

State Legislative Action on Presumption of Workers' Compensation Eligibility

* Over the last year, state legislatures have introduced bills seeking to establish presumptive eligibility for workers' compensation claims in response to the novel coronavirus (COVID-19) outbreak.

* This tracker focusses on the 2021 legislative session. You can access the 2020 legislative session tracker [here](#).

* We will provide weekly updates documenting any relevant new bills and the current procedural posture of the existing legislation. This week's actions include:

- The Virginia Senate passed a substitute version of a bill already passed by the House, HB 1985, which would create a rebuttable presumption that any health care provider who as part of his or her employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19, are presumed to have an occupational disease suffered in the line of duty. The Senate's version of the bill adds a provision stating that the presumption does not apply to employees whose employer offers them a vaccine for the prevention of COVID-19, unless the employer has a written declaration from his or her physician that vaccination would pose them a significant health risk. A conference committee has been formed to reconcile the differences.
- The Virginia House passed a substitute bill for a bill previously passed by the Senate, SB 1375, which would create a rebuttable presumption that any firefighters, law-enforcement officers and correctional officers who contract COVID-19 are presumed to have an occupational disease suffered in the line of duty. The House version would require that the presumption apply retroactively to March 12, 2020 and prospectively to December 31, 2021. A conference committee has been formed to reconcile the differences.
- The Virginia Senate passed a substitute bill for a bill previously passed in the House, HB 2207, that would create a rebuttable presumption that any firefighter, law-enforcement officer or correctional officer who contracts COVID-19 is presumed to have an occupational disease suffered in the line of duty. The Senate version would include regional jail officers in the presumption and require that the presumption only apply to those diagnosed after July 1, 2021. A conference committee has been formed to reconcile the differences.
- The Illinois House introduced a bill, HB 3654, which would amend Illinois' current workers compensation laws to provide that no compensation be payable for a death or disability arising out of an employee's exposure to COVID-19 if the employee has refused to take a COVID-19 vaccination.
- The Massachusetts House introduced a bill, HD 2941, which would create a rebuttable presumption that an emergency response or medical personnel employee who contracts COVID-19 was performing his or her regular duties at the time of contraction for any claim for compensation where the employee has been diagnosed with COVID-19.

- The Montana House introduced a bill, HB 550, that would create a rebuttable presumption that an essential employee who contracts COVID-19 contracted an occupational disease arising out of and in the course of employment if the employee is exposed to COVID-19 in the course of employment as an essential worker.
- The Washington Senate introduced a bill, SB 5190, that would create a rebuttable presumption for healthcare employees that any infectious or contagious disease which is the subject of a public health emergency is an occupational disease during that public health emergency and health care employees who are exposed to it are presumed to have been exposed at the health care facility.

* Most states that have introduced legislation establishing presumptive eligibility for workers' compensation claims follow this general framework:

- Provides a presumption of compensability—that may be refuted by affirmative evidence—that a covered employee contracted COVID-19 during the course of employment;
- Defines the contours of who qualifies as an eligible employee (e.g., peace officers, health care providers, food service workers, etc.); and
- Clarifies the duration of the application of the provisions.

Not every state has followed this model and some states deviate in important respects (e.g., application to all future pandemics, etc.).

* If you operate in a state and notice that we have not included the most up-to-date legislative developments, please let us know.

State	Bill	Procedural Posture	Presumption of Compensability	Applicable Employees	Other Provisions
Connecticut	HB 6478	Introduced (Feb. 18, 2021)	Creates a rebuttable presumption that qualifying employees who contract COVID-19 have an occupational disease that arose out of and in the course of employment.	<p>All employees who were unable to work during the COVID-19 outbreak in Connecticut except:</p> <ul style="list-style-type: none"> • Employees who worked solely from home and did not have physical interaction with other employees or work-related supplies or materials of the employer; and • Employees who were the recipient of an individualized written offer or directive from his or her employer to work solely from home, but otherwise chose to work at a work site of the employer. 	Applies prospectively.
Hawaii	HB 1224 / SB 1415	Introduced (Jan. 27, 2021)	Creates a rebuttable presumption for compensation under Hawaii's workers' compensation law that, for an employee who contracts COVID-19, the contraction was proximately caused by an employer's failure to maintain adequate workplace protections against exposure to COVID-19.	<ul style="list-style-type: none"> • Everyone. 	Applies prospectively.
Illinois	HB 3654	Introduced (Feb. 25, 2021)	Amends Illinois' current workers compensation laws to provide that no compensation shall be payable for a death or disability arising out of an employee's exposure to COVID-19 if the employee has	<ul style="list-style-type: none"> • Everyone. 	Applies prospectively.

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Iowa	HF 121 / SF 138	Introduced (Jan. 21, 2021)	Creates a rebuttable presumption that if an employee can show that they were exposed to a person infected with COVID-19 or a similar disease while in the workplace, the employee's infection is an occupational disease for which an employer is liable for compensation under the Iowa occupational disease law.	<ul style="list-style-type: none"> • Employees who can show that they were exposed to a person infected with COVID-19 or a similar disease while in the workplace. 	Applies prospectively.
Maryland	HB 765	Introduced (Jan. 29, 2021)	Creates a rebuttable presumption that specified essential workers who contract COVID-19 have a compensable occupational disease that was suffered in the line of duty or course of employment.	<ul style="list-style-type: none"> • Firefighters. • Rescue squad members. • Advanced life support unit members. • Police officers. • Sheriffs and deputy sheriffs. • Correctional officers. • Health care workers. • Child care workers. 	Applies prospectively.
	HB 1247 / SB 725	Introduced in the Senate (Feb. 5, 2021); Introduced in the House (Feb. 8, 2021)	Creates a rebuttable presumption that police officers, sheriffs, firefighters, rescue squad members and advance life support unit members who contract COVID-19, suffered from an occupational disease that was suffered in the line of duty and is compensable.	<ul style="list-style-type: none"> • Police officers and sheriffs. • Firefighters including volunteers. • Rescue squad member including volunteers. • Advanced life support unit members including volunteers. 	Applies prospectively.

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	SB 756	Introduced (Feb. 5, 2021)	Creates a rebuttable presumption that firefighters, rescue squad members, advance life support unit members, police officers, sheriffs and specified healthcare workers who contract COVID-19, suffered from an occupational disease that was suffered in the line of duty and is compensable.	<ul style="list-style-type: none"> • Firefighters including volunteers. • Rescue squad members including volunteers. • Advanced life support unit members including volunteers. • Police officers and sheriffs. • Health care workers who have been in direct contact with patients; or occupy, clean, or repair areas occupied by patients. 	Applies prospectively.
	HB 1199 / SB 813	Introduced in the House (Feb. 8, 2021); Introduced in the Senate (Feb. 9, 2021)	Creates a rebuttable presumption that specified workers who contract COVID-19, suffered from an occupational disease that was suffered in the line of duty/ course of employment and is compensable.	<ul style="list-style-type: none"> • Firefighters including volunteers. • Rescue squad members including volunteers. • Advanced life support unit members including volunteers. • Paramedics including volunteers. • Police officers and sheriffs. • Correctional officers. • Security counselors employed at a corrections, detention, or secure treatment facility. • Child care workers. • Education workers. • Essential workers (ie. individuals who are required to work on the premises of a business or government agency that has been declared essential) • Health care workers whose duties include direct patient 	Applies prospectively.

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				care or ancillary work in areas where patients diagnosed with COVID-19 are treated.	
	SB 812	Introduced (Feb. 9, 2021)	Creates a rebuttable presumption that specified workers who contract COVID-19, suffered from an occupational disease that was suffered in the line of duty and is compensable.	<ul style="list-style-type: none"> • Firefighters including volunteers. • Rescue squad members including volunteers. • Advanced life support unit members including volunteers. • Paramedics including volunteers. • Police officers and sheriffs. • Health care workers who work at a Title 19 licensed facility or at a care setting where patients are diagnosed with COVID-19. 	Applies prospectively.
	SB 860	Introduced (Feb. 9, 2021)	Creates a rebuttable presumption that public school employees who contract COVID-19, suffered from an occupational disease that was suffered in the course of employment and is compensable.	<ul style="list-style-type: none"> • Paid public school employees including teachers, administrators and support staff who are covered employees. 	Applies retroactively to March 1, 2021 and prospectively to July 31, 2022.
Massachusetts	HD 2941	Introduced (Feb. 18, 2021)	Creates a rebuttable presumption that an emergency response or medical personnel employee who contracts COVID-19 was performing his or her regular duties at the time of contraction for any claim for compensation where the employee has been diagnosed with COVID-19.	<ul style="list-style-type: none"> • Health-care employees and non-medical employees at hospitals, chronic disease rehabilitation centers, nursing homes, rest homes, community health centers, psychiatric hospitals, and out-patient health care facilities. 	Applies prospectively.

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				<ul style="list-style-type: none"> Health-care employees working in prisons and correctional facilities. At home certified nursing assistants. At-home personal care assistants. Emergency medical technicians Paramedics. 	
Minnesota	HF 37 / SF 105 / HF 2	Introduction and referred to the House Labor, Industry, Veterans and Military Affairs Finance and Policy Committee (Jan. 11, 2021)	Creates a rebuttable presumption that teachers, school administrators and other employees who provide student-related services who contract COVID-19, are presumed to have an occupational disease arising out of and in the course of employment.	<ul style="list-style-type: none"> Teachers or school administrators employed by a school district, charter school, or nonpublic school. Contract employees that provides student-related services throughout the school year to a school district, charter school, or nonpublic school, including paraprofessionals, student support services personnel, school bus drivers, school nutrition staff, and custodial staff. Any other person employed by the school district, charter school, or nonpublic school or providing services to students under a contract with the school district, charter school, or nonpublic schools. 	Applies retroactively for employees who contracted COVID-19 on or after July 15, 2020 and prospectively until July 30, 2021.
	SF 719	Introduced (Feb. 8, 2021)	Creates a rebuttable presumption for compensation under Minnesota's workers' compensation law that school	<ul style="list-style-type: none"> Teachers. School administrators. 	Applies retroactively for employees who contracted COVID-

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			employees who contracts COVID-19 are presumed to have an occupational disease arising out of and in the course of employment.	<ul style="list-style-type: none"> Contract employees who provide student-related services. Any other person employed by the school district, charter school, or nonpublic school. 	19 on or after July 15, 2020 and prospectively until July 30, 2021.
	SF 1203/ HF 1203	Introduced (Feb. 18, 2021)	Extends the previously passed COVID-19 related presumption for workers' compensation claims to May 1, 2022.	<ul style="list-style-type: none"> Licensed peace officers. Firefighters. Paramedics. Nurses. Healthcare workers. Correction officers and security counselors employed by the state or a political subdivision at a corrections, detention, or secure treatment facility. Emergency medical technicians. Health care providers, nurses, and assistive employees employed in a health care, home care, or long-term care setting, with direct COVID-19 patient care or ancillary work in COVID-19 patient units. Workers who are required to provide childcare to first responders and health care workers under Executive Orders 20-02 and 20-19. 	Applies prospectively until May 1, 2022.
Montana	HB 297	Introduced (Feb. 3, 2020)	Creates a conclusive presumption that a nurse who contracts COVID-19 contracted a compensable	<ul style="list-style-type: none"> Registered professional nurses. Licensed practical nurses. 	Applies retroactively to March 12, 2020 and

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			occupational disease arising out of and in the course of employment if he or she was exposed to COVID-19 in the course of employment as a nurse.		prospectively to March 12, 2030.
	HB 550	Introduced (Feb. 23, 2021)	Creates a rebuttable presumption that an essential employee who contracts COVID-19 contracted an occupational disease arising out of and in the course of employment if the employee is exposed to COVID-19 in the course of employment as an essential worker.	Applies to the following employees provided that they were required to work at the physical location of the employment at any time, up to 20 days prior to the diagnosis of COVID-19: <ul style="list-style-type: none"> • Public safety employees. • School employees. • Any other employees declared to be essential employee by a public health order of the governor or federal directive. 	Applies retroactively to March 12, 2020 and prospectively to March 12, 2030.
Nebraska	LB 441	Introduced (January 15, 2021)	Creates a rebuttable presumption that an essential worker who otherwise qualifies for workers' compensation is presumed to have suffered from an accident arising out of and in the course of his or her employment if he or she is: <ul style="list-style-type: none"> • confirmed as COVID-19 positive on or after March 13, 2020, either by physician or by test, • has COVID-19 listed as the cause of death on the essential worker's death certificate, or • is quarantined at the direction of the employer due to 	<ul style="list-style-type: none"> • Peace officers. • Firefighters. • Members of an emergency rescue team. • Emergency management workers. • On-call members of a life support agency. • State or local government employees that are required to work within the secured perimeter of a penal institution. • Employees of a youth rehabilitation and treatment center. • Employees of a regional center. 	Applies both prospectively and retroactively to March 13, 2020.

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			<p>suspected COVID-19 exposure or the display of any COVID-19 symptoms.</p>	<ul style="list-style-type: none"> • Food processing employees who are employed in a meatpacking operation. • Public or private school employees. • Grocery store employees. • Public works, utilities, or garbage disposal employees. • Truck drivers. • Mortuary or funeral home employees. • Childcare employees. • Postal service employees. • Any other individuals employed by an essential or life sustaining business or occupation. 	
New York	A 2127	Introduced (Jan. 14, 2021)	<p>Created a rebuttable presumption that, for the purpose of workers compensation, treatment rendered by a medical provider for COVID-19 was done on an emergent basis and therefor does not require prior authorization.</p>	<ul style="list-style-type: none"> • Medical providers. 	<p>Applies prospectively.</p>
North Dakota	HB 1433	Introduced (Jan. 18, 2021)	<p>Creates a rebuttable presumption that an essential worker's exposure to and contraction of COVID-19 arose out of and in the course of employment and is presumed to be causally connected to the hazards or exposures of the essential worker's employment.</p>	<ul style="list-style-type: none"> • Essential workers. 	<p>Applies retroactively to claims filed after March 24, 2020 and prospectively through July 31, 2023.</p>

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Oklahoma	HB 2239	Introduced (Feb. 1, 2021)	Creates a rebuttable presumption for compensation under Oklahoma’s workers’ compensation law that a first responder who test positive for COVID-19 contracted it in the course and scope of employment.	<ul style="list-style-type: none"> Peace officers and reserve peace officers. Firefighters and volunteer firefighters. Emergency medical technicians. 	Applies prospectively.
Oregon	SB 488 / HB 3025	Introduced in the Senate (Jan. 11, 2021); Introduced in the House (Jan. 21, 2021)	Creates a rebuttable presumption that essential workers who contract COVID-19, are presumed to have an occupational disease arising out of and in the course of employment.	<p>An employee who, at an employer’s direction, must or may work at the subject worker’s regular or temporarily assigned work site during a period in which a declaration of a state of emergency issued by the Governor is in effect and works in one of the following occupations:</p> <ul style="list-style-type: none"> Public safety personnel. Peace officers. Medical services providers. Employees of a retail store, including a grocery store. Employees of a public, private or charter school. Employees of a child care facility, who cares for the dependent of another essential worker. Agricultural workers. Janitorial worker who provides services in specified locations, buildings or facilities. Employees whose workplace has more than 10 employees working at the work site and 10 	<p>Applies prospectively until the 180th day following the expiration or termination of the Governor’s March 8, 2020, declaration of emergency. (This sunset provision only appears in the Senate bill.)</p> <p>Applies to compensation claims that were submitted and were pending but for which compensability was not yet determined before the effective date of this Act.</p>

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				<p>percent or more of the employees at the work site have tested positive or presumptively positive for COVID-19.</p> <ul style="list-style-type: none"> • Employees whose work place has less than 10 employees work at the work site and two or more employees at the work site have tested positive or presumptively positive for COVID-19. 	
Rhode Island	HB 5264	Introduced (Jan. 29, 2021)	Creates a rebuttable presumption that for specified employees' disability or quarantine resulting from COVID-19 or any other viral infection, during a declared state of emergency by executive order due to COVID-19 or other viral infection, is a compensable occupational disease arising out of and in the course of an employee's employment.	<p>Applies to the following employees if they have direct or indirect contact with persons with COVID-19 or other viral infections as classified by executive order during a declared state of emergency:</p> <ul style="list-style-type: none"> • Licensed health care workers and direct support professionals employed in a health care, congregate care, home care or long-term care setting. • Public safety workers. • Essential workers (any employee whose employment is necessary for the continued health and safety of the community). • Transportation workers. • Any other class of employees designated by an executive order of the governor issued 	Applies prospectively.

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				during a declared state of emergency.	
	HB 5474	Introduced (Feb. 10, 2021)	Creates a rebuttable presumption for compensation under Rhode Island’s workers’ compensation law that, for public safety officials who contract, have symptoms of or otherwise become infected with COVID-19, their medical condition or incapacity is work-related.	Public safety official -- whether the workers are citizens, documented or undocumented immigrants -- including, but not limited to: <ul style="list-style-type: none"> • Police, fire, EMS, medical facility workers. • Correctional officers. • Dispatchers. • Paramedics. • Pharmacists. • Pharmaceutical technicians. • Grocery or retail workers. • Essential state and municipal employees • Public transportation employees. • Parcel and freight delivery employees. • Truck drivers. • Utility workers. 	Applies prospectively.
Texas	SB 433 / SB 439	Introduced (Jan. 25, 2021)	Creates a presumption of compensability for nurses who have contracted COVID-19 during employment on or after February 1, 2020 and which results in disability or death.	<ul style="list-style-type: none"> • Nurses. 	Applies retroactively and prospectively to February 1, 2020.
	SB 612	Introduced (Feb. 8, 2021)	Creates a rebuttable presumption of compensability that school employees who suffer from COVID-19 resulting in disability or	<ul style="list-style-type: none"> • School employees who (1) interact with a student or a school district employee who is later diagnosed with COVID-19 	Applies retroactively and

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			death, contracted the disease during the course and scope of their employment.	and (2) who contracts the disease within 14 days following the date that the employee came in contact with the student or school district employee.	prospectively to February 1, 2020.
Vermont	S 9	ENACTED (Feb. 4, 2020)	Extend the rebuttable presumption that certain workers who are diagnosed with COVID-19 are entitled to workers' compensation for the disease from the previous cutoff of January 15, 2021 to instead last until 30 days after the termination of Vermont's state of emergency declaration in response to COVID-19.	<ul style="list-style-type: none"> • Frontline workers. • Other workers who had a documented exposure to COVID-19 while working. 	Applies both retroactively and prospectively to January 15, 2021.
Virginia	HB 1818	Introduced (Jan. 6, 2021)	Creates a rebuttable presumption for salaried and volunteer emergency medical services personnel that their death or disability from respiratory disease, hypertension or heart disease, and cancer will be presumed to be an occupational disease, suffered in the line of duty.	<ul style="list-style-type: none"> • Salaried and volunteer emergency medical services personnel. 	Applies prospectively.
	HB 1985	Introduced (Jan. 11, 2021); Passed in the House (Feb. 3, 2021); Amended version passed in the Senate (Feb. 18, 2021)	Creates a rebuttable presumption that any health care provider who as part of the provider's employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19, are	<ul style="list-style-type: none"> • Any health care provider who as part of the provider's employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19. 	Applies both prospectively and retroactively to July, 2021.

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			presumed to have an occupational disease suffered in the line of duty.	<ul style="list-style-type: none"> Does <u>not</u> apply to employees whose employer offers them a vaccine for the prevention of COVID-19, unless the employer has a written declaration from his or her physician that vaccination would pose them a significant health risk. 	
	SB 1342 / HB 2207	Introduced in Senate (Jan. 12, 2021); Introduced in House (Jan. 13, 2021); Passed in the House (Feb. 4, 2021); Passed in the Senate (Feb. 18, 2021)	Creates a rebuttable presumption that any firefighter, law-enforcement officer, correctional officer or regional jail officer who contracts COVID-19 is presumed to have an occupational disease suffered in the line of duty.	<ul style="list-style-type: none"> Firefighters. Law-enforcement officers Correctional officers. Regional jail officers. <p>If the employee was hired after July 1, 2021, s/he must undergo a preemployment physical examination and found free of COVID-19 if it was requested by their employer.</p>	Applies retroactively to those hire on or after July 1, 2021.
	SB 1375	Introduced in the Senate (Jan. 13, 2021); Passed in the Senate (Feb. 4, 2021); Introduced in the House (Feb. 7, 2021); Passed in the House (Feb. 16, 2021)	Creates a rebuttable presumption that any firefighters, law-enforcement officers and correctional officers who contract COVID-19 is presumed to have an occupational disease suffered in the line of duty.	<ul style="list-style-type: none"> Firefighters. Law-enforcement officers Correctional officers. 	Applies retroactively to March 12, 2020 and prospectively to December 31, 2021.
Washington	SB 5190	Introduced (Jan. 13, 2021)	Creates a rebuttable presumption for healthcare employees that any infectious or contagious disease	<ul style="list-style-type: none"> Healthcare employees. 	Applies prospectively.

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			which is the subject of a public health emergency is an occupational disease during that public health emergency and health care employees who are exposed to it are presumed to have been exposed at the health care facility.		
Wisconsin	<u>AB 31</u>	Introduced (Feb. 3, 2021)	Creates a rebuttable presumption for compensation under Wisconsin's workers' compensation law that an injury caused to a critical worker by COVID-19 was caused by the individual's employment.	<ul style="list-style-type: none"> Critical workers (as determined by the Wisconsin Secretary of Health Services under the authority granted in 323.19 (3p)). 	Applies prospectively through December 31, 2021.