

## 102ND GENERAL ASSEMBLY State of Illinois 2021 and 2022 SB3608

Introduced 1/19/2022, by Sen. Robert F. Martwick

## SYNOPSIS AS INTRODUCED:

5 ILCS 490/148
20 ILCS 2310/2310-256
105 ILCS 5/22-80
105 ILCS 128/5
410 ILCS 53/15
410 ILCS 705/5-25
720 ILCS 648/5
730 ILCS 168/40
820 ILCS 310/1

from Ch. 48, par. 172.36

Amends various laws to include emergency medical dispatchers in references to first responders.

LRB102 25692 AWJ 34989 b

1 AN ACT concerning emergency services.

## Be it enacted by the People of the State of Illinois, represented in the General Assembly:

- 4 Section 5. The State Commemorative Dates Act is amended by
- 5 changing Section 148 as follows:
- 6 (5 ILCS 490/148)
- 7 Sec. 148. First Responder Mental Health Awareness Day. The
- 8 third Friday in May of each year is designated as First
- 9 Responder Mental Health Awareness Day, to be observed
- 10 throughout the State as a day to honor firefighters, police
- officers, emergency medical dispatchers, and other first
- 12 responders who have lost their lives due to and suffer from
- 13 post-traumatic stress disorder, depression, and other mental
- 14 health issues.
- 15 (Source: P.A. 100-900, eff. 1-1-19.)
- 16 Section 10. The Department of Public Health Powers and
- 17 Duties Law of the Civil Administrative Code of Illinois is
- amended by changing Section 2310-256 as follows:
- 19 (20 ILCS 2310/2310-256)
- 20 Sec. 2310-256. Public information campaign; statewide
- 21 response plans. The Department shall, whenever the State is

- required by the federal government to implement a statewide 1 2 response plan to a national public health threat, conduct an 3 information campaign for the general public and for medical professionals concerning the need for public participation in 5 the plan, the risks involved in inoculation or treatment, any advisories concerning the need for medical consultation before 6 receiving inoculation or treatment, and the rights and 7 8 responsibilities of the general public, medical professionals, 9 and first responders, including, but not limited to, emergency 10 medical dispatchers, regarding the provision and receipt of 11 inoculation and treatment under the response plan.
- 12 (Source: P.A. 93-161, eff. 7-10-03.)
- Section 15. The School Code is amended by changing Section 22-80 as follows:
- 15 (105 ILCS 5/22-80)
- 16 Sec. 22-80. Student athletes; concussions and head 17 injuries.
- 18 (a) The General Assembly recognizes all of the following:
- 19 (1) Concussions are one of the most commonly reported
  20 injuries in children and adolescents who participate in
  21 sports and recreational activities. The Centers for
  22 Disease Control and Prevention estimates that as many as
  23 3,900,000 sports-related and recreation-related
  24 concussions occur in the United States each year. A

concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull. The risk of catastrophic injuries or death is significant when a concussion or head injury is not properly evaluated and managed.

- (2) Concussions are a type of brain injury that can range from mild to severe and can disrupt the way the brain normally works. Concussions can occur in any organized or unorganized sport or recreational activity and can result from a fall or from players colliding with each other, the ground, or with obstacles. Concussions occur with or without loss of consciousness, but the vast majority of concussions occur without loss of consciousness.
- (3) Continuing to play with a concussion or symptoms of a head injury leaves a young athlete especially vulnerable to greater injury and even death. The General Assembly recognizes that, despite having generally recognized return-to-play standards for concussions and head injuries, some affected youth athletes are prematurely returned to play, resulting in actual or potential physical injury or death to youth athletes in this State.
- (4) Student athletes who have sustained a concussion may need informal or formal accommodations, modifications of curriculum, and monitoring by medical or academic staff until the student is fully recovered. To that end, all

schools are encouraged to establish a return-to-learn protocol that is based on peer-reviewed scientific evidence consistent with Centers for Disease Control and Prevention guidelines and conduct baseline testing for student athletes.

## (b) In this Section:

"Athletic trainer" means an athletic trainer licensed under the Illinois Athletic Trainers Practice Act who is working under the supervision of a physician.

"Coach" means any volunteer or employee of a school who is responsible for organizing and supervising students to teach them or train them in the fundamental skills of an interscholastic athletic activity. "Coach" refers to both head coaches and assistant coaches.

"Concussion" means a complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may include temporary or prolonged altered brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns and which may or may not involve a loss of consciousness.

"Department" means the Department of Financial and Professional Regulation.

"Game official" means a person who officiates at an interscholastic athletic activity, such as a referee or umpire, including, but not limited to, persons enrolled as game officials by the Illinois High School Association or

1 Illinois Elementary School Association.

"Interscholastic athletic activity" means any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling. All interscholastic athletics are deemed to be interscholastic activities.

"Licensed healthcare professional" means a person who has experience with concussion management and who is a nurse, a psychologist who holds a license under the Clinical Psychologist Licensing Act and specializes in the practice of neuropsychology, a physical therapist licensed under the Illinois Physical Therapy Act, an occupational therapist licensed under the Illinois Occupational Therapy Practice Act, a physician assistant, or an athletic trainer.

"Nurse" means a person who is employed by or volunteers at a school and is licensed under the Nurse Practice Act as a registered nurse, practical nurse, or advanced practice registered nurse.

"Physician" means a physician licensed to practice medicine in all of its branches under the Medical Practice Act

- 1 of 1987.
- 2 "Physician assistant" means a physician assistant licensed
- 3 under the Physician Assistant Practice Act of 1987.
- 4 "School" means any public or private elementary or
- 5 secondary school, including a charter school.
- 6 "Student" means an adolescent or child enrolled in a
- 7 school.
- 8 (c) This Section applies to any interscholastic athletic
- 9 activity, including practice and competition, sponsored or
- 10 sanctioned by a school, the Illinois Elementary School
- 11 Association, or the Illinois High School Association. This
- 12 Section applies beginning with the 2016-2017 school year.
- 13 (d) The governing body of each public or charter school
- 14 and the appropriate administrative officer of a private school
- 15 with students enrolled who participate in an interscholastic
- 16 athletic activity shall appoint or approve a concussion
- oversight team. Each concussion oversight team shall establish
- 18 a return-to-play protocol, based on peer-reviewed scientific
- 19 evidence consistent with Centers for Disease Control and
- 20 Prevention guidelines, for a student's return to
- 21 interscholastic athletics practice or competition following a
- force or impact believed to have caused a concussion. Each
- 23 concussion oversight team shall also establish a
- 24 return-to-learn protocol, based on peer-reviewed scientific
- 25 evidence consistent with Centers for Disease Control and
- 26 Prevention guidelines, for a student's return to the classroom

after that student is believed to have experienced a concussion, whether or not the concussion took place while the student was participating in an interscholastic athletic activity.

Each concussion oversight team must include to the extent practicable at least one physician. If a school employs an athletic trainer, the athletic trainer must be a member of the school concussion oversight team to the extent practicable. If a school employs a nurse, the nurse must be a member of the school concussion oversight team to the extent practicable. At a minimum, a school shall appoint a person who is responsible for implementing and complying with the return-to-play and return-to-learn protocols adopted by the concussion oversight team. At a minimum, a concussion oversight team may be composed of only one person and this person need not be a licensed healthcare professional, but it may not be a coach. A school may appoint other licensed healthcare professionals to serve on the concussion oversight team.

(e) A student may not participate in an interscholastic athletic activity for a school year until the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written information that explains concussion prevention, symptoms, treatment, and oversight and that includes guidelines for safely resuming participation in an

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- athletic activity following a concussion. The form must be approved by the Illinois High School Association.
  - (f) A student must be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition:
- 7 (1) a coach;
- 8 (2) a physician;
  - (3) a game official;
- 10 (4) an athletic trainer;
- 11 (5) the student's parent or guardian or another person 12 with legal authority to make medical decisions for the 13 student;
- 14 (6) the student; or
- 15 (7) any other person deemed appropriate under the school's return-to-play protocol.
  - (g) A student removed from an interscholastic athletics practice or competition under this Section may not be permitted to practice or compete again following the force or impact believed to have caused the concussion until:
  - (1) the student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence consistent with Centers for Disease Control and Prevention guidelines, by a treating physician (chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for

the student), an athletic trainer, an advanced practice registered nurse, or a physician assistant;

- (2) the student has successfully completed each requirement of the return-to-play protocol established under this Section necessary for the student to return to play;
- (3) the student has successfully completed each requirement of the return-to-learn protocol established under this Section necessary for the student to return to learn:
- (4) the treating physician, the athletic trainer, or the physician assistant has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play and return to learn or the treating advanced practice registered nurse has provided a written statement indicating that it is safe for the student to return to play and return to learn; and
- (5) the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student:
  - (A) have acknowledged that the student has completed the requirements of the return-to-play and return-to-learn protocols necessary for the student to return to play;
    - (B) have provided the treating physician's,

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athletic trainer's, advanced practice registered nurse's, or physician assistant's written statement under subdivision (4) of this subsection (g) to the person responsible for compliance with the return-to-play and return-to-learn protocols under this subsection (g) and the person who has supervisory responsibilities under this subsection (g); and

- (C) have signed a consent form indicating that the person signing:
  - (i) has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play and return-to-learn protocols;
  - (ii) understands the risks associated with the student returning to play and returning to learn and will comply with any ongoing requirements in the return-to-play and return-to-learn protocols; and
  - consents t.o the disclosure t.o appropriate persons, consistent with the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), of the treating physician's, athletic trainer's, physician assistant's, or advanced practice registered nurse's written statement under subdivision (4) of this subsection (q) and, if any, the

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return-to-play and return-to-learn recommendations of the treating physician, the athletic trainer, the physician assistant, or the advanced practice registered nurse, as the case may be.

A coach of an interscholastic athletics team may not authorize a student's return to play or return to learn.

district superintendent or the superintendent's The designee in the case of a public elementary or secondary school, the chief school administrator or that person's designee in the case of a charter school, or the appropriate administrative officer or that person's designee in the case of a private school shall supervise an athletic trainer or person responsible for compliance with return-to-play protocol and shall supervise the person responsible for compliance with the return-to-learn protocol. The person who has supervisory responsibilities under this paragraph may not be a coach of an interscholastic athletics team.

(h) (1) The Illinois High School Association shall approve, for coaches, game officials, and non-licensed healthcare professionals, training courses that provide for not less than 2 hours of training in the subject matter of concussions, including evaluation, prevention, symptoms, risks, and long-term effects. The Association shall maintain an updated list of individuals and organizations authorized by the

- 1 Association to provide the training.
  - (2) The following persons must take a training course in accordance with paragraph (4) of this subsection (h) from an authorized training provider at least once every 2 years:
    - (A) a coach of an interscholastic athletic activity;
    - (B) a nurse, licensed healthcare professional, or non-licensed healthcare professional who serves as a member of a concussion oversight team either on a volunteer basis or in his or her capacity as an employee, representative, or agent of a school; and
    - (C) a game official of an interscholastic athletic activity.
  - (3) A physician who serves as a member of a concussion oversight team shall, to the greatest extent practicable, periodically take an appropriate continuing medical education course in the subject matter of concussions.
    - (4) For purposes of paragraph (2) of this subsection (h):
    - (A) a coach, game official, or non-licensed healthcare professional, as the case may be, must take a course described in paragraph (1) of this subsection (h);
    - (B) an athletic trainer must take a concussion-related continuing education course from an athletic trainer continuing education sponsor approved by the Department;
    - (C) a nurse must take a concussion-related continuing education course from a nurse continuing education sponsor approved by the Department;

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- (D) a physical therapist must take a concussion-related continuing education course from a physical therapist continuing education sponsor approved by the Department;
  - (E) a psychologist must take a concussion-related continuing education course from a psychologist continuing education sponsor approved by the Department;
  - (F) an occupational therapist must take a concussion-related continuing education course from an occupational therapist continuing education sponsor approved by the Department; and
  - (G) a physician assistant must take a concussion-related continuing education course from a physician assistant continuing education sponsor approved by the Department.
- Each person described in paragraph (2) of this subsection (h) must submit proof of timely completion of an approved course in compliance with paragraph (4) of this subsection (h) t.o the district superintendent or superintendent's designee in the case of a public elementary or secondary school, the chief school administrator or that person's designee in the case of a charter school, or the appropriate administrative officer or that person's designee in the case of a private school.
- (6) A physician, licensed healthcare professional, or non-licensed healthcare professional who is not in compliance

- with the training requirements under this subsection (h) may not serve on a concussion oversight team in any capacity.
  - (7) A person required under this subsection (h) to take a training course in the subject of concussions must complete the training prior to serving on a concussion oversight team in any capacity.
  - (i) The governing body of each public or charter school and the appropriate administrative officer of a private school with students enrolled who participate in an interscholastic athletic activity shall develop a school-specific emergency action plan for interscholastic athletic activities to address the serious injuries and acute medical conditions in which the condition of the student may deteriorate rapidly. The plan shall include a delineation of roles, methods of communication, available emergency equipment, and access to and a plan for emergency transport. This emergency action plan must be:
    - (1) in writing;
    - (2) reviewed by the concussion oversight team;
    - (3) approved by the district superintendent or the superintendent's designee in the case of a public elementary or secondary school, the chief school administrator or that person's designee in the case of a charter school, or the appropriate administrative officer or that person's designee in the case of a private school;
      - (4) distributed to all appropriate personnel;

- 1 (5) posted conspicuously at all venues utilized by the school; and
- 3 (6) reviewed annually by all athletic trainers, first
  4 responders (including, but not limited to, emergency
  5 medical dispatchers), coaches, school nurses, athletic
  6 directors, and volunteers for interscholastic athletic
  7 activities.
- 8 (j) The State Board of Education shall adopt rules as
  9 necessary to administer this Section, including, but not
  10 limited to, rules governing the informal or formal
  11 accommodation of a student who may have sustained a concussion
  12 during an interscholastic athletic activity.
- 13 (Source: P.A. 100-309, eff. 9-1-17; 100-513, eff. 1-1-18;
- 14 100-747, eff. 1-1-19; 100-863, eff. 8-14-18; 101-81, eff.
- 15 7-12-19.)
- Section 20. The School Safety Drill Act is amended by changing Section 5 as follows:
- 18 (105 ILCS 128/5)
- 19 Sec. 5. Definitions. In this Act:
- "First responder" means and includes all fire departments
  and districts, law enforcement agencies and officials,
  emergency medical responders, emergency medical dispatchers,
  and emergency management officials involved in the execution
- and documentation of the drills administered under this Act.

- "School" means a public or private facility that offers 1 2 elementary or secondary education to students under the age of 21. As used in this definition, "public facility" means a 3 facility operated by the State or by a unit of local 4 5 government. As used in this definition, "private facility" 6 means any non-profit, non-home-based, non-public elementary or 7 secondary school that is in compliance with Title VI of the Civil Rights Act of 1964 and attendance at which satisfies the 8 requirements of Section 26-1 of the School Code. While more 9 10 than one school may be housed in a facility, for purposes of 11 this Act, the facility shall be considered a school. When a 12 school has more than one location, for purposes of this Act, 13 each different location shall be considered its own school.
- "School safety drill" means a pre-planned exercise conducted by a school in accordance with the drills and requirements set forth in this Act.
- 17 (Source: P.A. 94-600, eff. 8-16-05.)
- Section 25. The Suicide Prevention, Education, and Treatment Act is amended by changing Section 15 as follows:
- 20 (410 ILCS 53/15)
- 21 Sec. 15. Suicide Prevention Alliance.
- 22 (a) The Alliance is created as the official grassroots 23 creator, planner, monitor, and advocate for the Illinois 24 Suicide Prevention Strategic Plan. No later than one year

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- after the effective date of this amendatory Act of the 101st General Assembly, the Alliance shall review, finalize, and submit to the Governor and the General Assembly the 2020 Illinois Suicide Prevention Strategic Plan and appropriate processes and outcome objectives for 10 overriding recommendations and a timeline for reaching these objectives.
  - (b) The Plan shall include:
  - (1) recommendations from the most current National Suicide Prevention Strategy;
  - (2) current research and experience into the prevention of suicide;
  - (3) measures to encourage and assist health care systems and primary care providers to include suicide prevention as a core component of their services, including, but not limited to, implementing the Zero Suicide model; and
  - (4) additional elements as determined appropriate by the Alliance.

The Alliance shall review the statutorily prescribed missions of major State mental health, health, aging, and school mental health programs and recommend, as necessary and appropriate, statutory changes to include suicide prevention in the missions and procedures of those programs. The Alliance shall prepare a report of that review, including its recommendations, and shall submit the report to the Department for inclusion in its annual report to the Governor and the

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- 1 General Assembly.
- 2 The Director of Public Health shall appoint the 3 members of the Alliance. The membership of the Alliance shall include, without limitation, representatives of statewide 5 organizations and other agencies that focus on the prevention of suicide and the improvement of mental health treatment or 6 7 that provide suicide prevention or survivor support services. 8 Other disciplines that shall be considered for membership on 9 the Alliance include law enforcement, first responders (including, but not limited to, emergency medical 10 11 dispatchers), faith-based community leaders, universities, and 12 survivors of suicide (families and friends who have lost 13 persons to suicide) as well as consumers of services of these 14 agencies and organizations.
  - (d) The Alliance shall meet at least 4 times a year, and more as deemed necessary, in various sites statewide in order to foster as much participation as possible. The Alliance, a steering committee, and core members of the full committee shall monitor and guide the definition and direction of the goals of the full Alliance, shall review and approve productions of the plan, and shall meet before the full Alliance meetings.
- 23 (Source: P.A. 101-331, eff. 8-9-19.)
- Section 30. The Cannabis Regulation and Tax Act is amended by changing Section 5-25 as follows:

- 1 (410 ILCS 705/5-25)
- 2 Sec. 5-25. Department of Public Health to make health 3 warning recommendations.
  - (a) The Department of Public Health shall make recommendations to the Department of Agriculture and the Department of Financial and Professional Regulation on appropriate health warnings for dispensaries and advertising, which may apply to all cannabis products, including item-type specific labeling or warning requirements, regulate the facility where cannabis-infused products are made, regulate cannabis-infused products as provided in subsection (e) of Section 55-5, and facilitate the Adult Use Cannabis Health Advisory Committee.
  - (b) An Adult Use Cannabis Health Advisory Committee is hereby created and shall meet at least twice annually. The Chairperson may schedule meetings more frequently upon his or her initiative or upon the request of a Committee member. Meetings may be held in person or by teleconference. The Committee shall discuss and monitor changes in drug use data in Illinois and the emerging science and medical information relevant to the health effects associated with cannabis use and may provide recommendations to the Department of Human Services about public health awareness campaigns and messages. The Committee shall include the following members appointed by the Governor and shall represent the geographic, ethnic, and

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- 1 racial diversity of the State:
- 2 (1) The Director of Public Health, or his or her designee, who shall serve as the Chairperson.
- 4 (2) The Secretary of Human Services, or his or her designee, who shall serve as the Co-Chairperson.
  - (3) A representative of the poison control center.
- 7 (4) A pharmacologist.
  - (5) A pulmonologist.
- 9 (6) An emergency room physician.
- 10 (7) An emergency medical technician, paramedic, 11 emergency medical dispatcher, or other first responder.
  - (8) A nurse practicing in a school-based setting.
- 13 (9) A psychologist.
- 14 (10) A neonatologist.
- 15 (11) An obstetrician-gynecologist.
- 16 (12) A drug epidemiologist.
- 17 (13) A medical toxicologist.
- 18 (14) An addiction psychiatrist.
- 19 (15) A pediatrician.
- 20 (16) A representative of a statewide professional public health organization.
- 22 (17) A representative of a statewide hospital/health 23 system association.
- 24 (18) An individual registered as a patient in the 25 Compassionate Use of Medical Cannabis Program.
- 26 (19) An individual registered as a caregiver in the

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- 1 Compassionate Use of Medical Cannabis Program.
- 2 (20) A representative of an organization focusing on cannabis-related policy.
  - (21) A representative of an organization focusing on the civil liberties of individuals who reside in Illinois.
    - (22) A representative of the criminal defense or civil aid community of attorneys serving Disproportionately Impacted Areas.
  - (23) A representative of licensed cannabis business establishments.
    - (24) A Social Equity Applicant.
  - (25) A representative of a statewide community-based substance use disorder treatment provider association.
    - (26) A representative of a statewide community-based mental health treatment provider association.
    - (27) A representative of a community-based substance use disorder treatment provider.
    - (28) A representative of a community-based mental health treatment provider.
  - (29) A substance use disorder treatment patient representative.
- 22 (30) A mental health treatment patient representative.
- 23 (c) The Committee shall provide a report by September 30, 24 2021, and every year thereafter, to the General Assembly. The 25 Department of Public Health shall make the report available on 26 its website.

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- 1 (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.)
- 2 Section 35. The Methamphetamine Precursor Control Act is
- 3 amended by changing Section 5 as follows:
- 4 (720 ILCS 648/5)
- 5 Sec. 5. Purpose. The purpose of this Act is to reduce the
- 6 harm that methamphetamine manufacturing and manufacturers are
- 7 inflicting on individuals, families, communities, first
- 8 responders (including, but not limited to, emergency medical
- 9 dispatchers), the economy, and the environment in Illinois, by
- 10 making it more difficult for persons engaged in the unlawful
- 11 manufacture of methamphetamine and related activities to
- 12 obtain methamphetamine's essential ingredient, ephedrine or
- 13 pseudoephedrine. It is the intent of the General Assembly that
- 14 this Act operate in tandem with and be interpreted as
- 15 consistent with federal laws and regulations relating to the
- 16 subject matter of this Act to the greatest extent possible.
- 17 (Source: P.A. 94-694, eff. 1-15-06; 94-830, eff. 6-5-06.)
- 18 Section 40. The Mental Health Court Treatment Act is
- 19 amended by changing Section 40 as follows:
- 20 (730 ILCS 168/40)
- Sec. 40. Mental health court; Kane County.
- 22 (a) The mental health court currently operating in Kane

- County is directed to demonstrate the impact of alternative 1 treatment court, crisis intervention training for first 2 3 responders (including, but not limited to, emergency medical dispatchers), and assisted outpatient treatment in reducing 5 the number of mentally ill people admitted into the 6 correctional system. The mental health court in Kane County is 7 authorized to cooperate with one or more accredited mental 8 health service providers to provide services to defendants as 9 directed by the mental health court. The mental health court 10 in Kane County is authorized to cooperate with one or more 11 institutions of higher education to publish peer-reviewed 12 studies of the outcomes generated by the mental health court.
- 13 (b) In this Section, "accredited mental health service 14 provider" refers to a provider of community mental health 15 services as authorized by subsection (d-5) of Section 3 of the 16 Community Services Act.
- 17 (Source: P.A. 97-440, eff. 1-1-12.)
- Section 45. The Workers' Occupational Diseases Act is amended by changing Section 1 as follows:
- 20 (820 ILCS 310/1) (from Ch. 48, par. 172.36)
- Sec. 1. This Act shall be known and may be cited as the "Workers' Occupational Diseases Act".
- 23 (a) The term "employer" as used in this Act shall be construed to be:

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- 1. The State and each county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein.
  - 2. Every person, firm, public or private corporation, including hospitals, public service, eleemosynary, religious or charitable corporations or associations, who has any person in service or under any contract for hire, express or implied, oral or written.
- 3. Where an employer operating under and subject to the provisions of this Act loans an employee to another such employer and such loaned employee sustains compensable occupational disease in the employment of such borrowing employer and where such borrowing employer does not provide or pay the benefits or payments due such employee, such loaning employer shall be liable to provide or pay all benefits or payments due such employee under this Act and as to such employee the liability of such loaning and borrowing employers shall be joint and several, provided that such loaning employer shall in the absence of agreement to the contrary be entitled to receive from such borrowing employer full reimbursement for all sums paid or incurred pursuant to this paragraph together with reasonable attorneys' fees and expenses in any hearings before the Illinois Workers' Compensation Commission or in any action to secure such reimbursement. Where any benefit is provided or paid by such loaning

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employer, the employee shall have the duty of rendering reasonable co-operation in any hearings, trials or proceedings in the case, including such proceedings for reimbursement.

Where an employee files an Application for Adjustment with the Illinois Workers' Compensation Commission alleging that his or her claim is covered by the provisions of the preceding paragraph, and joining both the alleged loaning and borrowing employers, they and each of them, upon written demand by the employee and within 7 days after receipt of such demand, shall have the duty of filing with the Illinois Workers' Compensation Commission a written admission or denial of the allegation that the claim is covered by the provisions of the preceding paragraph and in default of such filing or if any such denial be ultimately determined not to have been bona fide then the provisions of Paragraph K of Section 19 of this Act shall apply.

An employer whose business or enterprise or a substantial part thereof consists of hiring, procuring or furnishing employees to or for other employers operating under and subject to the provisions of this Act for the performance of the work of such other employers and who pays such employees their salary or wage notwithstanding that they are doing the work of such other employers shall be deemed a loaning employer within the meaning and

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- 1 provisions of this Section.
  - (b) The term "employee" as used in this Act, shall be construed to mean:
    - 1. Every person in the service of the State, county, city, town, township, incorporated village or school district, body politic or municipal corporation therein, whether by election, appointment or contract of hire, implied, oral or written, including any express or official of the State, or of any county, city, town, township, incorporated village, school district, body politic or municipal corporation therein and except any duly appointed member of the fire department in any city whose population exceeds 500,000 according to the last Federal or State census, and except any member of a fire insurance patrol maintained by a board of underwriters in this State. One employed by a contractor who has contracted with the State, or a county, city, town, township, incorporated village, school district, body politic or municipal corporation therein, through its representatives, shall not be considered as an employee of the State, county, city, town, township, incorporated village, school district, body politic or municipal corporation which made the contract.
      - 2. Every person in the service of another under any contract of hire, express or implied, oral or written, who contracts an occupational disease while working in the

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State of Illinois, or who contracts an occupational disease while working outside of the State of Illinois but where the contract of hire is made within the State of Illinois, and any person whose employment is principally localized within the State of Illinois, regardless of the place where the disease was contracted or place where the contract of hire was made, including aliens, and minors who, for the purpose of this Act, except Section 3 hereof, shall be considered the same and have the same power to contract, receive payments and give quittances therefor, as adult employees. An employee or his or her dependents under this Act who shall have a cause of action by reason of an occupational disease, disablement or death arising out of and in the course of his or her employment may elect or pursue his or her remedy in the State where the disease was contracted, or in the State where the contract of hire made, or in the State where the employment is is principally localized.

- (c) "Commission" means the Illinois Workers' Compensation Commission created by the Workers' Compensation Act, approved July 9, 1951, as amended.
- (d) In this Act the term "Occupational Disease" means a disease arising out of and in the course of the employment or which has become aggravated and rendered disabling as a result of the exposure of the employment. Such aggravation shall arise out of a risk peculiar to or increased by the employment

and not common to the general public.

A disease shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin or aggravation in a risk connected with the employment and to have flowed from that source as a rational consequence.

An employee shall be conclusively deemed to have been exposed to the hazards of an occupational disease when, for any length of time however short, he or she is employed in an occupation or process in which the hazard of the disease exists; provided however, that in a claim of exposure to atomic radiation, the fact of such exposure must be verified by the records of the central registry of radiation exposure maintained by the Department of Public Health or by some other recognized governmental agency maintaining records of such exposures whenever and to the extent that the records are on file with the Department of Public Health or the agency.

Any injury to or disease or death of an employee arising from the administration of a vaccine, including without limitation smallpox vaccine, to prepare for, or as a response to, a threatened or potential bioterrorist incident to the employee as part of a voluntary inoculation program in

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connection with the person's employment or in connection with any governmental program or recommendation for the inoculation of workers in the employee's occupation, geographical area, or other category that includes the employee is deemed to arise out of and in the course of the employment for all purposes under this Act. This paragraph added by Public Act 93-829 is declarative of existing law and is not a new enactment.

The employer liable for the compensation in this Act provided shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease claimed upon regardless of the length of time of such last exposure, except, in cases of silicosis or asbestosis, the only employer liable shall be the last employer in whose employment the employee was last exposed during a period of 60 days or more after the effective date of this Act, to the hazard of such occupational disease, and, in such cases, an exposure during a period of less than 60 days, after the effective date of this Act, shall not be deemed a last exposure. If a miner who is suffering or suffered from pneumoconiosis was employed for 10 years or more in one or more coal mines there shall, effective July 1, 1973 be a rebuttable presumption that his or her pneumoconiosis arose out of such employment.

If a deceased miner was employed for 10 years or more in one or more coal mines and died from a respirable disease there shall, effective July 1, 1973, be a rebuttable presumption

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1 that his or her death was due to pneumoconiosis.

Any condition or impairment of health of an employee employed as a firefighter, emergency medical technician (EMT), emergency medical technician-intermediate (EMT-I), advanced emergency medical technician (A-EMT), or paramedic which results directly or indirectly from any bloodborne pathogen, lung or respiratory disease or condition, heart or vascular disease or condition, hypertension, tuberculosis, or cancer resulting in any disability (temporary, permanent, total, or partial) to the employee shall be rebuttably presumed to arise out of and in the course of the employee's firefighting, EMT, EMT-I, A-EMT, or paramedic employment and, further, shall be rebuttably presumed to be causally connected to the hazards or exposures of the employment. This presumption shall also apply to any hernia or hearing loss suffered by an employee employed as a firefighter, EMT, EMT-I, A-EMT, or paramedic. However, this presumption shall not apply to any employee who has been employed as a firefighter, EMT, EMT-I, A-EMT, or paramedic for less than 5 years at the time he or she files an Application for Adjustment of Claim concerning this condition impairment with the Illinois Workers' Compensation Commission. The rebuttable presumption established under this subsection, however, does not apply to an emergency medical technician emergency medical technician-intermediate advanced emergency medical technician (A-EMT), or paramedic employed by a private employer if the employee spends the

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preponderance of his or her work time for that employer engaged in medical transfers between medical care facilities or non-emergency medical transfers to or from medical care facilities. The changes made to this subsection by this amendatory Act of the 98th General Assembly shall be narrowly construed. The Finding and Decision of the Illinois Workers' Compensation Commission under only the rebuttable presumption provision of this paragraph shall not be admissible or be deemed res judicata in any disability claim under the Illinois Pension Code arising out of the same medical condition; however, this sentence makes no change to the law set forth in Krohe v. City of Bloomington, 204 Ill.2d 392.

The insurance carrier liable shall be the carrier whose policy was in effect covering the employer liable on the last day of the exposure rendering such employer liable in accordance with the provisions of this Act.

- "Disablement" means impairment (e) an or partial impairment, temporary or permanent, in the function of the body or any of the members of the body, or the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom he or she suitable claims compensation, or equal wages in other employment; and "disability" means the state of being so incapacitated.
  - (f) No compensation shall be payable for or on account of

any occupational disease unless disablement, as herein defined, occurs within two years after the last day of the last exposure to the hazards of the disease, except in cases of occupational disease caused by berylliosis or by the inhalation of silica dust or asbestos dust and, in such cases, within 3 years after the last day of the last exposure to the hazards of such disease and except in the case of occupational disease caused by exposure to radiological materials or equipment, and in such case, within 25 years after the last day of last exposure to the hazards of such disease.

- (g) (1) In any proceeding before the Commission in which the employee is a COVID-19 first responder or front-line worker as defined in this subsection, if the employee's injury or occupational disease resulted from exposure to and contraction of COVID-19, the exposure and contraction shall be rebuttably presumed to have arisen out of and in the course of the employee's first responder or front-line worker employment and the injury or occupational disease shall be rebuttably presumed to be causally connected to the hazards or exposures of the employee's first responder or front-line worker employment.
- (2) The term "COVID-19 first responder or front-line worker" means: all individuals employed as police, fire personnel, emergency medical technicians, or paramedics; all individuals employed and considered as first responders (including, but not limited to, emergency medical

dispatchers); all workers for health care providers, including nursing homes and rehabilitation facilities and home care workers; corrections officers; and any individuals employed by essential businesses and operations as defined in Executive Order 2020-10 dated March 20, 2020, as long as individuals employed by essential businesses and operations are required by their employment to encounter members of the general public or to work in employment locations of more than 15 employees. For purposes of this subsection only, an employee's home or place of residence is not a place of employment, except for home care workers.

- (3) The presumption created in this subsection may be rebutted by evidence, including, but not limited to, the following:
  - (A) the employee was working from his or her home, on leave from his or her employment, or some combination thereof, for a period of 14 or more consecutive days immediately prior to the employee's injury, occupational disease, or period of incapacity resulted from exposure to COVID-19; or
  - (B) the employer was engaging in and applying to the fullest extent possible or enforcing to the best of its ability industry-specific workplace sanitation, social distancing, and health and safety practices based on updated guidance issued by the Centers for Disease Control and Prevention or Illinois Department of Public Health or

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using a combination of administrative controls, engineering controls, or personal protective equipment to reduce the transmission of COVID-19 to all employees for at least 14 consecutive days prior to the employee's injury, occupational disease, or period of incapacity resulting from exposure to COVID-19. For purposes of this subsection, "updated" means the guidance in effect at least 14 days prior to the COVID-19 diagnosis. For purposes of this subsection, "personal protective equipment" means industry-specific equipment worn to minimize exposure to hazards that cause illnesses or serious injuries, which may result from contact with biological, chemical, radiological, physical, electrical, mechanical, or other workplace hazards. protective equipment" includes, but is not limited to, items such as face coverings, gloves, safety glasses, safety face shields, barriers, shoes, earplugs or muffs, hard hats, respirators, coveralls, vests, and full body suits; or

- (C) the employee was exposed to COVID-19 by an alternate source.
- (4) The rebuttable presumption created in this subsection applies to all cases tried after June 5, 2020 (the effective date of Public Act 101-633) and in which the diagnosis of COVID-19 was made on or after March 9, 2020 and on or before June 30, 2021 (including the period between December 31, 2020

- and the effective date of this amendatory Act of the 101st
  General Assembly).
  - (5) Under no circumstances shall any COVID-19 case increase or affect any employer's workers' compensation insurance experience rating or modification, but COVID-19 costs may be included in determining overall State loss costs.
  - (6) In order for the presumption created in this subsection to apply at trial, for COVID-19 diagnoses occurring on or before June 15, 2020, an employee must provide a confirmed medical diagnosis by a licensed medical practitioner or a positive laboratory test for COVID-19 or for COVID-19 antibodies; for COVID-19 diagnoses occurring after June 15, 2020, an employee must provide a positive laboratory test for COVID-19 or for COVID-19 antibodies.
  - (7) The presumption created in this subsection does not apply if the employee's place of employment was solely the employee's home or residence for a period of 14 or more consecutive days immediately prior to the employee's injury, occupational disease, or period of incapacity resulted from exposure to COVID-19.
  - (8) The date of injury or the beginning of the employee's occupational disease or period of disability is either the date that the employee was unable to work due to contraction of COVID-19 or was unable to work due to symptoms that were later diagnosed as COVID-19, whichever came first.
  - (9) An employee who contracts COVID-19, but fails to

- 1 establish the rebuttable presumption is not precluded from
- 2 filing for compensation under this Act or under the Workers'
- 3 Compensation Act.
- 4 (10) To qualify for temporary total disability benefits
- 5 under the presumption created in this subsection, the employee
- 6 must be certified for or recertified for temporary disability.
- 7 (11) An employer is entitled to a credit against any
- 8 liability for temporary total disability due to an employee as
- 9 a result of the employee contracting COVID-19 for (A) any sick
- 10 leave benefits or extended salary benefits paid to the
- 11 employee by the employer under Emergency Family Medical Leave
- 12 Expansion Act, Emergency Paid Sick Leave Act of the Families
- 13 First Coronavirus Response Act, or any other federal law, or
- 14 (B) any other credit to which an employer is entitled under the
- Workers' Compensation Act.
- 16 (Source: P.A. 101-633, eff. 6-5-20; 101-653, eff. 2-28-21.)