

# HOUSE BILL 765

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EMERGENCY BILL

11r0344

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By: **Delegate Terrasa**

Introduced and read first time: January 29, 2021

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Occupational Disease Presumptions – Novel**  
3 **Coronavirus**  
4 **(Essential Workers' Compensation Act)**

5 FOR the purpose of providing that certain firefighters, rescue squad members, advanced  
6 life support unit members, police officers, sheriffs, deputy sheriffs, correctional  
7 officers, health care workers, and child care workers who are suffering from the  
8 effects of severe acute respiratory syndrome coronavirus 2 are presumed, under  
9 certain circumstances, to have an occupational disease that was suffered in the line  
10 of duty or course of employment and is compensable in a certain manner; requiring  
11 that an individual who is eligible for benefits under certain provisions of this Act  
12 provide a copy of a certain test or certain written documentation to the employer or  
13 insurer; establishing the date of injury; specifying that a certain individual not  
14 entitled to a certain presumption is not precluded from claiming an occupational  
15 disease or personal injury under State law; providing that a certain presumption  
16 may be rebutted only under certain circumstances; defining certain terms; making  
17 this Act an emergency measure; and generally relating to occupational disease  
18 presumptions under the workers' compensation law.

19 BY repealing and reenacting, with amendments,  
20 Article – Labor and Employment  
21 Section 9–503  
22 Annotated Code of Maryland  
23 (2016 Replacement Volume and 2020 Supplement)

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

26 **Article – Labor and Employment**

27 9–503.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

11 (3) in the case of a volunteer firefighter, volunteer fire fighting instructor,  
12 volunteer rescue squad member, or volunteer advanced life support unit member, the  
13 individual has met a suitable standard of physical examination before becoming a  
14 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit  
15 member.

16 (b) (1) A paid police officer employed by an airport authority, a county, the  
17 Maryland–National Capital Park and Planning Commission, a municipality, or the State,  
18 a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this subsection, a  
19 deputy sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy  
20 sheriff of Baltimore City, Montgomery County correctional officer, Prince George’s County  
21 deputy sheriff, Prince George’s County correctional officer, or deputy sheriff of Allegany  
22 County is presumed to be suffering from an occupational disease that was suffered in the  
23 line of duty and is compensable under this title if:

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

26 (ii) the heart disease or hypertension results in partial or total  
27 disability or death.

28 (2) (i) A deputy sheriff of Anne Arundel County, Anne Arundel County  
29 detention officer, deputy sheriff of Baltimore City, Montgomery County correctional officer,  
30 Prince George’s County deputy sheriff, or Prince George’s County correctional officer is  
31 entitled to the presumption under this subsection only to the extent that the individual  
32 suffers from heart disease or hypertension that is more severe than the individual’s heart  
33 disease or hypertension condition existing prior to the individual’s employment as a deputy  
34 sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of  
35 Baltimore City, Montgomery County correctional officer, Prince George’s County deputy  
36 sheriff, or Prince George’s County correctional officer.

37 (ii) To be eligible for the presumption under this subsection, a deputy  
38 sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of

1 Baltimore City, Montgomery County correctional officer, Prince George's County deputy  
2 sheriff, or Prince George's County correctional officer, as a condition of employment, shall  
3 submit to a medical examination to determine any heart disease or hypertension condition  
4 existing prior to the individual's employment as a deputy sheriff of Anne Arundel County,  
5 Anne Arundel County detention officer, deputy sheriff of Baltimore City, Montgomery  
6 County correctional officer, Prince George's County deputy sheriff, or Prince George's  
7 County correctional officer.

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

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

19 (2) the individual has completed at least 10 years of cumulative service  
20 within the State as a firefighter, a fire fighting instructor, a rescue squad member, or an  
21 advanced life support unit member or in a combination of those jobs;

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

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

28 (d) (1) A paid law enforcement employee of the Department of Natural  
29 Resources who is a covered employee under § 9-207 of this title and a park police officer of  
30 the Maryland-National Capital Park and Planning Commission is presumed to have an  
31 occupational disease that was suffered in the line of duty and is compensable under this  
32 title if the employee:

33 (i) is suffering from Lyme disease; and

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

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

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

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

7 **(E) A PAID FIREFIGHTER, PAID RESCUE SQUAD MEMBER, PAID ADVANCED**  
8 **LIFE SUPPORT UNIT MEMBER, VOLUNTEER FIREFIGHTER, VOLUNTEER RESCUE**  
9 **SQUAD MEMBER, VOLUNTEER ADVANCED LIFE SUPPORT UNIT MEMBER, PAID**  
10 **POLICE OFFICER EMPLOYED BY AN AIRPORT AUTHORITY, A COUNTY, A**  
11 **MUNICIPALITY, OR THE STATE, SHERIFF, DEPUTY SHERIFF, OR CORRECTIONAL**  
12 **OFFICER IS PRESUMED TO BE SUFFERING FROM AN OCCUPATIONAL DISEASE THAT**  
13 **WAS SUFFERED IN THE LINE OF DUTY AND IS COMPENSABLE UNDER THIS TITLE IF:**

14 **(1) THE INDIVIDUAL IS SUFFERING FROM THE EFFECTS OF SEVERE**  
15 **ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2;**

16 **(2) THE INDIVIDUAL’S DUTIES REQUIRED THE INDIVIDUAL TO BE IN**  
17 **DIRECT CONTACT WITH MEMBERS OF THE PUBLIC; AND**

18 **(3) THE INDIVIDUAL HAS BEEN DIAGNOSED WITH COVID–19 OR**  
19 **TESTS POSITIVE FOR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 OR**  
20 **SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 ANTIBODIES.**

21 **(F) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**  
22 **MEANINGS INDICATED.**

23 **(II) “CHILD CARE WORKER” MEANS AN INDIVIDUAL WHO IS**  
24 **REQUIRED TO PROVIDE CHILD CARE TO FIRST RESPONDERS OR HEALTH CARE**  
25 **WORKERS DURING A DECLARED STATE OF EMERGENCY OR UNDER AN EXECUTIVE**  
26 **ORDER ISSUED BY THE GOVERNOR.**

27 **(III) “HEALTH CARE WORKER” MEANS AN INDIVIDUAL WHOSE**  
28 **PRIMARY PLACE OF EMPLOYMENT IS A FACILITY LICENSED UNDER TITLE 19 OF THE**  
29 **HEALTH – GENERAL ARTICLE OR AN INDIVIDUAL EMPLOYED IN A HEALTH CARE,**  
30 **HOME CARE, OR LONG–TERM CARE SETTING WHOSE DUTIES INCLUDE DIRECT**  
31 **PATIENT CARE OR ANCILLARY WORK IN AREAS WHERE PATIENTS DIAGNOSED WITH**  
32 **COVID–19 ARE TREATED.**

33 **(2) A HEALTH CARE WORKER OR CHILD CARE WORKER IS PRESUMED**  
34 **TO BE SUFFERING FROM AN OCCUPATIONAL DISEASE THAT WAS SUFFERED IN THE**  
35 **COURSE OF EMPLOYMENT AND IS COMPENSABLE UNDER THIS TITLE IF:**

1           **(I) THE INDIVIDUAL IS SUFFERING FROM THE EFFECTS OF**  
2 **SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2;**

3           **(II) THE INDIVIDUAL'S DUTIES REQUIRED THE INDIVIDUAL TO:**

4                   **1. BE IN DIRECT CONTACT WITH PATIENTS OR THE**  
5 **CHILDREN OF FIRST RESPONDERS OR HEALTH CARE WORKERS; OR**

6                   **2. OCCUPY, CLEAN, OR REPAIR AREAS OCCUPIED BY**  
7 **PATIENTS OR THE CHILDREN OF FIRST RESPONDERS OR HEALTH CARE WORKERS;**  
8 **AND**

9           **(III) THE INDIVIDUAL HAS BEEN DIAGNOSED WITH COVID-19**  
10 **OR TESTS POSITIVE FOR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2**  
11 **OR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 ANTIBODIES.**

12           **(G) (1) AN INDIVIDUAL WHO IS ELIGIBLE FOR BENEFITS UNDER**  
13 **SUBSECTION (E) OR (F) OF THIS SECTION SHALL PROVIDE A COPY OF THE POSITIVE**  
14 **TEST OR THE WRITTEN DOCUMENTATION CONFIRMING THE DIAGNOSIS TO THE**  
15 **EMPLOYER OR INSURER.**

16           **(2) THE DATE OF INJURY FOR AN INDIVIDUAL WHO IS ELIGIBLE FOR**  
17 **BENEFITS UNDER SUBSECTION (E) OR (F) OF THIS SECTION SHALL BE THE FIRST**  
18 **DATE ON WHICH THE EMPLOYEE WAS UNABLE TO WORK DUE TO A DIAGNOSIS OF**  
19 **COVID-19 OR DUE TO SYMPTOMS THAT WERE LATER DIAGNOSED AS COVID-19,**  
20 **WHICHEVER OCCURRED FIRST.**

21           **(3) AN EMPLOYEE WHO HAS BEEN DIAGNOSED WITH COVID-19 BUT**  
22 **WHO IS NOT ELIGIBLE FOR BENEFITS UNDER SUBSECTION (E) OR (F) OF THIS**  
23 **SECTION IS NOT PRECLUDED FROM CLAIMING AN OCCUPATIONAL DISEASE OR FROM**  
24 **CLAIMING A PERSONAL INJURY UNDER STATE LAW.**

25           **(4) THE PRESUMPTION ESTABLISHED UNDER SUBSECTIONS (E) AND**  
26 **(F) OF THIS SECTION MAY BE REBUTTED ONLY IF THE EMPLOYER OR INSURER**  
27 **SHOWS THE EMPLOYMENT WAS NOT A DIRECT CAUSE OF THE DISEASE.**

28           **[(e)] (H) (1) Except as provided in paragraph (2) of this subsection, any paid**  
29 **firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire**  
30 **Marshal, paid police officer, paid law enforcement employee of the Department of Natural**  
31 **Resources, deputy sheriff of Anne Arundel County, Anne Arundel County detention officer,**  
32 **park police officer of the Maryland-National Capital Park and Planning Commission,**  
33 **deputy sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery**  
34 **County correctional officer, deputy sheriff of Prince George's County, or Prince George's**

1 County correctional officer who is eligible for benefits under subsection (a), (b), (c), [or] (d),  
2 **OR (E)** of this section or the dependents of those individuals shall receive the benefits in  
3 addition to any benefits that the individual or the dependents of the individual are entitled  
4 to receive under the retirement system in which the individual was a participant at the  
5 time of the claim.

6 (2) The benefits received under this title shall be adjusted so that the  
7 weekly total of those benefits and retirement benefits does not exceed the weekly salary  
8 that was paid to the paid law enforcement employee of the Department of Natural  
9 Resources, a park police officer of the Maryland–National Capital Park and Planning  
10 Commission, firefighter, fire fighting instructor, sworn member of the Office of the State  
11 Fire Marshal, police officer, deputy sheriff, Prince George’s County or Montgomery County  
12 correctional officer, or Anne Arundel County detention officer.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
14 measure, is necessary for the immediate preservation of the public health or safety, has  
15 been passed by a ye and nay vote supported by three–fifths of all the members elected to  
16 each of the two Houses of the General Assembly, and shall take effect from the date it is  
17 enacted.