



## Ohio Revised Code Section 5505.18 Disability retirement.

Effective: May 11, 2018

Legislation: House Bill 362 - 132nd General Assembly

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As used in this section, "member" does not include state highway patrol cadets attending training schools pursuant to section 5503.05 of the Revised Code.

(A) Upon the application of a member of the state highway patrol retirement system, a person acting on behalf of a member, or the superintendent of the state highway patrol on behalf of a member, a member who becomes totally and permanently incapacitated for duty in the employ of the state highway patrol may be retired on disability by the board. To be eligible for retirement on account of disability incurred not in the line of duty, a member must have five or more years of service credit according to rules adopted by the board.

The medical or psychological examination of a member who has applied for disability retirement shall be conducted by a competent health-care professional or professionals appointed by the board. The health-care professional or professionals shall file a written report with the board containing the following information:

- (1) Whether the member is totally incapacitated for duty in the employ of the patrol;
- (2) Whether the incapacity is expected to be permanent;
- (3) The cause of the member's incapacity.

The board shall determine whether the member qualifies for disability retirement and its decision shall be final. The board shall consider the written medical or psychological report, opinions, statements, and other competent evidence in making its determination. If the incapacity is a result of heart disease or any cardiovascular disease of a chronic nature, which disease or any evidence of which was not revealed by the physical examination passed by the member on entry into the patrol, the member is presumed to have incurred the disease in the line of duty as a member of the patrol, unless the contrary is shown by competent evidence.



(B)(1) Except as provided under division (A) of section 5505.58 of the Revised Code, a member whose retirement on account of disability incurred in the line of duty shall receive the applicable pension provided for in section 5505.17 of the Revised Code, except that if the member has less than twenty-five years of contributing service, the member's service credit shall be deemed to be twenty-five years for the purpose of this provision. In no case shall the member's disability pension be less than sixty-one and one-quarter per cent or exceed the lesser of seventy-nine and one-quarter per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(2) Except as provided under division (B) of section 5505.58 of the Revised Code, a member whose retirement on account of disability incurred not in the line of duty shall receive the applicable pension provided for in section 5505.17 of the Revised Code, except that if the board's determination that the member qualifies for disability retirement was made before the effective date of this amendment and the member has less than twenty years of contributing service, the member's service credit shall be deemed to be twenty years for the purpose of this provision. If the board's determination that the member qualifies for disability retirement is made on or after the effective date of this amendment and the member has less than twelve years of contributing service, the member's service credit shall be deemed to be twelve years for the purpose of this provision.

In no case shall the member's disability pension under this division exceed the lesser of seventy-nine and one-quarter per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(C) The state highway patrol retirement board shall adopt rules requiring a disability retirant, as a condition of continuing to receive a disability pension, to agree in writing to obtain any medical or psychological treatment recommended by the board's health-care professional and submit medical or psychological reports regarding the treatment. If the board determines that a disability retirant is not obtaining the medical or psychological treatment or the board does not receive a required medical or psychological report, the disability pension shall be suspended until the treatment is obtained, the report is received by the board, or the board's health-care professional certifies that the treatment is no longer helpful or advisable. Should the retirant's failure to obtain treatment or submit a medical or psychological report continue for one year, the recipient's right to the disability pension shall be



terminated as of the effective date of the original suspension.

(D) A disability retiree who has not attained the age of sixty years shall be subject to an annual medical or psychological re-examination by health-care professionals appointed by the board, except that the board may waive the re-examination if the board's health-care professionals certify that the retiree's disability is ongoing. If any retiree refuses to submit to a medical or psychological re-examination, the retiree's disability pension shall be suspended until the retiree withdraws the refusal. If the refusal continues for one year, all the retiree's rights under and to the disability pension shall be terminated as of the effective date of the original suspension.

(E) Each disability retiree who has not attained the age of sixty years shall file with the board an annual statement of earnings, current medical or psychological information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability retiree file an annual statement of earnings or current medical or psychological information if the board's health-care professional certifies that the retiree's disability is ongoing.

The board shall annually examine the information submitted by the retiree. If a retiree refuses to file the statement or information, the disability pension shall be suspended until the statement and information are filed. If the refusal continues for one year, the right to the pension shall be terminated as of the effective date of the original suspension.

(F)(1) Except as provided in division (F)(2) of this section, a disability retiree who has been physically or psychologically examined and found no longer incapable of performing the retiree's duties, or who becomes employed as a law enforcement officer, shall have the right to be restored to the rank the retiree held at the time the retiree was pensioned and the right to have all previous rights restored, including the retiree's civil service status, and the disability pension shall terminate. Upon return to employment in the patrol, the retiree shall again become a contributing member of the retirement system, the total service at the time of the retiree's retirement shall be restored to the retiree's credit, and the retiree shall be given service credit for the period the retiree was in receipt of a disability pension.

(2) The state highway patrol is not required to take action under division (F)(1) of this section if the



retirant was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

(G) The board shall adopt a rule to define "law enforcement officer" for purposes of division (F)(1) of this section, and may adopt other rules to carry out this section, including rules that specify the types of health-care professionals the board may appoint for the purpose of this section.