HOUSE . . . . . No. 4746

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 12, 2024.

The committee on Ways and Means, to whom was referred the Bill relative to disability pensions for violent crimes (House, No. 4626), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4746).

For the committee,

AARON MICHLEWITZ.

FILED ON: 6/12/2024

HOUSE . . . . . No. 4746

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act relative to disability pensions and critical incident stress management for violent crimes.

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

SECTION 1. Section 1 of chapter 32 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by inserting after the definition of "Veteran" the following definition:-

"Violent act injury", a catastrophic, life-threatening or life-altering and permanent bodily injury sustained as a direct and proximate result of a violent attack upon a person by means of a dangerous weapon, which is designed for the purpose of causing serious injury or death, including, but not limited to, a firearm, knife, automobile or explosive device.

SECTION 2. Section 7 of said chapter 32, as so appearing, is hereby amended by striking out subsection (1) and inserting in place thereof the following subsection:-

(1) Conditions for Allowance. – Any member in service classified in Group 1, Group 2 or Group 4, or any member in service classified in Group 3 to whom the provisions of subdivision (2) of section 26 are not applicable, who is unable to perform the essential duties of the member's job and that such inability is likely to be permanent before attaining the maximum age

for the member's group by reason of a personal injury or violent act injury sustained or a hazard undergone as a result of, and while in the performance of the member's duties at some definite place and at some definite time on or after the date of becoming a member or prior to such date while any provision of this chapter relating to noncontributory pensions was applicable to the member, without serious and willful misconduct on the member's part, upon the member's written application on a prescribed form filed with the board and the member's respective employer or upon such an application by the head of the member's department after a hearing, if requested, as provided for in subdivision (1) of section 16 and subject to the conditions set forth in said section 16 and in this section, shall be deemed retired for an accidental disability as of a date which shall be specified in such application and which shall be not less than 15 days nor more than 4 months after the filing of such application but in no event later than the maximum age for the member's group. Except as provided for in subdivision (3), no such retirement shall be allowed unless such injury or violent act injury was sustained or such hazard was undergone within 2 years prior to the filing of such application or, if occurring earlier, unless written notice thereof was filed with the board by such member or on the member's behalf within 90 days after its occurrence. No retirement under this subsection shall be allowed unless the board, after a review of the evidence it deems appropriate, and after a review by the commission, pursuant to the provisions of section 21, and including in any event on examination by the regional medical panel provided for in subdivision (3) and including a certification of such incapacity by a majority of the physicians on such medical panel, shall find that such member is unable to perform the essential duties of the member's job and that such inability is likely to be permanent, and that the member should be so retired; provided, however, that no retirement due to a violent act injury shall be allowed unless the board, after a review of the evidence it deems appropriate,

and after a review by the commission, pursuant to section 21, and including in any event on examination or re-examination by the regional medical panel provided for in subdivision (3) and including a certification of such incapacity by a majority of the physicians on such medical panel, shall find that such member is physically unable to perform the essential duties of the member's job because of a violent act injury and that such inability is likely to be permanent, and that the member should be so retired. Any member who was injured while a member of a retirement system established in any governmental unit other than that by which the member is presently employed, and who has complied with the provisions of this section as to notice, or whose case falls under subdivision (3), shall file such application with the retirement board of the unit where the member is presently employed. Such board shall secure a statement of facts and records, which it shall be the duty of the retirement board of the first governmental unit to furnish, and on which it shall be entitled to make recommendations.

Prior to the determination of a retirement under this section, a member shall submit to the retirement board a written statement authorizing release of information from the federal internal revenue service and the department of revenue relative to the annual gross earned income of the member in pursuant to an agreement between the federal internal revenue service, the department of revenue, and the public employee retirement administration commission in accordance with section 91A.

SECTION 3. Paragraph (a) of subdivision (2) of said section 7 of said chapter 32, as so appearing, is hereby amended by adding the following clause:-

(iv)(A) Notwithstanding clauses (i) to (iii), inclusive, a yearly amount of pension for any firefighter, any call, volunteer, auxiliary, intermittent or reserve firefighter, any call, volunteer,

auxiliary, intermittent or reserve emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152, any police officer, any auxiliary, intermittent, special, part-time or reserve police officer, any municipal or public emergency medical technician or licensed health care professional who is unable to perform the essential duties of the member's job by reason of a violent act injury, paid monthly, shall be equal to 100 per cent of their regular compensation, including all applicable benefits and stipends, that the member was earning on the date of such violent act injury, as defined in section 1. The annual amount of pension payable to such member shall be equal to the regular rate of compensation, which the member would have been paid had the member continued in service at the grade held by the member at the time of their retirement until their death or reaching mandatory retirement age, whichever comes first; provided that, if the member reaches the mandatory retirement age, the member shall be entitled thereafter to 80 per cent of the average annual rate of compensation paid to the member in the previous 12 months, including any cost of living increases, as defined in sections 102 and 103. Upon retirement, the member shall receive a lump sum payment from the applicable retirement board equal to the member's total accumulated retirement deductions. In the event that the member predeceases their spouse, the member's spouse shall be entitled to 75 per cent of the member's annual pension, paid monthly, as long as such spouse shall live; provided that, when the member would have reached the mandatory retirement age, the member's spouse shall continue to be entitled to 75 per cent of the member's annual pension, including any cost of living increases, as defined in sections 102 and 103, that the member would have received upon reaching the mandatory retirement age; and provided further, that if a beneficiary is eligible for benefits under this section and under option (c) of section 12, the beneficiary shall elect to receive either a benefit under option (c) or a benefit pursuant to this

section but shall not be eligible for both benefits. In the event that the member and the member's spouse predecease their children, the member's surviving unmarried children, if any, who are under age 18 or, if over that age and under age 22, are full-time students at an accredited educational institution, or who are over age 18 and physically or mentally incapacitated from earning income on the date of such member's retirement, shall be entitled to receive a pension of equal proportion, paid monthly, which shall total 75 per cent of the amount of the pension payable to the member at the time of their death. When a child no longer meets the qualifications for receipt of a pension allocation under this section, said child's pension allocation shall cease and any remaining qualified children shall continue to receive the same amount each received before any child's allocation ceased. The words "full-time student" and "accredited educational institutions" shall have the same meanings as defined in clause (iii).

(B) Any member eligible to receive a pension under this clause shall be indemnified for all hospital, medical and other healthcare expenses, not otherwise covered by health insurance, related to treatment of injuries that have been or may be incurred after the date of the member's retirement as a result of the injuries sustained by the member relating to the violent act injury while in the performance of the member's duties.

(C) Notwithstanding the hours and earnings limitations of section 91 or 91A or any other general or special law to the contrary, the annual earnings of a member receiving benefits under this clause, from employment in the service of the commonwealth, county, city, town, district or authority, including as a consultant or independent contractor or as a person whose regular duties require that their time be devoted to the service of the commonwealth, county, city, town, district or authority during regular business hours, may equal up to ½ the amount of their retirement allowance without refund penalty. Such member shall not be eligible for employment under

Groups 3 and 4 of the retirement system while receiving benefits for accidental disability retirement outlined under this clause. A member who is receiving benefits under this clause may be employed by a private entity or in the private sector without refund penalty; provided, that their service is not devoted to the commonwealth, county, city, town, district or an authority. Nothing in this section shall prohibit a member under this clause, or such member's eligible spouse or children, from receiving additional retirement benefits not required by this clause.

SECTION 4. Said section 7 of said chapter 32, as so appearing, is hereby further amended by adding the following subdivision:-

(7) Critical Incident Stress Management. – Any firefighter, any call, volunteer, auxiliary, intermittent or reserve firefighter, any call, volunteer, auxiliary, intermittent or reserve emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152, any police officer, any auxiliary, intermittent, special, part-time or reserve police officer, any municipal or public emergency medical technician following any incident involving exposure to actual or threatened death, serious injury or sexual violence as set forth in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders, or any other incident reasonably warranting a critical incident stress management debriefing, as determined by an emergency service provider certified by the Massachusetts Peer Support Network or the International Critical Incident Stress Foundation, Inc., shall receive notice of critical incident stress management debriefing programs, including the location and times for the program and contact information.