

Rep. Her, PERA Executive Director Doug Anderson and Anne Finn (LMC),

It is the understanding of the Minnesota Correctional Officer Retirement Association (MNCORA) that on the March 20th meeting of the LCPR HF 1234 will be being discussed and that part of that is a PERA recommendation to change ss [353.031](#) subd 8.
(See PERA [2023 PERA Police & Fire Disability Modifications](#) Page 5, Disability Reapplication).

The change in 353.031 subd 8 would mark a reversal of decades of Administrative law changing the burden on a denied disability appeal from PERA to the disabled member. This change if allowed without amendment would affect PERA Correctional Plan members who are not the subject of HF 1234.

MNCORA asks that an Amendment be written to exclude the PERA Correctional Plan members form the change.

HF 1234 is dealing primarily with the PTSD Disability retirements of Police. The change sought in 353.031 subd 8 will affect ALL PERA disability retirees.

PERA Correctional members go out on duty disability almost always due to physical injuries. I reference the [6 CO's at Stillwater](#) and MCF Oak Park Heights that were hospitalized this past week after being assaulted. This sort of violence occurs across Minnesota in Jails on PERA CO's too! Far too often.

MNCORA objects to the change based on current law, decades long past practice, cost to the disabled members and the fact there was no notification to PERA Correctional Plan members or other PERA Pension members, just Police and Fire for input.

Signed,
The Minnesota Correctional Officer Association Executive Board

Members of the LCPR,

The Minnesota Correctional Officer Retirement Association (MNCORA) is opposed to HF 1234 as written.

*This Bill states it is, *“A bill for an act relating to labor; modifying peace officer and firefighter duty disability provisions.”* Note, PERA Correctional Officers are not listed.

On page 2 they add State Patrol Officers under 32B.011 sub 7. But not the MSRS State Correctional Officers.

*On pages 4 and 18 of the Bill it lists the employees who are eligible for Psychological Condition Treatment. They are Peace Officers, firefighters, paramedics and emergency medical technicians, and the State Patrol. Again NO MENTION OF CORRECTIONAL OFFICERS for this benefit.

*On page 15 we see, **Additional requirements; eligibility for police and fire or local government correctional service retirement plan disability benefits. Why is the Correctional Plan suddenly added to a Police and Fire Bill?**

*The following paragraphs cover disability in general seeking finally to change the burden from PERA to the member culminating on page 17.20 If the person's reapplication is denied, the person bears the burden of proving eligibility for a disability benefit in an appeal under section 356.96.

This is in direct conflict of 353.031 sub 8 where decades of Administrative Law Judge decisions have placed the burden on PERA, not the member in a reapplication appeal.

IMPORTANT

HF 1234 (line 17.2& Subd. 8. **Proof of continuing disability eligibility** upon reapplication. (a) A person 17.3 must not be paid a disability benefit payment must not be made except upon furnishing 17.4 adequate proof furnished to the executive director of the association that the person remains 17.5 is disabled and, upon reapplication, that the disability is the same disability for which 17.6 disability benefits were initially granted.

The disability rules changed in 2015 under [353E.06](https://www.revisor.mn.gov/laws/2015/0/68/). Prior to July 2015 a CO on disability (<https://www.revisor.mn.gov/laws/2015/0/68/>)

EFFECTIVE DATE.

This section is effective July 1, 2015.

Sec. 25.

Minnesota Statutes 2014, section 353E.06, subdivision 5, is amended to read:

Subd. 5.

Disability benefit termination.

(a) The disability benefit paid to a disabled local government correctional employee terminates at the end of the month in which the employee reaches age ~~65~~ 55, or the first of the month after the expiration of the 60-month period from the effective date of the disability benefit, whichever is later.

(b) If the disabled local government correctional employee is still disabled when the employee reaches has been collecting the disability benefit for 60 months or has reached age ~~65~~ 55, whichever is later, the employee is deemed to be a retired employee and, if the employee had elected an optional annuity under subdivision 3, must receive an annuity in accordance with the terms of the optional annuity previously elected.

Prior to 2015 a CO's disability terminated at 65, after 2015 at 55. What happens to someone under this new Bill HF1234? For example, a female CO injured her back in a use of force with an inmate in 2010 and has been on disability since then. In 2022 she was in a car accident and lost a leg. If HF 1234 passes and PERA makes her reapply and a doctor

says her back is now fine. The original reason for her disability will be no longer relevant however she still can't perform the duties of a Corrections Officer. Let's say today she's 50. Is she just cut off rather than collecting until 65? Under HF1234 it appears so.

Remember a CO out on duty disability must quit their job. They make a fraction of their salary and do not pay into Social Security. If she's dropped from Disability she still cannot perform the duties of a Correctional Officer. She will be out a check, unable to draw Social Security and still be unable to perform the duties of a CO.

This is not the case for a CO on a Duty Disability after 2015. They will be treated differently under HF 1234. Why?

In summary,

HF 1234 like its companion Bill SF 1959 started out as a Police and Fire Bill.

At the last minute changes were added to HF 1234 that affect the PERA Correctional Officer Plan as well as the General Plan. It became a PERA Bill.

The Correctional Plan stakeholders like MNCORA had no notice or input.

HF 1234 provides a benefit of 24 weeks of treatment for Police and Fire and no benefit for Correctional Officers.

It will change decades of case law on an appeal for reapplication from the burden being on PERA to the member.

In short PERA Correctional Plan members will receive no treatment benefits but will suffer harm to our Disability Retirement.

This Bill that started as a Police and Fire PTSD Bill morphed into a major rewriting of PERA disability affecting our Correctional Officer members.

For these reasons the Minnesota Correctional Officer Retirement Association opposes this Bill.

Signed,

The MNCORA Executive Board