duty and is  
3 compensable under this title if:

4           [(1)] (I) the individual has heart disease, hypertension, or lung  
5 disease;

6           [(2)] (II) the heart disease, hypertension, or lung disease results in  
7 partial or total disability or death; and

8           [(3)] (III) in the case of a volunteer firefighter, volunteer fire fighting  
9 instructor, volunteer rescue squad member, or volunteer advanced life support unit  
10 member, the individual has met a suitable standard of physical examination before  
11 becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life  
12 support unit member.

13           **(2) THE PRESUMPTION UNDER PARAGRAPH (1) OF THIS**  
14 **SUBSECTION SHALL APPLY ONLY FOR 15 YEARS AFTER THE DATE THAT THE**  
15 **INDIVIDUAL SEPARATED FROM PAID OR VOLUNTEER FIRE SERVICE.**

16           (b) (1) A paid police officer employed by an airport authority, a county,  
17 the Maryland–National Capital Park and Planning Commission, a municipality, or the  
18 State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this  
19 subsection, a deputy sheriff of Anne Arundel County, deputy sheriff of Baltimore City,  
20 Montgomery County correctional officer, Prince George’s County deputy sheriff, Prince  
21 George’s County correctional officer, or deputy sheriff of Allegany County is presumed  
22 to be suffering from an occupational disease that was suffered in the line of duty and is  
23 compensable under this title if:

24                   (i) the police officer, deputy sheriff, or correctional officer is  
25 suffering from heart disease or hypertension; and

26                   (ii) the heart disease or hypertension results in partial or total  
27 disability or death.

28           (2) (i) A deputy sheriff of Anne Arundel County, a deputy sheriff of  
29 Baltimore City, Montgomery County correctional officer, Prince George’s County  
30 deputy sheriff, or Prince George’s County correctional officer is entitled to the  
31 presumption under this subsection only to the extent that the individual suffers from  
32 heart disease or hypertension that is more severe than the individual’s heart disease  
33 or hypertension condition existing prior to the individual’s employment as a deputy  
34 sheriff of Anne Arundel County, deputy sheriff of Baltimore City, Montgomery County  
35 correctional officer, Prince George’s County deputy sheriff, or Prince George’s County  
36 correctional officer.

1 (ii) To be eligible for the presumption under this subsection, a  
2 deputy sheriff of Anne Arundel County, a deputy sheriff of Baltimore City,  
3 Montgomery County correctional officer, Prince George's County deputy sheriff, or  
4 Prince George's County correctional officer, as a condition of employment, shall submit  
5 to a medical examination to determine any heart disease or hypertension condition  
6 existing prior to the individual's employment as a deputy sheriff of Anne Arundel  
7 County, deputy sheriff of Baltimore City, Montgomery County correctional officer,  
8 Prince George's County deputy sheriff, or Prince George's County correctional officer.

9 (c) (1) A paid firefighter, paid fire fighting instructor, or a sworn member  
10 of the Office of the State Fire Marshal employed by an airport authority, a county, a  
11 fire control district, a municipality, or the State or a volunteer firefighter, volunteer  
12 fire fighting instructor, volunteer rescue squad member, or volunteer advanced life  
13 support unit member who is a covered employee under § 9-234 of this title is  
14 presumed to be suffering from an occupational disease that was suffered in the line of  
15 duty and is compensable under this title if the individual:

16 [(1)] (I) has leukemia or pancreatic, prostate, rectal, [or] throat,  
17 ESOPHAGEAL, BRAIN, TESTICULAR, BLADDER, BREAST, URETHRAL, OR  
18 DIGESTIVE cancer that is caused by contact with a toxic substance that the individual  
19 has encountered in the line of duty;

20 [(2)] (II) has completed at least [5] 10 years of service as a  
21 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit  
22 member or in a combination of those jobs in the department where the individual  
23 currently is employed or serves;

24 [(3)] (III) is unable to perform the normal duties of a firefighter, fire  
25 fighting instructor, rescue squad member, or advanced life support unit member in the  
26 department where the individual currently is employed or serves because of the cancer  
27 or leukemia disability; and

28 [(4)] (IV) in the case of a volunteer firefighter, volunteer fire fighting  
29 instructor, volunteer rescue squad member, or volunteer advanced life support unit  
30 member, has met a suitable standard of physical examination before becoming a  
31 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit  
32 member.

33 (2) THE PRESUMPTION UNDER PARAGRAPH (1) OF THIS  
34 SUBSECTION SHALL APPLY ONLY FOR 20 YEARS AFTER THE DATE THAT THE  
35 INDIVIDUAL SEPARATED FROM PAID OR VOLUNTEER FIRE SERVICE.

36 (3) ON AN ANNUAL BASIS, A JURISDICTION'S TOTAL BENEFIT  
37 PAYOUT UNDER THIS SUBSECTION FOR TEMPORARY TOTAL DISABILITY  
38 BENEFITS, TEMPORARY PARTIAL DISABILITY BENEFITS, PERMANENT PARTIAL  
39 DISABILITY BENEFITS, PERMANENT TOTAL DISABILITY BENEFITS, AND

1 **DEPENDENCY BENEFITS MAY NOT EXCEED 110% OF THE JURISDICTION'S**  
2 **HIGHEST ANNUAL PAYOUT FOR SUCH BENEFITS.**

3 (d) (1) (i) A paid law enforcement employee of the Department of  
4 Natural Resources who is a covered employee under § 9-207 of this title and a park  
5 police officer of the Maryland-National Capital Park and Planning Commission is  
6 presumed to have an occupational disease that was suffered in the line of duty and is  
7 compensable under this title if the employee:

8 1. is suffering from Lyme disease; and

9 2. was not suffering from Lyme disease before  
10 assignment to a position that regularly places the employee in an outdoor wooded  
11 environment.

12 (ii) The presumption under this subsection for a park police  
13 officer of the Maryland-National Capital Park and Planning Commission shall only  
14 apply:

15 1. during the time that the park police officer is assigned  
16 to a position that regularly places the park police officer in an outdoor wooded  
17 environment; and

18 2. for 3 years after the last date that the park police  
19 officer was assigned by the Maryland-National Capital Park and Planning  
20 Commission to a position that regularly placed the officer in an outdoor wooded  
21 environment.

22 (2) (i) An employee of the Maryland-National Capital Park and  
23 Planning Commission other than a park police officer is presumed to have an  
24 occupational disease that was suffered in the line of duty and is compensable under  
25 this title if the employee:

26 1. is suffering from Lyme disease; and

27 2. was not suffering from Lyme disease before  
28 assignment to a position that regularly places the employee in an outdoor wooded  
29 environment.

30 (ii) The presumption under this paragraph shall apply only if:

31 1. for the 12-month period before the filing of the claim  
32 for workers' compensation under this section, the employee:

33 A. has not been employed by the Maryland-National  
34 Capital Park and Planning Commission as a seasonal or intermittent employee; and

1                   B.     has been employed by the Maryland–National Capital  
2 Park and Planning Commission on a full–time basis;

3                   2.     the employee’s assignment to a position that regularly  
4 places the employee in an outdoor wooded environment lasted for at least 1 year; and

5                   3.     the employee files the claim for workers’  
6 compensation on or before the third anniversary of the last date that the employee was  
7 assigned to a position that regularly placed the employee in an outdoor wooded  
8 environment.

9           (e)   (1)   Except as provided in paragraph (2) of this subsection, any paid  
10 firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire  
11 Marshal, paid police officer, paid law enforcement employee of the Department of  
12 Natural Resources, deputy sheriff of Anne Arundel County, park police officer or  
13 employee of the Maryland–National Capital Park and Planning Commission, deputy  
14 sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery County  
15 correctional officer, deputy sheriff of Prince George’s County, or Prince George’s  
16 County correctional officer who is eligible for benefits under subsection (a), (b), (c), or  
17 (d) of this section or the dependents of those individuals shall receive the benefits in  
18 addition to any benefits that the individual or the dependents of the individual are  
19 entitled to receive under the retirement system in which the individual was a  
20 participant at the time of the claim.

21                   (2)   The benefits received under this title shall be adjusted so that the  
22 weekly total of those benefits and retirement benefits does not exceed the weekly  
23 salary that was paid to the paid law enforcement employee of the Department of  
24 Natural Resources, a park police officer or employee of the Maryland–National Capital  
25 Park and Planning Commission, firefighter, fire fighting instructor, sworn member of  
26 the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George’s  
27 County or Montgomery County correctional officer.

28           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 July 1, 2012.