

REFERENCE TITLE: law enforcement; workers' compensation; exposure

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SB 1518

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 employee's
14 employer.

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

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

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

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

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

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

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

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

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

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

1 certified member of a volunteer sheriff's reserve. This subdivision shall
2 not be construed to provide compensation coverage for any member of a
3 sheriff's posse who is not a certified member of an authorized volunteer
4 sheriff's reserve except as a participant in a search and rescue mission or a
5 search and rescue training mission.

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

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

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

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

1 (l) Volunteer workers of a licensed health care institution may be
2 deemed to be employees and entitled to the benefits provided by this chapter
3 upon written acceptance by the insurance carrier of an application by the
4 health care institution for coverage of such volunteers. The basis for
5 computing wages for premium payments and compensation benefits for volunteers
6 shall be four hundred dollars per month.

7 (m) Personnel who participate in a search or rescue operation or a
8 search or rescue training operation that carries a mission identifier
9 assigned by the division of emergency management as provided in section
10 35-192.01 and who serve without compensation as volunteer state employees.
11 The basis for computation of wages for premium purposes and compensation
12 benefits is the total volunteer man-hours recorded by the division of
13 emergency management in a given quarter multiplied by the amount determined
14 by the appropriate risk management formula.

15 (n) Personnel who participate in emergency management training,
16 exercises or drills that are duly enrolled or registered with the division of
17 emergency management or any political subdivision as provided in section
18 26-314, subsection C and who serve without compensation as volunteer state
19 employees. The basis for computation of wages for premium purposes and
20 compensation benefits is the total volunteer man-hours recorded by the
21 division of emergency management or political subdivision during a given
22 training session, exercise or drill multiplied by the amount determined by
23 the appropriate risk management formula.

24 (o) Regular members of the Arizona game and fish department reserve,
25 organized pursuant to section 17-214. The basis for computing wages for
26 premium payments and compensation benefits for a member of the reserve is the
27 salary received by game rangers and wildlife managers of the Arizona game and
28 fish department for their first month of regular duty.

29 (p) Every person employed pursuant to a professional employer
30 agreement.

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

33 8. "Heart-related or perivascular injury, illness or death" means
34 myocardial infarction, coronary thrombosis or any other similar sudden,
35 violent or acute process involving the heart or perivascular system, or any
36 death resulting therefrom, and any weakness, disease or other condition of
37 the heart or perivascular system, or any death resulting therefrom.

38 9. "Insurance carrier" means every insurance carrier duly authorized
39 by the director of insurance to write workers' compensation or occupational
40 disease compensation insurance in the state of Arizona.

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

44 11. "Mental injury, illness or condition" means any mental, emotional,
45 psychotic or neurotic injury, illness or condition.

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

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

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

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

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

17 (d) A SIGNIFICANT EXPOSURE AS PRESCRIBED IN SECTION 23-1043.02,
18 23-1043.03 OR 23-1043.04, IF THE EMPLOYEE IS A LAW ENFORCEMENT OFFICER AND
19 THE SIGNIFICANT EXPOSURE OCCURS IN THE LINE OF DUTY, IN THE COURSE OF AN
20 ARREST OR AS A RESULT OF AN ASSAULT ON THE LAW ENFORCEMENT OFFICER.

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

23 (a) In which the professional employer organization expressly agrees
24 to co-employ all or a majority of the employees providing services for the
25 client. In determining whether the professional employer organization
26 employs all or a majority of the employees of a client, any person employed
27 pursuant to the terms of the professional employer agreement after the
28 initial placement of client employees on the payroll of the professional
29 employer organization shall be included.

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

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

34 15. "Professional employer organization" means any person engaged in
35 the business of providing professional employer services. Professional
36 employer organization does not include a temporary help firm or an employment
37 agency.

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

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

43 18. "Weakness, disease or other condition of the heart or perivascular
44 system" means arteriosclerotic heart disease, cerebral vascular disease,
45 peripheral vascular disease, cardiovascular disease, angina pectoris,

1 congestive heart trouble, coronary insufficiency, ischemia and all other
2 similar weaknesses, diseases and conditions, and also previous episodes or
3 instances of myocardial infarction, coronary thrombosis or any similar
4 sudden, violent or acute process involving the heart or perivascular system.

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

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

9 23-1043.02. Human immunodeficiency virus; establishing
10 exposure; definitions

11 A. A claim for a condition, infection, disease or disability involving
12 or related to the human immunodeficiency virus or acquired immune deficiency
13 syndrome shall include the occurrence of a significant exposure as defined in
14 this section and, except as provided in subsection B of this section, shall
15 be processed and determined under the provisions of this chapter and
16 applicable principles of law.

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

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

29 2. Within ten calendar days after a possible significant exposure
30 ~~which~~ **THAT** arises out of and in the course of his employment, the employee
31 reports in writing to the employer the details of the exposure. The employer
32 shall notify its insurance carrier or claims processor of the
33 report. Failure of the employer to notify the insurance carrier is not a
34 defense to a claim by the employee.

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

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

44 C. On presentation or showing of a prima facie claim under this
45 section, the employer may produce specific, relevant and probative evidence

1 to dispute the underlying facts, to contest whether the exposure was
2 significant as defined in this section, or to establish an alternative
3 significant exposure involving the presence of the human immunodeficiency
4 virus.

5 D. A person alleged to be a source of a significant exposure shall not
6 be compelled by subpoena or other court order to release confidential human
7 immunodeficiency virus related information either by document or by oral
8 testimony. Evidence of the alleged source's human immunodeficiency virus
9 status may be introduced by either party if the alleged source knowingly and
10 willingly consents to the release of that information.

11 E. Notwithstanding title 36, chapter 6, article 4, medical information
12 regarding the employee obtained by a physician or surgeon is subject to the
13 provisions of 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 the
16 proper documentation of a significant exposure.

17 G. A LAW ENFORCEMENT OFFICER THAT SUSTAINS A SIGNIFICANT EXPOSURE
18 WITHIN THE MEANING OF THIS SECTION SHALL RECEIVE COMPENSATION PURSUANT TO
19 THIS CHAPTER FROM THE DATE ON WHICH THE SIGNIFICANT EXPOSURE OCCURRED.

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

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

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

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

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

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

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

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

3 23-1043.03. Hepatitis C; establishing exposure; definitions

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

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

14 1. The employee's regular course of employment involves handling of or
15 exposure to blood or body fluids, other than tears, ~~saliva~~ or perspiration,
16 including health care providers as defined in section 36-661, forensic
17 laboratory workers, fire fighters, law enforcement officers, emergency
18 medical technicians, paramedics and correctional officers.

19 2. Within ten calendar days after a possible significant exposure that
20 arises out of and in the course of his employment, the employee reports in
21 writing to the employer the details of the exposure. The employer shall
22 notify its insurance carrier or claims processor of the report. Failure of
23 the employer to notify the insurance carrier is not a defense to a claim by
24 the employee.

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

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

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

37 D. A person alleged to be a source of a significant exposure shall not
38 be compelled by subpoena or other court order to release confidential
39 hepatitis C related information either by document or by oral
40 testimony. Evidence of the alleged source's hepatitis C status may be
41 introduced by either party if the alleged source knowingly and willingly
42 consents to the release of that information.

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

1 F. The commission by rule shall prescribe requirements and forms
2 regarding employee notification of the requirements of this section and the
3 proper documentation of a significant exposure.

4 G. A LAW ENFORCEMENT OFFICER THAT SUSTAINS A SIGNIFICANT EXPOSURE
5 WITHIN THE MEANING OF THIS SECTION SHALL RECEIVE COMPENSATION PURSUANT TO
6 THIS CHAPTER FROM THE DATE ON WHICH THE SIGNIFICANT EXPOSURE OCCURRED.

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

12 ~~G.~~ I. For the purposes of this section: ~~,-~~

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

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

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

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

24 5. "Significant exposure" means contact of an employee's ruptured or
25 broken skin or mucous membrane or other significant unbroken surface area
26 with a person's blood or body fluids, other than tears, ~~saliva~~ or
27 perspiration, of a magnitude that the centers for disease control have
28 epidemiologically demonstrated can result in transmission of hepatitis
29 C. For purposes of filing a claim under this section, significant exposure
30 does not include sexual activity or illegal drug use.

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

33 23-1043.04. Methicillin-resistant staphylococcus aureus; spinal
34 meningitis; tuberculosis; establishing exposure;
35 definitions

36 A. A claim for a condition, infection, disease or disability involving
37 or related to methicillin-resistant staphylococcus aureus, spinal meningitis
38 or tuberculosis shall include the occurrence of a significant exposure as
39 defined in this section and, except as provided in subsection B of this
40 section, shall be processed and determined under this chapter and applicable
41 principles of law.

42 B. Notwithstanding any other law, an employee who satisfies the
43 following criteria presents a prima facie claim for a condition, infection,
44 disease or disability involving or related to methicillin-resistant
45 staphylococcus aureus, spinal meningitis or tuberculosis if the medical

1 evidence shows to a reasonable degree of medical probability that the
2 employee sustained a significant exposure within the meaning of this section:

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

6 2. Within thirty calendar days after a possible significant exposure
7 that arises out of and in the course of employment, the employee reports in
8 writing to the employer the details of the exposure. The employer shall
9 notify its insurance carrier or claims processor of the report. Failure of
10 the employer to notify the insurance carrier is not a defense to a claim by
11 the employee.

12 3. For a claim involving methicillin-resistant staphylococcus aureus,
13 the employee must be diagnosed with methicillin-resistant staphylococcus
14 aureus within fifteen days after the employee reports pursuant to paragraph 2
15 of this subsection.

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

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

21 C. On presentation or showing of a prima facie claim under this
22 section, the employer may produce specific, relevant and probative evidence
23 to dispute the underlying facts, to contest whether the exposure was
24 significant as defined in this section or to establish an alternative
25 significant exposure involving the presence of methicillin-resistant
26 staphylococcus aureus, spinal meningitis or tuberculosis.

27 D. A person alleged to be a source of a significant exposure shall not
28 be compelled by subpoena or other court order to release confidential
29 information relating to methicillin-resistant staphylococcus aureus, spinal
30 meningitis or tuberculosis either by document or by oral testimony. Evidence
31 of the alleged source's methicillin-resistant staphylococcus aureus, spinal
32 meningitis or tuberculosis status may be introduced by either party if the
33 alleged source knowingly and willingly consents to the release of that
34 information.

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

38 F. The commission by rule shall prescribe requirements and forms
39 regarding employee notification of the requirements of this section and the
40 proper documentation of a significant exposure.

41 G. Notwithstanding any other law, expenses for postexposure evaluation
42 and follow-up, including reasonably required prophylactic treatment, for
43 spinal meningitis or tuberculosis, shall be a medical benefit under section
44 23-1061 or 23-1062 for any significant exposure that arises out of and in the
45 course of employment if the employee files a claim under this article for the

1 significant exposure or the employee reports in writing to the employer the
2 details of the exposure. Providing postexposure evaluation and follow-up,
3 including prophylactic treatment, does not constitute acceptance of a claim
4 for a condition, infection, disease or disability involving or related to the
5 significant exposure.

6 H. A LAW ENFORCEMENT OFFICER THAT SUSTAINS A SIGNIFICANT EXPOSURE
7 WITHIN THE MEANING OF THIS SECTION SHALL RECEIVE COMPENSATION PURSUANT TO
8 THIS CHAPTER FROM THE DATE ON WHICH THE SIGNIFICANT EXPOSURE OCCURRED.

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

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

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

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

23 3. "LEVEL II" MEANS CONTAMINATION OF CLOTHING OR EQUIPMENT BY AN
24 INFECTED PERSON'S BLOOD OR BODY FLUIDS.

25 4. "LEVEL III" MEANS CONTACT LIMITED TO MERELY BEING IN THE PRESENCE
26 OF A PERSON SUSPECTED OF HAVING A COMMUNICABLE DISEASE.

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

31 ~~2.~~ 6. "Significant exposure" means exposure in the course of
32 employment to aerosolized bacteria for claims under this section relating to
33 methicillin-resistant staphylococcus aureus, spinal meningitis or
34 tuberculosis. Significant exposure includes exposure in the course of
35 employment to bodily fluids or skin for claims under this section relating to
36 methicillin-resistant staphylococcus aureus.