

By Mrs. Menard of Somerset, petition of Joan M. Menard, Timothy J. Toomey, Jr., John J. Binienda and others relative to providing injured on duty leave for environmental police officers and correction officers. Public Service.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Nine.

AN ACT RELATIVE TO PROVIDING INJURED ON DUTY LEAVE FOR ENVIRONMENTAL POLICE OFFICERS AND CORRECTION OFFICERS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 21 of the General Laws is hereby  
2 amended by inserting after section 6I the following section:—  
3 Section 6J. For the purposes of this section “employee” shall  
4 mean the director, deputy director of enforcement, chief of  
5 enforcement, deputy chief of enforcement, environmental police  
6 officer of the division.  
7 Whenever an employee is incapacitated for duty because of  
8 injury sustained in the performance of his duty without fault of his  
9 own, is so incapacitated because of injuries so sustained, he shall  
10 be granted leave without loss of pay once the injury prevents the  
11 employee from returning to active duty after six working days  
12 from point of injury. Leave with full pay will then be calculated  
13 from the first day of injury; provided, however, that no such leave  
14 shall be granted for any period after such employee has been  
15 retired or pensioned in accordance with law or for any period after  
16 a physician designated by the division determines that such inca-  
17 pacity no longer exists. All amounts payable under this section  
18 shall be paid at the same time and in the same manner as, and for  
19 all purposes shall be deemed to be the regular compensation of  
20 such employees. An employee shall be entitled to examination  
21 and treatment by a physician of his choosing. The division may at  
22 any time require the employee to be examined by any physician it

23 chooses, at the division's expense. If the employee's physician  
24 and the division's physician disagree as to an employee's fitness  
25 to return to duty, a physician shall be jointly selected by them  
26 from a panel of physicians established or suggested by the com-  
27 missioner of public health, in which event such physician, at the  
28 division's expense, shall so examine the employee and render his  
29 opinion, which will be binding on the employee and division. The  
30 division may withhold benefit payments or take disciplinary  
31 action against any employee who is found to have submitted a  
32 false claim for benefits covered in this section or for working for  
33 another employer while receiving said benefits. Where the injury  
34 causing the incapacity of an employee, for which he is granted a  
35 leave without pay and is paid compensation in accordance with  
36 the provisions of this section, was caused under circumstances  
37 creating a legal liability in some person to pay damages in respect  
38 thereof, either the person so injured or the commonwealth may  
39 proceed to enforce the liability of such person in any court of  
40 competent jurisdiction. The sum recovered shall be for the benefit  
41 of the commonwealth, unless the sum is greater than the compen-  
42 sation paid to the person so injured, in which event, the excess  
43 shall be retained by or paid to the person so injured. For the pur-  
44 poses of this section, "excess" shall mean the amount by which  
45 the total sum received in payment for the injury, exclusive of  
46 interest and costs, exceeds the amount paid under this section as  
47 compensation to the person so injured. The party bringing the  
48 action shall be entitled to any costs recovered by him. Any  
49 interest received in such action shall be apportioned between the  
50 commonwealth and the person so injured in proportion to the  
51 amounts received by them respectively, inclusive of interest and  
52 costs. The expenses of any attorney's fees shall be divided  
53 between the commonwealth and the person so injured in propor-  
54 tion to the amounts received by them respectively.

55 Whoever intentionally or negligently injures an employee, for  
56 which he is granted a leave without loss of pay and is paid com-  
57 pensation in accordance with the provision of this section shall, be  
58 liable in tort to the commonwealth for all costs incurred by the  
59 Commonwealth in replacing such injured employee which are in  
60 excess of the amount of compensation so paid.

1 SECTION 2. Section 32 of chapter 100 of the General Laws, as  
2 appearing in the 1994 Official Edition, is hereby amended by  
3 striking out, in lines 8, 15, 18, 21 to 22, 27, 46, 54, 68, 76, and 81  
4 the words "police officer" and inserting in place thereof, in each  
5 instance, the words, "police officer, environmental police officer".

1 SECTION 3. Chapter 125 of the General Laws is hereby  
2 amended by adding the following section:—

3 Section 22. Whenever a correction officer or transportation  
4 officer is incapacitated for duty because of an injury sustained in  
5 the performance of duty without fault of their own, is so incapacitated  
6 because of injuries so sustained, said officer shall be granted  
7 leave without loss of pay once the injury prevents the employee  
8 from returning to active duty after six working days from the  
9 point of injury. Leave with full pay will then be calculated from  
10 the first day of injury; provided, however, that no such leave shall  
11 be granted for any period after such employee has been retired or  
12 pensioned in accordance with law or for any period after a physi-  
13 cian designated by the department determines that such incapacity  
14 no longer exists. All amounts payable under this section shall be  
15 paid at the same time and in the same manner as, and for all pur-  
16 poses shall be deemed to be regular compensation of such  
17 employee. An employee shall be entitled to examination and treat-  
18 ment by a physician of his choosing. The department may at any  
19 time require the employee to be examined by any physician it  
20 chooses, at the department's expense. If the employee's physician  
21 and the department's physician disagree as to an employee's fit-  
22 ness to return to duty, a physician shall be jointly selected by them  
23 from a panel of physicians established or suggested by the com-  
24 missioner of public health, in which event such physician, at the  
25 department's expense, shall so examine the employee and render  
26 his opinion, which will be binding on the employee and the  
27 department. The department may withhold benefit payments or  
28 take disciplinary action against any employee who is found to  
29 have submitted a false claim for benefits covered in this section.  
30 Where the injury causing the incapacity of an employee, for which  
31 he is granted a leave without loss of pay and is paid compensation  
32 in accordance with the provisions of this section, was caused  
33 under circumstances creating a legal liability in some person to

34 pay damages in respect thereof, either the person so injured or the  
35 commonwealth may proceed to enforce the liability of such  
36 person in any court of competent jurisdiction. The sum recovered  
37 shall be for the benefit of the commonwealth, unless the sum is  
38 greater than the compensation paid to the person so injured, in  
39 which event, the excess shall be retained by or paid to the person  
40 so injured. For the purpose of this section, "excess" shall mean the  
41 amount by which the total sum received in payment for the injury,  
42 exclusive of interest and costs, exceeds the amount paid under this  
43 section as compensation to the person so injured. The party  
44 bringing the action shall be entitled to any costs recovered by him.  
45 Any interest received in such action shall be apportioned between  
46 the commonwealth and the person so injured in proportion to the  
47 amounts received by them respectively, inclusive of interest and  
48 costs. The expenses of any attorney's fees shall be divided  
49 between the commonwealth and the person so injured in propor-  
50 tion to the amounts received by them respectively.

51 Whoever intentionally or negligently injures a correction  
52 officer or transportation officer for which he is granted a leave  
53 without loss of pay and is paid compensation in accordance with  
54 the provisions of this section shall be liable in tort to the common-  
55 wealth for all costs incurred by the commonwealth in replacing  
56 such injured employee which are in excess of the amount of the  
57 compensation so paid.