

SENATE BILL 431

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EMERGENCY BILL

4lr0481

By: **Senators Waldstreicher, Elfreth, Feldman, Jackson, King, Kramer,
Lewis Young, McCray, McKay, Rosapepe, and Smith**

Introduced and read first time: January 19, 2024

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Occupational Disease Presumption – Long COVID**
3 **(Home of the Brave Act of 2024)**

4 FOR the purpose of establishing that governmental essential workers are presumed to have
5 an occupational disease that is compensable under workers' compensation law after
6 being diagnosed with long COVID; applying this Act retroactively; and generally
7 relating to occupational disease presumptions under the workers' compensation law.

8 BY repealing and reenacting, without amendments,
9 Article – Labor and Employment
10 Section 1–101(a) and (c) and 8–101(a) and (q)
11 Annotated Code of Maryland
12 (2016 Replacement Volume and 2023 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Labor and Employment
15 Section 9–503
16 Annotated Code of Maryland
17 (2016 Replacement Volume and 2023 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

Article – Labor and Employment

20 1–101.

22 (a) In this article the following words have the meanings indicated.

23 (c) “Governmental unit” means:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) the State;

2 (2) a county, municipal corporation, or other political subdivision of the
3 State; or

4 (3) a unit of the State government or of a political subdivision.

5 8–101.

6 (a) In this title the following words have the meanings indicated.

7 (q) “Governmental entity” means:

8 (1) a governmental unit as defined in § 1–101 of this article; or

9 (2) an instrumentality of:

10 (i) 1 or more states;

11 (ii) 1 or more political subdivisions of a state; or

12 (iii) 1 or more states and political subdivisions of states.

13 9–503.

14 (a) A paid firefighter, paid fire fighting instructor, paid rescue squad member,
15 paid advanced life support unit member, or sworn member of the Office of the State Fire
16 Marshal employed by an airport authority, a county, a fire control district, a municipality,
17 or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue
18 squad member, or volunteer advanced life support unit member who is a covered employee
19 under § 9–234 of this title is presumed to have an occupational disease that was suffered
20 in the line of duty and is compensable under this title if:

21 (1) the individual has heart disease, hypertension, or lung disease;

22 (2) the heart disease, hypertension, or lung disease results in partial or
23 total disability or death; and

24 (3) in the case of a volunteer firefighter, volunteer fire fighting instructor,
25 volunteer rescue squad member, or volunteer advanced life support unit member, the
26 individual has met a suitable standard of physical examination before becoming a
27 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
28 member.

29 (b) (1) A paid police officer employed by an airport authority, a county, the
30 Maryland–National Capital Park and Planning Commission, a municipality, or the State,

1 a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this subsection, a
2 deputy sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy
3 sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County
4 deputy sheriff, Prince George's County correctional officer, or deputy sheriff of Allegany
5 County is presumed to be suffering from an occupational disease that was suffered in the
6 line of duty and is compensable under this title if:

7 (i) the police officer, deputy sheriff, or correctional officer is
8 suffering from heart disease or hypertension; and

9 (ii) the heart disease or hypertension results in partial or total
10 disability or death.

11 (2) (i) A deputy sheriff of Anne Arundel County, Anne Arundel County
12 detention officer, deputy sheriff of Baltimore City, Montgomery County correctional officer,
13 Prince George's County deputy sheriff, or Prince George's County correctional officer is
14 entitled to the presumption under this subsection only to the extent that the individual
15 suffers from heart disease or hypertension that is more severe than the individual's heart
16 disease or hypertension condition existing prior to the individual's employment as a deputy
17 sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of
18 Baltimore City, Montgomery County correctional officer, Prince George's County deputy
19 sheriff, or Prince George's County correctional officer.

20 (ii) To be eligible for the presumption under this subsection, a deputy
21 sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of
22 Baltimore City, Montgomery County correctional officer, Prince George's County deputy
23 sheriff, or Prince George's County correctional officer, as a condition of employment, shall
24 submit to a medical examination to determine any heart disease or hypertension condition
25 existing prior to the individual's employment as a deputy sheriff of Anne Arundel County,
26 Anne Arundel County detention officer, deputy sheriff of Baltimore City, Montgomery
27 County correctional officer, Prince George's County deputy sheriff, or Prince George's
28 County correctional officer.

29 (c) A paid firefighter, paid fire fighting instructor, paid rescue squad member,
30 paid advanced life support unit member, or a sworn member of the Office of the State Fire
31 Marshal employed by an airport authority, a county, a fire control district, a municipality,
32 or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue
33 squad member, or volunteer advanced life support unit member who is a covered employee
34 under § 9-234 of this title is presumed to be suffering from an occupational disease that
35 was suffered in the line of duty and is compensable under this title if:

36 (1) the individual has leukemia or prostate, rectal, throat, multiple
37 myeloma, non-Hodgkin's lymphoma, brain, testicular, bladder, kidney or renal cell, or
38 breast cancer that is caused by contact with a toxic substance that the individual has
39 encountered in the line of duty;

40 (2) the individual has completed at least 10 years of cumulative service

1 within the State as a firefighter, a fire fighting instructor, a rescue squad member, or an
2 advanced life support unit member or in a combination of those jobs;

3 (3) the cancer or leukemia results in partial or total disability or death; and

4 (4) in the case of a volunteer firefighter, volunteer fire fighting instructor,
5 volunteer rescue squad member, or volunteer advanced life support unit member, the
6 individual has met a suitable standard of physical examination before becoming a
7 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
8 member.

9 (d) (1) A forest ranger, park ranger, wildlife ranger, paid law enforcement
10 employee of the Department of Natural Resources who is a covered employee under §
11 9–207 of this title, and a park police officer of the Maryland–National Capital Park and
12 Planning Commission is presumed to have an occupational disease that was suffered in the
13 line of duty and is compensable under this title if the individual:

14 (i) is suffering from Lyme disease; and

15 (ii) was not suffering from Lyme disease before assignment to a
16 position that regularly places the employee in an outdoor wooded environment.

17 (2) The presumption under this subsection for a park police officer of the
18 Maryland–National Capital Park and Planning Commission shall only apply:

19 (i) during the time that the park police officer is assigned to a
20 position that regularly places the park police officer in an outdoor wooded environment;
21 and

22 (ii) for 3 years after the last date that the park police officer was
23 assigned by the Maryland–National Capital Park and Planning Commission to a position
24 that regularly placed the officer in an outdoor wooded environment.

25 **(E) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**
26 **MEANINGS INDICATED.**

27 **(II) “COVID–19” MEANS, INTERCHANGEABLY AND**
28 **COLLECTIVELY, THE CORONAVIRUS DISEASE KNOWN AS COVID–19 OR 2019–NCOV**
29 **AND THE SARS–CoV–2 VIRUS OR ANY OF ITS VARIANTS.**

30 **(III) “GOVERNMENTAL ESSENTIAL WORKER” MEANS AN**
31 **INDIVIDUAL WHO, AT THE TIME OF INITIAL COVID–19 INFECTION:**

32 **1. WAS EMPLOYED BY A GOVERNMENTAL ENTITY, AS**
33 **DEFINED IN § 8–101 OF THIS ARTICLE; AND**

1 **2. DURING A DECLARED STATE OF EMERGENCY:**

2 **A. PERFORMED LABOR OR SERVICES AT A WORK SITE**
3 **THAT COULD NOT BE PERFORMED REMOTELY; OR**

4 **B. WAS REQUIRED TO BE AT A WORK SITE.**

5 **(IV) “LONG COVID” MEANS THE SIGNS, SYMPTOMS, AND**
6 **CONDITIONS THAT:**

7 **1. CONTINUE OR DEVELOP AFTER INITIAL COVID-19**
8 **INFECTION;**

9 **2. ARE PRESENT 4 WEEKS OR MORE AFTER THE INITIAL**
10 **PHASE OF COVID-19 INFECTION;**

11 **3. MAY BE MULTISYSTEMIC;**

12 **4. MAY PRESENT WITH A RELAPSING-REMITTING**
13 **PATTERN;**

14 **5. MAY PROGRESS OR WORSEN OVER TIME, WITH THE**
15 **POSSIBILITY OF SEVERE AND LIFE-THREATENING EVENTS EVEN MONTHS OR YEARS**
16 **AFTER INFECTION; AND**

17 **6. MAY REPRESENT MANY POTENTIALLY OVERLAPPING**
18 **ENTITIES, LIKELY WITH DIFFERENT BIOLOGICAL CAUSES AND DIFFERENT SETS OF**
19 **RISK FACTORS AND OUTCOMES.**

20 **(2) A GOVERNMENTAL ESSENTIAL WORKER IS PRESUMED TO BE**
21 **SUFFERING FROM AN OCCUPATIONAL DISEASE THAT WAS SUFFERED IN THE COURSE**
22 **OF EMPLOYMENT AND IS COMPENSABLE UNDER THIS TITLE IF:**

23 **(I) ON OR AFTER MARCH 5, 2020, BUT BEFORE JULY 15, 2021,**
24 **THE INDIVIDUAL TESTED POSITIVE FOR OR WAS DIAGNOSED WITH COVID-19**
25 **WITHIN 14 DAYS AFTER A DAY THAT THE INDIVIDUAL PERFORMED LABOR OR**
26 **SERVICES AT THE INDIVIDUAL’S PRIMARY WORKPLACE OR ANOTHER ASSIGNED**
27 **WORKPLACE THAT WAS NOT THE INDIVIDUAL’S HOME AT THE EMPLOYER’S**
28 **DIRECTION;**

29 **(II) THE TEST WAS PERFORMED OR THE DIAGNOSIS WAS MADE**
30 **BY A HEALTH CARE PRACTITIONER WHO WAS LICENSED, CERTIFIED, OR OTHERWISE**
31 **AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PERFORM THE TEST**

1 **OR MAKE THE DIAGNOSIS; AND**

2 **(III) THE INDIVIDUAL HAS SUBSEQUENTLY BEEN DIAGNOSED**
3 **WITH LONG COVID BY A HEALTH CARE PRACTITIONER LICENSED, CERTIFIED, OR**
4 **OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO MAKE**
5 **THE DIAGNOSIS.**

6 **(3) THE PRESUMPTION UNDER THIS SUBSECTION IS REBUTTABLE**
7 **WITH SUBSTANTIAL EVIDENCE TO THE CONTRARY THAT DEMONSTRATES THAT THE**
8 **INDIVIDUAL TESTED POSITIVE FOR OR WAS DIAGNOSED WITH COVID-19 OR LONG**
9 **COVID FOR REASONS NOT ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT.**

10 **[(e)] (F) (1)** Except as provided in paragraph (2) of this subsection, any [paid
11 firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire
12 Marshal, paid police officer, forest ranger, park ranger, wildlife ranger, paid law
13 enforcement employee of the Department of Natural Resources, deputy sheriff of Anne
14 Arundel County, Anne Arundel County detention officer, park police officer of the
15 Maryland-National Capital Park and Planning Commission, deputy sheriff of Montgomery
16 County, deputy sheriff of Baltimore City, Montgomery County correctional officer, deputy
17 sheriff of Prince George's County, or Prince George's County correctional officer] **COVERED**
18 **EMPLOYEE** who is eligible for benefits under subsection (a), (b), (c), [or] (d), **OR (E)** of this
19 section or the dependents of those individuals shall receive the benefits in addition to any
20 benefits that the individual or the dependents of the individual are entitled to receive under
21 the retirement system in which the individual was a participant at the time of the claim.

22 **(2)** The benefits received under this title shall be adjusted so that the
23 weekly total of those benefits and retirement benefits does not exceed the weekly salary
24 that was paid to [an individual specified under paragraph (1) of this subsection] **THE**
25 **COVERED EMPLOYEE.**

26 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall be construed to
27 apply retroactively and shall be applied to and interpreted to affect workers' compensation
28 claims filed on or after March 5, 2020.

29 **SECTION 3. AND BE IT FURTHER ENACTED,** That this Act is an emergency
30 measure, is necessary for the immediate preservation of the public health or safety, has
31 been passed by a yea and nay vote supported by three-fifths of all the members elected to
32 each of the two Houses of the General Assembly, and shall take effect from the date it is
33 enacted.