



# CLIENT ALERT

## Special Session Brings Changes for Public Safety

The Illinois General Assembly met last week in Special Session to pass legislation related to the COVID-19 pandemic. One of its priorities was to provide extended benefits to first responders and other front-line workers who are facing the threat of coronavirus exposure every day at work. Those changes to Chicago pensions, workers' compensation, and PEDA benefits are detailed below, along with other public safety-related laws. These bills are expected to be signed by Governor J.B. Pritzker.



### Chicago Police and Fire Pensions

As of last week, three Chicago police officers and two Chicago firefighters have lost their lives after contracting COVID-19. In a nearly unanimous show of support for those fallen, the House and Senate both approved changes to Article 5 and Article 6 of the Illinois Pension Code that will make it much easier for the families of those officers and firefighters to receive death benefits.

Under House Bill 2455, any Chicago policeman or firefighter who died from COVID-19 will be “rebuttably presumed” to have contracted the virus while performing acts of duty. It will also be rebuttably presumed that the public safety employee was fatally injured while in active service. This rebuttable presumption will be difficult to disprove, although it will not apply if the policeman or firefighter was away from work for 14 or more consecutive days immediately prior to contracting COVID-19. Contraction must be evidenced by either a confirmed positive laboratory test or a confirmed diagnosis from a licensed medical professional. These changes apply from March 9, 2020 to December 31, 2020.

These changes only apply for those who contract the virus between March 9 and December 31, 2020, though it will likely be extended if coronavirus is still a major threat in 2021. Also, many predict the same changes will be made to Article 3 and Article 4 pensions later this year, covering non-Chicago police and fire personnel.

### Workers' Compensation Presumption

Last month, the Illinois Workers' Compensation Commission (WCC) amended its rules to create a similar rebuttable presumption for all first responders and front-line workers who contracted COVID-19. The rule was repealed after a lawsuit challenging the WCC's rulemaking authority, but HB 2455 makes that language statutory.

The amendment is to the Workers' Occupational Disease Act. If a COVID-19 first responder or front-line worker is injured after exposure to and contraction of the coronavirus, the exposure will be rebuttably presumed to have arisen out of and in the course of the employee's employment, causally connected to the hazards of the job. A "COVID-19 first responder or front-line worker" includes police officers, firefighters, EMTs, paramedics, health care providers (including those in nursing homes, rehab facilities, and home care), corrections officers, and individuals employed by essential businesses and operations.

Although the presumption favors workers, the language in HB 2455 actually provides several employer protections that did not exist in the WCC rule. Essential employees are only considered "front-line" if they are required to encounter members of the general public or work in locations of more than 15 employees. The legislation also provides examples of rebuttable evidence:

- The employee was working from home or on leave for 14 or more consecutive days immediately prior to the injury, occupational disease, or incapacity resulting from COVID-19 exposure.
- Employer was engaging in extensive industry-specific workplace sanitation, social distancing, and safety practices recommended by government health organizations for at least 14 consecutive days prior.
- The employee was exposed by an alternate source.

The presumption will apply if the employee has either a confirmed medical diagnosis or a positive lab test on or before June 15, 2020. After that date, until December 31, 2020, the employee must provide a positive lab test.

#### **Extended Recovery Periods under PEDA**

In Senate Bill 471, the General Assembly addressed another statute concerning disabilities, the Public Employees Disability Act (PEDA). In this case, however, the only change was an extension of existing recovery periods. If an employee was eligible for PEDDA, but the employee's recovery is hindered—directly or indirectly—by COVID-19, the employee is entitled to receive an extension of up to 60 days. During that extended period, the employee will continue to be paid by the public entity as before. The employer can require proof of how the recovery was hindered between March 9 and December 31, 2020.

#### **Aggravated Battery of Merchants**

There have been frequent news reports of customers accosting salespeople, either verbally or physically, in recent weeks, as frustrations with social distancing increase. To help protect those workers, SB 471 also adds a new special class for aggravated battery. If a merchant is battered during the first six months of a declared disaster or state of emergency, or at any time while performing his or her duties, including "relaying health and safety guidelines, recommendations, regulations, or rules" from a health agency, that offense will be charged as aggravated battery.

#### **NG 9-1-1 Implementation**

The General Assembly also did some relatively simple housekeeping, extending certain deadlines and sunset clauses so that they did not occur during the pandemic emergency. One of those many extensions concerns the Emergency Telephone System Act. That statute was going to sunset on December 31, 2020, but the date was pushed back one year to December 31, 2021. Similarly, the deadline for implementing Next Generation 9-1-1 service, which was originally required to be completed by July 1, 2020, has also been extended to December 31, 2021. This will give the State more time to contract with a vendor.

\* \* \*

First responders and many other essential workers have not had the ability to stay at home during this crisis, and the General Assembly's actions last week attempted to recognize that sacrifice. We expect this legislation to be just the beginning, though. Keep watching your inbox for more legal news regarding this pandemic, and if you have any questions, please reach out to an attorney at Ottosen DiNolfo Hasenbalg & Castaldo.

Ottosen DiNolfo Hasenbalg & Castaldo, Ltd.'s ***Client Alert*** is issued periodically to keep its clients and other interested parties informed of legal developments that may affect or otherwise be of interest to its readers. Due to the general nature of its contents, the comments herein do not constitute legal advice and should not be regarded as a substitute for detailed advice regarding a specific set of facts. Questions regarding any items should be directed to our main office at:

**OTTOSEN DINOLFO HASENBALG & CASTALDO, LTD.**  
1804 North Naper Boulevard, Suite 350, Naperville, Illinois 60563  
(630) 682-0085 ottosenlaw.com

Copyright 2020 by  
**OTTOSEN BRITZ KELLY COOPER GILBERT & DINOLFO, LTD.**