



Note: The COVID-19 (Coronavirus) situation is developing very rapidly. Employers should continue to monitor the [U.S. Centers for Disease Control and Prevention COVID-19 website](#), the [World Health Organization COVID-19 website](#), and Ogletree’s [Coronavirus \(COVID-19\) Resource Center](#) for the latest developments. State laws may vary, and state government agencies may issue further orders and guidance that should be considered. Employers should carefully review and discuss these materials with their Ogletree counsel to tailor the materials and guidance to their particular situation.

**Orders and Other Authority or Guidance
to Provide Workers’ Compensation (WC) Coverage for COVID-19**
Last Updated: 6/14/2021 12:00 p.m. EDT (updated weekly if necessary)

Executive Summary

Some states recently have implemented (designated with gray shading), have proposed amendments to their state workers’ compensation statutes, or have issued other authority to make it easier for **health care workers, first responders**, or other **essential workers** to receive workers’ compensation benefits, by providing a presumption of coverage for these types of employees who test positive for or are impacted by exposure to COVID-19. The below table summarizes the states that have implemented or are considering such changes to their workers’ compensation laws.

States that have proposed but not finalized legislation are included to make employers aware of possible changes to those states’ laws. As with all proposed legislation, whether or when the proposed legislation will become law or whether it will be altered before it becomes law are unknowns.

Employers in states that have not implemented any changes to their workers’ compensation laws should continue to analyze whether a COVID-19 related exposure is compensable under the states’ existing statutory definitions and administrative guidance.

This survey is not intended to address general compensability for workers’ compensation benefits under each states’ laws. This survey also does not address issues that apply to only public employees/employers (though information on first responders is provided, since some are private employees). *Please see Additional Summary below the table.*

State	Has the state implemented amendment(s) to its WC law or other authority or guidance in light of COVID-19? If so, what are the key provisions of the amendment(s) or authority or guidance?	Link to Authority / Useful and Related Links (i.e. executive orders, proposed legislation, press release links, state workers compensation website and/or FAQs)
Alabama	No.	WC Website: https://labor.alabama.gov/wc/workers-compensation.aspx
Alaska	Yes. On April 9, 2020, Governor Dunleavy signed a new law that establishes a presumption of compensability for emergency response and health care employees who contract COVID-19 during the public health disaster declared on March 11, 2020 during the course of their employment and (1) receive a COVID-19 diagnosis by a physician; (2) presumptive positive COVID-19 test result; (3) or laboratory-confirmed COVID-19 diagnosis. The presumption is	WC Website: https://labor.alaska.gov/wc/ Bills: http://www.akleg.gov/PDF/31/Bills/SB0241Z.PDF ; http://www.akleg.gov/basis/Bill/Detail/32?Root=hb76#tab1_4 Bulletin: https://labor.alaska.gov/wc/bulletins/20-05.pdf

Note: information in this table includes excerpts provided for convenience. Please refer to source documents for complete information.

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	<p>retroactive to March 11, 2020. HB 76, enacted in April 2021, extends these protections.</p> <p>Also, on July 21, 2020, a March 2020 Division of Insurance emergency regulation adding symptoms of COVID-19 (cardio-respiratory failure and shock, including respiratory distress syndromes) to the list of covered conditions under the state’s Comprehensive Health Insurance Association Reinsurance Program was made permanent.</p> <p>Also, on January 6, 2021, legislation (HB 45) was proposed that would establish a rebuttable presumption of compensable occupational disease for certain employees during a disaster emergency declared by the governor that receive a diagnosis by a physician of, or positive laboratory test for, COVID-19 and worked outside the employee’s home in the occupation and had work-related in-person contact with a member of the public within 14 days before the employee receives a diagnosis or positive laboratory test. The new law would only apply to emergency medical technicians, firefighters, health care providers, paramedics, peace officers, employees of a child care facility, employees of a grocery store, and teachers. The new law would be retroactive to November 15, 2020 and take effect immediately.</p>	<p>Filed Permanent Regulations Memorandum: https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=123676</p> <p>Proposed Legislation: http://www.akleg.gov/basis/Bill/Text/32?Hsid=HB0045A</p>
Arizona	<p>No. However, on May 14, 2020, the Industrial Commission of Arizona issued a substantive policy statement advising that claims handlers may not categorically deny COVID-19 claims. The advisory notice indicates that, like all workers’ compensation claims, a denial of a COVID-19 claim must be based upon a reasonable investigation and must be based on facts and evidence relevant to the claim. The Industrial Commission also issued claims handling recommendations for evaluating COVID-19 claims.</p>	<p>WC Website: https://www.azica.gov/resources/employees</p> <p>Substantive Policy Statement: https://www.azica.gov/sites/default/files/SPS%20-COVID-19%20FINAL.pdf</p> <p>Announcement Re. Claims Handling: https://www.azica.gov/sites/default/files/COVID%20SPS.pdf</p>
Arkansas	<p>Yes. On April 13, 2020, Governor Hutchinson issued an executive order to temporarily suspend certain portions of the workers' compensation code. The executive order eases the burden of proof for first responders and front-line healthcare workers who contract COVID-19 on the job. However, the executive order does not afford a presumption of compensability for these workers. The temporary change to the workers' compensation code is in</p>	<p>WC Website: http://www.awcc.state.ar.us/</p> <p>April 13 Executive Order: https://governor.arkansas.gov/images/uploads/executiveOrders/EO_20-19_.pdf</p>

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	<p>effect until the state of emergency is lifted or such other time as the Governor may direct in a subsequent executive order.</p> <p>On April 21, 2020, Governor Hutchinson issued another executive order confirming the prior suspension of the workers' compensation code and expanding the potential coverage to Arkansas National Guard Soldiers and Airmen on state active duty. Further, the additional executive order clarifies the definition of a front-line healthcare worker to include healthcare professionals who provide: (a) treatment, diagnosis, care, or mitigation of COVID-19; (b) assessment or care of an individual with a confirmed or suspected case of COVID-19; or (c) otherwise provides services determined by the Arkansas Workers Compensation Commission to mitigate COVID-19 that are consistent with the executive order.</p> <p>On June 15, 2020, Governor Hutchinson issued another executive order to clarify and provide sufficient recourse under the workers' compensation law for employees to receive workers' compensation benefits during the COVID-19 public health emergency. Specifically, the executive order, among other things, classifies COVID-19 as an "occupational disease" under the workers' compensation law and classifies COVID-19 as an exception to the prohibition on compensation for ordinary diseases of life to which the general public is exposed.</p> <p>On October 13, 2020, Governor Hutchinson renewed the protections of the previous executive orders related to workers' compensation coverage.</p> <p>On December 11, 2020, Governor Hutchinson renewed the protections of the previous executive orders related to workers' compensation coverage.</p> <p>On December 29, 2020, Governor Hutchinson renewed the protections of the previous executive orders related to workers' compensation coverage.</p> <p>On February 26, 2021, Governor Hutchinson renewed the protections of the previous executive orders related to workers' compensation coverage.</p>	<p>April 21 Executive Order: https://governor.arkansas.gov/images/uploads/executiveOrders/EO_20-22_.pdf</p> <p>June 15 Executive Order: https://files.constantcontact.com/bd895b5c001/5bf7688b-7112-48c8-a881-dd02cd47a120.pdf</p> <p>October 13 Executive Order: https://governor.arkansas.gov/images/uploads/executiveOrders/EO_20-48.pdf</p> <p>December 11 Executive Order: https://governor.arkansas.gov/images/uploads/executiveOrders/EO_20-51.pdf</p> <p>December 29 Executive Order: https://governor.arkansas.gov/images/uploads/executiveOrders/EO_20-53.pdf</p> <p>February 26 2021 Executive Order: https://governor.arkansas.gov/images/uploads/executiveOrders/EO_21-03.pdf</p> <p>Proposed Legislation: https://www.arkleg.state.ar.us/Bills/FTPDocument?path=%2FBills%2F2021R%2FPublic%2F5B16.pdf; https://www.arkleg.state.ar.us/Bills/FTPDocument?path=%2FBills%2F2021R%2FPublic%2FH1488.pdf</p>

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	<p>Legislation (SB 16) was also pre-filed on December 16, 2020, that would include COVID-19 as a covered occupational disease under the state’s workers compensation law. However, on April 5, 2021, it was withdrawn.</p> <p>Legislation (HB 1488) was also introduced on February 10, 2021, that would exclude COVID-19 from being considered an “ordinary disease of life” that would be barred from coverage under the state’s occupational disease statute. HB 1488 also provides that requiring an employee to perform work when the employer has knowledge that, within the normal course and scope of the employee’s job performance, exposure to COVID-19 or any of its mutations is possible, likely, or certain is not intentional conduct that would remove the employer from the protections of the exclusivity doctrine. HB 1488 would be retroactive to March 11, 2020, and would remain in effect until May 1, 2023.</p>	
<p>California</p>	<p>On May 6, 2020, Governor Newsom signed a new executive order that established a rebuttable presumption in workers’ compensation claims, presuming that employees who are diagnosed with COVID-19 acquired the illness at work. In order to obtain the presumption for a COVID-19-related illness, qualifying employees must have met the following criteria: (a) the employee tested positive for or was diagnosed with COVID-19 within 14 days after a day that the employee performed labor or services at the employee’s place of employment at the employer’s direction; (b) the day referenced in subparagraph (a) on which the employee performed labor or services at the employee’s place of employment at the employer’s direction was on or after March 19, 2020; (c) the employee’s place of employment referenced in subparagraphs (a) and (b) was not the employee’s home or residence; and (d) where subparagraph (a) is satisfied through a diagnosis of COVID-19, the diagnosis was done by a physician who holds a physician and surgeon license issued by the California Medical Board and that diagnosis is confirmed by further testing within 30 days of the date of the diagnosis. The order also spells out specific requirements for an employee who seeks temporary disability benefits or Labor Code section 4850 benefits and also orders that where an employee has paid sick leave benefits specifically available in response to COVID-19 those benefits shall be used and exhausted before any temporary disability benefits or benefits under Labor Code section 4850 are due and payable. The order applied retroactively to employees who have</p>	<p>WC Website: https://www.dir.ca.gov/dwc/dwc_home_page.htm</p> <p>Executive Order: https://www.gov.ca.gov/wp-content/uploads/2020/05/5.6.20-EO-N-62-20-text.pdf</p> <p>Bill (SB 1159): https://hr.cch.com/eld/CaliforniaSB1159.pdf</p> <p>Bill (AB 685): https://hr.cch.com/eld/CaliforniaAB685.pdf</p> <p>Proposed Legislation (SB 213): https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB213</p> <p>Failed Legislation (AB No. 664): http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB664</p> <p>Failed Legislation (AB 196): http://leginfo.legislature.ca.gov/faces/billPdf.xhtml?bill_id=201920200AB196&version=20190AB19697AMD</p>

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	<p>COVID-19 and worked outside the home from March 19, 2020, until July 5, 2020. Governor Newsom declared that this new presumption would apply across all sectors, including healthcare personnel, first responders, and those essential employees who have been in the workforce during the shelter-in-place and stay-at-home orders.</p> <p>On September 17, 2020, Governor Newsom signed SB 1159 into law. The new law provides a rebuttable presumption of compensable injury, which applies to a class of employees that includes, but is not limited to: peace officers, firefighters, specified frontline employees, and certain health care employees (as defined and in limited circumstances). The term “injury,” includes illness or death resulting from COVID-19 if all of the following circumstances apply: (1) The employee has tested positive for COVID-19 within 14 days after a day that the employee performed labor or services at the employee’s place of employment at the employer’s direction; and (2) the day referenced in paragraph (1), on which the employee performed labor or services at the employee’s place of employment at the employer’s direction, was on or after July 6, 2020. The date of injury shall be the last date the employee performed labor or services at the employee’s place of employment at the employer’s direction prior to the positive test. This presumption extends to an applicable employee following termination of service for a period of 14 days, commencing with the last date actually worked in the specified capacity at the employee’s place of employment. Evidence relevant to controverting the presumption may include, but is not limited to, evidence of measures in place to reduce potential transmission of COVID-19 in the employee’s place of employment and evidence of an employee’s non-occupational risks of COVID-19 infection.</p> <p>One portion of SB 1159 essentially codifies Executive Order N-62-20 to create a rebuttable presumption that illness or death related to COVID-19 for a broad class of employees working outside the home is a compensable occupational injury. The rebuttable presumption in SB 1159 codifying Executive Order N-62-20 applies if: (1) the employee has tested positive for or was diagnosed with COVID-19 within 14 days after a day that the employee performed labor or services at the employee’s place of employment at the employer’s direction; (2) The day referenced in paragraph (1) on which the</p>	<p>Failed Legislation (SB 893): http://leginfo.legislature.ca.gov/faces/billPdf.xhtml?bill_id=201920200SB893&version=20190SB89398AMD</p>

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	<p>employee performed labor or services at the employee’s place of employment at the employer’s direction was on or after March 19, 2020, and on or before July 5, 2020. The date of injury shall be the last date the employee performed labor or services at the employee’s place of employment at the employer’s direction. If paragraph (1) is satisfied through a diagnosis of COVID-19, the diagnosis was done by a licensed physician and surgeon holding an M.D. or D.O. degree or state licensed physician assistant or nurse practitioner, acting under the review or supervision of a physician and surgeon pursuant to standardized procedures or protocols within their lawfully authorized scope of practice, and that diagnosis is confirmed by testing or by a COVID-19 serologic test within 30 days of the date of the diagnosis.</p> <p>If an employee has paid sick leave benefits specifically available in response to COVID-19, those benefits shall be used and exhausted before any temporary disability benefits or benefits under Section 4800, 4800.5, or 4850 are due and payable. If an employee does not have those sick leave benefits, the employee shall be provided temporary disability benefits or Section 4800, 4800.5, or 4850 benefits, if applicable, from the date of disability. There shall not be a waiting period for temporary disability benefits.</p> <p>SB 1159 also establishes a presumption of compensability for employees not covered by previous sections of the new law who contract COVID-19 while working for an employer (with 5 or more employees) that experiences an "outbreak" of COVID-19 cases at a particular work location. The law defines an "outbreak" as: (1) for employers with less than 100 employees, 4 or more employees who worked at a specific work location contracted the disease within a 14-day period; (2) for employers with more than 100 employees, 4% or more of the employees who worked at a specific work location contracted the disease within a 14-day period; or (3) A specific place of employment is ordered to close by a local public health department, the State Department of Public Health, the Division of Occupational Safety and Health, or a school superintendent due to a risk of infection with COVID-19. This provision goes hand in hand with new law AB 685, which requires employers to report a COVID-19 outbreak (as defined by the State Department of Public Health) to local public health officials. Employers must also report known cases to</p>	

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	<p>employees who may have been exposed to COVID-19 within one business day.</p> <p>The new law remains in effect until January 1, 2023.</p> <p>Other legislation is pending (SB 213) that provides: “An infectious disease that develops or manifests in a hospital employee who provides direct patient care in an acute care hospital shall be presumed to arise out of and in the course of the employment. This presumption is rebuttable by other evidence, but, unless rebutted, the appeals board shall presume the infectious disease arose out of and in the course of the employment. Except if the infectious disease is attributed to a methicillin-resistant Staphylococcus aureus skin infection, this presumption shall be extended to a hospital employee following termination of employment for a period of 3 calendar months for each full year of employment, but not to exceed 60 months, beginning with the last date actually worked in the specified capacity.” Infectious disease includes COVID-19. The bill would not become operative until January 1, 2023.</p> <p>Other legislation failed (AB 664) that would have provided a conclusive presumption of compensability for certain public first responders and both public and private health care workers who provide direct patient care in an acute care hospital (as defined by subdivisions (a) or (b) Section 1250 of the California Health and Safety Code) and who are directed to quarantine by a licensed health care professional, a public health officer or agency, or the employer as a result of, or exposure to or contraction of, a communicable disease (including COVID-19), that occurs on or after January 1, 2020, and that is the subject of a state or local declaration of a state of emergency that is issued on or after January 1, 2020. Benefits may include medical treatment, disability indemnity and death benefits; reasonable costs of reimbursement to the employee for emergency equipment or personal protective equipment (PPE) that provides, or is ancillary to other emergency equipment or PPE that provides protection from the injury for the person or protection for other persons from transmission of the injury by the person; reasonable medical expenses relating to protection from or treatment of the injury and, in addition, reasonable living expenses, other than temporary housing costs, that exceeded the living expenses usually incurred by the person and that</p>	

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	<p>were incurred as a direct result of the injury; and reasonable temporary housing costs as described in the statute. The presumption would stay in effect following termination of service for a period of 90 days, commencing with the last date actually worked in the specified capacity. An employee who is eligible for compensation pursuant to this section would not be required to use the employee’s accrued vacation leave, personal leave, compensatory leave, sick leave, or any other leave, other than applicable benefits made available pursuant to this division, in order to be reimbursed.</p> <p>Other legislation failed (AB 196) that would have created a conclusive presumption of compensable injury for an employee who is employed in an occupation or industry deemed essential in the Governor’s executive order of March 19, 2020 (Executive Order N-33-20), or who is subsequently deemed essential. The term “injury” would include COVID-19 that develops or manifests itself during a period of the person’s employment in the essential occupation or industry. The law would specifically exclude certain public first responders and health care employees who provide direct patient care in an acute care hospital, as defined in subdivision (a) or (b) of Section 1250 of the Health and Safety Code. The presumption would be extended to the employee following termination of service for a period of 90 days, commencing with the last date actually worked. The presumption would apply to an injury that occurs on or after March 1, 2020.</p> <p>Other legislation failed (SB 893) that would have defined “injury,” for a hospital employee who provides direct patient care in an acute care hospital, to include infectious diseases, musculoskeletal injuries, and respiratory diseases (including COVID-19), as defined, when any part of the disease or infection develops or manifests itself during a period of the person’s employment with the hospital. The bill would have created a rebuttable presumption that these injuries that develop or manifest in a hospital employee who provides direct patient care in an acute care hospital arose out of and in the course of the employment. The bill would have extended these presumptions for specified time periods after the hospital employee’s termination of employment.</p>	
Colorado	No. On June 10, 2020, Colorado’s Senate Committee on Appropriations postponed SB 216 indefinitely. The pending legislation would have created a	WC Website: https://www.colorado.gov/pacific/cdle/dwc/covid19-updates

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	<p>rebuttable presumption of compensability for essential workers who work outside of the home that contract COVID-19. The worker would be deemed to have contracted COVID-19 if (1) the worker tests positive for COVID-19 through laboratory testing prescribed by a licensed physician; or (2) if laboratory testing is unavailable: (a) is diagnosed with COVID-19 by a licensed physician; or (b) dies and COVID-19 is listed as the cause of death by a licensed physician on the essential worker’s death certificate.</p>	<p>Proposed Legislation: http://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_216_01.pdf</p>
<p>Connecticut</p>	<p>Yes. On July 24, 2020, Governor Lamont issued an executive order creating a rebuttable presumption that an employee who initiates a claim for payment of benefits under the provisions of Chapter 568 of the Connecticut General Statutes, and who missed a day or more of work between March 10, 2020 and May 20, 2020, inclusive, due to a diagnosis of COVID-19, or due to symptoms that were diagnosed as COVID-19, contracted COVID-19 as an occupational disease arising out of and in the course of employment, provided: (i) such employee worked, at the direction of the employer, outside the home during at least one of the fourteen days immediately preceding the date of injury, and had not received an offer or directive from said employer to work from home instead of from his or her place of employment; (ii) if the date of injury was more than fourteen days after March 23, 2020, such employee was employed by an employer deemed essential by the Department of Economic and Community Development pursuant to Executive Order 7H; (iii) the contraction of COVID-19 by such employee was confirmed by a positive laboratory diagnostic test within three weeks of the date of injury or diagnosed and documented within three weeks of the date of injury by a licensed physician, licensed physician’s assistant, or licensed advanced practice registered nurse, based on the employee’s symptoms; and (iv) a copy of the positive laboratory diagnostic test results or the written diagnosis required by subdivision (iii) shall be provided to the employer or insurer.</p> <p>The date of injury for an employee who has contracted COVID-19 shall be the date between March 10, 2020 and May 20, 2020 that the employee was first unable to work or died due to a diagnosis of COVID-19 or to symptoms that were diagnosed as COVID-19, whichever occurred first.</p> <p>Any wage replacement benefits paid under Section 31-307 or 31-308(a) of the Connecticut General Statutes shall be reduced by the amount of any paid sick</p>	<p>WC Website: https://wcc.state.ct.us/</p> <p>Executive Order: https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7JJJ.pdf</p>

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	<p>leave available to an employee through the Emergency Paid Sick Leave Act set forth in sections 5101 et seq. of the Families First Coronavirus Response Act, or through another paid sick leave program specifically available in response to COVID-19 and separate from any accrued paid time off regularly available to the employee.</p> <p>The presumption may be rebutted only if the employer or insurer demonstrates to a workers' compensation commissioner by a preponderance of the evidence, that the employment of the individual was not the cause of his or her contracting COVID-19.</p> <p>The executive order remained in effect for 6 months, unless earlier modified or terminated. Thus, <i>it has now expired</i>.</p>	
Delaware	No.	WC Website: https://dia.delawareworks.com/workers-comp/
District of Columbia	No.	WC Website: https://does.dc.gov/page/workers-compensation-does
Florida	No. However, on April 6, 2020, the Florida Office of Insurance Regulation issued an informational memorandum to remind employers to provide coverage to first responders, health care workers, and other workers who contract COVID-19 due to work-related exposure.	<p>WC Website: https://www.myfloridacfo.com/division/wc/</p> <p>Memorandum: https://www.floir.com/siteDocuments/OIR-20-05M.pdf</p>
Georgia	No. However, on March 1, 2021, legislation (HB 700) was introduced that would include COVID-19 as an occupational disease in the workers' compensation Act for essential workers. Specifically, the new law would exclude COVID-19 from being considered an "ordinary disease of life" barred from coverage for an essential worker if contracted within 5 calendar days of performing work for the employer. "Essential workers" are those whose employer does not permit him or her to work remotely.	<p>WC Website: https://sbwc.georgia.gov/frequently-asked-questions/workers-compensation-law-faqs</p> <p>Proposed Legislation: https://www.legis.ga.gov/legislation/60228</p>
Hawaii	No. However, legislation (HB 1224; SB 1415) was introduced on January 26, 2021, that would create an exception to the exclusive right to compensation under workers' compensation law where COVID-19 is contracted by an employee whose employer failed to maintain adequate workplace protections against exposure to the novel coronavirus. HB 1224 also creates a presumption that COVID-19 has been proximately caused by an employer's failure to maintain adequate workplace protections against exposure to the novel coronavirus.	<p>WC Website: https://labor.hawaii.gov/dcd/frequently-asked-questions/</p> <p>Proposed Legislation: https://www.capitol.hawaii.gov/session2021/bills/HB1224_.HTM; https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=1415&year=2021</p>

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Idaho	No.	WC Website: https://iic.idaho.gov/
Illinois	<p>Yes. On June 5, 2020, HB 2455 became law. The bill created a rebuttable presumption of compensable injury or occupational disease for first responders or front-line workers who are diagnosed with COVID-19. One of the ways to rebut the presumption would be to show compliance to the fullest extent practicable with applicable health and safety practices and guidance. The term "first responder or front-line worker" means: all individuals employed as police, fire personnel, emergency medical technicians, or paramedics; all individuals employed and considered as first responders; all workers for health care providers, including nursing homes and rehabilitation facilities and home care workers; corrections officers; and any individuals employed by essential businesses and operations as defined in Executive Order 2020-10 dated March 20, 2020, as long as individuals employed by essential businesses and operations are required by their employment to encounter members of the general public or to work in employment locations of more than 15 employees. However, an employee's home or place of residence is not a place of employment, except for home care workers.</p> <p>The law applied to all cases tried after the effective date of the law and in which the diagnosis of COVID-19 was made on or after March 9, 2020 and on or before December 31, 2020. Thus, it has now expired. The law did not affect any employer's workers' compensation insurance experience rating or modification, but COVID-19 costs may be included in determining overall State loss costs.</p> <p>However, on February 26, 2021 HB 4276 was signed into law. The new law largely mirrors the provisions of HB 2455, but would apply to all cases tried after June 5, 2020 and in which the diagnosis of COVID-19 was made on or after March 9, 2020 and on or before June 30, 2021. Thus, it has now expired.</p> <p>Also, a previous emergency amendment of the workers' compensation rules (<i>suspended by a temporary restraining order issued on April 23, 2020 and subsequently rescinded by the Illinois Workers' Compensation Commission on April 27, 2020</i>) would have created a rebuttable presumption of compensable</p>	<p>WC Website: https://www2.illinois.gov/sites/iwcc/Pages/default.aspx</p> <p>Bill: http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=109&GA=101&DocTypeId=HB&DocNum=2455&GAID=15&LegID=118463&SpecSess=1&Session=0</p> <p>Emergency Amendment: https://www2.illinois.gov/sites/iwcc/news/Documents/15APR20-Notice_of_Emergency_Amendments_CORRECTED-clean-50IAC9030_70.pdf</p> <p>Memorandum re. Repeal: https://www2.illinois.gov/sites/iwcc/news/Documents/27APR20-EmergencyProcessUpdate.pdf</p> <p>Executive Order 2020-10: https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-10.aspx</p> <p>Bill (HB 4276): https://www.ilga.gov/legislation/fulltext.asp?DocName=10100HB4276sam001&GA=101&SessionId=108&DocTypeId=HB&LegID=123325&DocNum=4276&GAID=15&SpecSess=&Session=</p>

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	<p>occupational injury for first responders or essential front-line workers (as defined in Executive Order 2020-10 dated March 20, 2020) who contract COVID-19 or are incapacitated as a result of exposure to COVID-19 on the job during the effective period of the Gubernatorial Disaster Proclamation 2020-38 and any subsequent COVID-19 disaster proclamations. Illinois' amendment would have provided more expansive coverage than most other states in that it covered numerous essential business workers, including grocery store personnel, identified in Section 1 Parts 7-12 of the Executive Order 2020-10.</p>	
<p>Indiana</p>	<p>No.</p>	<p>WC Website: https://www.in.gov/wcb/</p>
<p>Iowa</p>	<p>No. However, legislation (HF 121) is pending that states: "If any employee can show that the employee was exposed to a person infected with COVID-19 or a similar disease while in the workplace, there shall be a rebuttable presumption that the employee's infection with COVID-19 or a similar disease is an occupational disease for which an employer is liable for compensation" under the Iowa occupational disease law.</p> <p>Other legislation (SF 138) is pending that would create a rebuttable presumption that an employee's COVID-19 infection is a personal injury arising out of and in the course of employment. The proposed law further states: "an employer shall pay an employee with a COVID-19 infection that is a personal injury arising out of and in the course and scope of employment a minimum of two weeks of weekly compensation benefits pursuant to section 85.33, subsection 1, to allow for a period of recovery and to minimize infections of other employees." Such benefits shall not be construed to limit any other workers' compensation available to an injured employee.</p>	<p>WC Website: https://www.iowaworkcomp.gov/faq</p> <p>Proposed Legislation: https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=hf121; https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=sf138</p>
<p>Kansas</p>	<p>No. Identical house bills introduced on June 3, 2020, which died in committee on June 5, 2020, would have created a rebuttable presumption of occupational disease for employees diagnosed with COVID-19 and whose employment includes contact with or work in proximity to or in the same space as the public or co-workers. The proposed bill provided that such a claim shall not be denied on the basis that the disease of COVID-19 is considered an ordinary disease of life or a hazard of disease attending employment in general.</p>	<p>WC Website: https://www.dol.ks.gov/WC/resources/faqs/employer-frequently-asked-questions</p> <p>Failed Legislation: http://www.kslegislature.org/li_2020s/b2020s/measures/document_s/hb2018_00_0000.pdf; http://www.kslegislature.org/li_2020s/b2020s/measures/document_s/hb2007_00_0000.pdf</p>

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Kentucky	<p>Yes. Governor Beshear’s Executive Order, dated April 9, 2020, provides temporary total disability payments to workers who are directed to self-quarantine by a physician due to occupational exposure to COVID-19 during the period of self-quarantine even if the employer ultimately denies liability for the claim. In order for the exposure to be considered occupational, there must be a causal connection between the work conditions and COVID-19, and which follows as a natural incident to the work as a result of the exposure occasioned by the nature of the employment. The Executive Order affords a presumption that removal of the following workers from work by a physician is due to occupational exposure to COVID-19: employees of a healthcare entity; first responders; corrections officers; military; activated National Guard; domestic violence shelter workers; child advocacy workers; rape crisis center staff; Department for Community Based Services workers; grocery workers; postal service workers; and child care workers permitted by the Cabinet for Health and Family Services to provide child care in a limited duration center during the state of emergency. An employer can rebut the presumption only if it has a good faith basis to do so. The order is in effect for the duration of the state of emergency or until the order is rescinded by further order or operation of law.</p>	<p>WC Website: https://labor.ky.gov/comp/Pages/default.aspx#COVID-19_Issues</p> <p>Executive Order: https://governor.ky.gov/attachments/20200409_Executive-Order_2020-277_Workers-Compensation.pdf</p> <p>Guidance: https://labor.ky.gov/Documents/COVID-19%20Executive%20Order%202020-277.pdf</p>
Louisiana	<p>No. Legislation failed that would have provided coverage for essential workers who are disabled or die because of a COVID-19 related illness. The law would have treated essential workers who became disabled because of exposure to COVID-19 the same as if the essential worker received personal injury by accident out of the course and scope of his or her employment. Essential workers are defined as persons working in public safety, government, disaster response, health care, or private business as designated and deemed necessary or critical for response to the COVID-19 pandemic by their employer or by virtue of their official commission. Under the proposed law, employers would have been required to post notice of the time limitation in which claims may be filed for COVID-19. Failure to post the notice would have extended the time in which a claim may be filed by 6 months.</p>	<p>WC Website: http://www.laworks.net/FAQs/FAQ_MainMenu.asp#OWC</p> <p>Proposed Legislation: https://www.legis.la.gov/legis/ViewDocument.aspx?d=1168160</p>
Maine	No.	WC Website: https://www.maine.gov/wcb/
Maryland	No. However, legislation (HB 765; SB 756; SB 812) is pending that would create a rebuttable presumption of compensable occupational injury for “child care workers” and “health care workers” (defined under the statute) if	WC Website: https://www.wcc.state.md.us/

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	<p>they are suffering from the effects of COVID-19 and the individual’s duties required the individual to: (1) be in direct contact with patients or the children of first responders or health care workers; or (2) occupy, clean, or repair areas occupied by patients or the children of first responders or health care workers; and the individual has been diagnosed with COVID-19 or tests positive for COVID-19 or COVID-19 antibodies.</p> <p>Other legislation (HB 1199; SB 813) is pending that would create a rebuttable presumption of compensable occupational injury for “child care workers,” “education workers,” “essential workers,” and “health care workers” (all defined by the statute) if: (1) the worker is suffering from the effects of COVID-19; (2) the worker has been diagnosed with COVID-19 or tests positive for COVID-19 or its antibodies; and (3) the worker’s duties required the individual to perform labor or services at a location other than the worker’s home or residence within 14 days before the onset of symptoms.</p>	<p>Proposed Legislation: https://mgaleg.maryland.gov/2021RS/bills/hb/hb0765f.pdf; https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0756; https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb1199; https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/SB0813?ys=2021RS</p>
<p>Massachusetts</p>	<p>No. However, legislation (SD 236) is pending that states “any frontline healthcare worker, working in a healthcare facility or in the community, who has symptoms of or otherwise becomes infected with or is suspected to be infected with COVID-19 that results in a period of hospitalization, quarantine, or requires self-quarantine measures as a result of being infected or coming into contact with someone who is infected with the COVID-19 virus, shall have their medical condition or incapacity to work presumed to be work-related and constitute a per se qualification for protection under [Chapter 34 of Section 152], without application of any waiting period. Said healthcare worker shall not be required to use said healthcare worker’s accrued sick time, vacation time, personal time or any other contractual time-off to cover said period of incapacitation or inability to perform regular duty work. The employer shall allow the healthcare worker to return to the worker’s previous position of employment when the period of quarantine, self-quarantine, recovery, or hospitalization is concluded . . . An healthcare worker who chooses not to return to work for an essential employer due to a good-faith concern that the worker may be exposed to the COVID-19 virus will be considered eligible for benefits under Chapter 151A as if the essential worker had been constructively discharged.”</p>	<p>WC Website: https://www.mass.gov/workers-compensation-for-injured-workers</p> <p>Proposed Legislation: https://malegislature.gov/Bills/192/SD236; https://malegislature.gov/Bills/192/H1993</p> <p>Failed Legislation: https://malegislature.gov/Bills/191/HD4949; https://malegislature.gov/Bills/191/H4739.pdf</p>

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	<p>HB 1993 is also pending and provides: “In any claim for compensation where the employee has been diagnosed with COVID-19, it shall be prima facie evidence that (i) the employee was performing his or her regular duties at the time of contracting COVID-19; (ii) the claim comes within the provisions of this chapter [Chapter 152 – Section 7H]; and (iii) sufficient notice of the injury has been given.” The new law would apply to health-care employees and non-medical employees at hospitals, chronic disease rehabilitation centers, nursing homes, rest homes, community health centers, psychiatric hospitals, out-patient health care facilities, health-care employees working in prisons and correctional facilities, at-home certified nursing assistants, at-home personal care assistants, emergency medical technicians, and paramedics.</p> <p>Previously, proposed legislation failed that would have provided in any claim for compensation where the employee has been diagnosed with COVID-19, there will be a prima facie evidence that (i) the employee was performing his or her regular duties at the time of contracting COVID-19; (ii) the claim comes within the provisions of the workers’ compensation laws; and (iii) sufficient notice of the injury has been given. This failed legislation applied to persons employed as emergency medical technicians, emergency room and urgent care medical personnel, and emergency room and urgent care non-medical staff.</p>	
<p>Michigan</p>	<p>Yes. On October 16, 2020, Governor Whitmer signed emergency rules to clarify workers’ compensation rebuttable presumption coverage for health care employees and first responders who have tested positive for COVID-19. The emergency rules apply to workers in the medical industry, including hospitals, medical care facilities, and emergency medical services, as well as law enforcement, fire safety, and others. These employees are presumed eligible for compensable personal injuries under the Workers’ Disability Compensation Act if they are diagnosed with COVID-19, either by a physician or as the result of a presumed positive test result. These emergency rules replace protections previously afforded by Executive Order 2020-128, which is no longer effective.</p> <p>On June 18, 2020, Governor Whitmer issued Executive Order 2020-128 creating a rebuttable presumption of compensable “personal injury” (as defined by Section 401(2)(b) of the WDCA, MCL 418.401(2)(b)) for “COVID-19-</p>	<p>WC Website: https://www.michigan.gov/leo/0,5863,7-336-78421_95508---,00.html</p> <p>\</p> <p>Current Emergency Rules: https://www.michigan.gov/documents/lara/2020-211_LE_-_Emergency_Rule_-_Workers_Disability_Compensation_Agency_General_Rules_70526_8_7.pdf</p> <p>Executive Order 2020-128: https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-532413--,00.html</p>

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	<p>response employees” (defined in the executive order) who are confirmed as COVID-19 positive on or after March 18, 2020, either by a physician or by test. The executive order is effective immediately and does not terminate until the end of the state of emergency and disaster declared in Executive Order 2020-99 or the end of any subsequently declared states of disaster or emergency arising out of the COVID-19 pandemic, whichever comes later.</p> <p>Governor Whitmer’s executive order replaced the emergency rules issued by the Workers’ Disability Compensation Agency on March 30, 2020, which afforded first response employees a rebuttable presumption of eligibility for workers’ compensation benefits where the employee is diagnosed with COVID-19, whether by a physician or as a result of a test. First response employees previously covered under this provision included those working in health facilities or agencies, health care practitioners and professionals, paramedics, police officers, and firefighters.</p> <p>Also, on April 30, 2020, three pieces of legislation were introduced that would create rebuttable presumptions of compensability for essential workers.</p> <p>HB No. 5743 provides that presumption of a personal injury for “emergency first responders” would include injury or illness resulting from their exposure to an infectious disease in the performance of their duties as an emergency first responder during an emergency declared by the Governor. “Emergency first responders” are defined in HB No. 5743 Section 11 and include physicians, respiratory therapists, emergency medical services personnel, and licensed or registered nurses.</p> <p>SB No. 906 is nearly identical to HB No. 5743 but specifically references “contraction of COVID-19” as a prerequisite for the presumption.</p> <p>SB No. 5758 also mirrors HB No. 5743 but broadens the presumption to any “essential employee” defined as any individual who is required to work during a state declared emergency because he or she is considered necessary to sustain or protect life or to conduct minimum operations during a time that the state has ordered the closure of all businesses that are considered</p>	<p>Previous Emergency Rules: https://www.michigan.gov/documents/leo/WDCA_COVID-19_First_Response_ER_686779_7.pdf</p> <p>Michigan Attorney General FAQs: https://www.michigan.gov/ag/0,4534,7-359-98784_98791-523085--00.html</p> <p>Proposed Legislation: http://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/pdf/2020-HIB-5743.pdf; http://www.legislature.mi.gov/documents/2019-2020/billintroduced/Senate/pdf/2020-SIB-0906.pdf; http://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/pdf/2020-HIB-5758.pdf; http://www.legislature.mi.gov/documents/2019-2020/billintroduced/Senate/pdf/2020-SIB-0928.pdf ; http://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/pdf/2020-HIB-6040.pdf; http://www.legislature.mi.gov/(S(cilpzvzjnf0ktn4bwf5az0uv))/mileg.aspx?page=getObject&objectName=2021-HB-4753</p> <p>Executive Order 2020-4: https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-521576--00.html</p>

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	<p>nonessential. A more recent bill introduced on May 20, 2020 (SB No. 928) is nearly identical to SB 5758.</p> <p>Each of the new laws would apply to a personal injury that occurs on or after the effective date of Executive Order No. 2020-4.</p> <p>Other legislation (HB 6040) introduced on August 6, 2020, would amend the workers' compensation Act's definition of "personal injury" to include an injury or illness resulting from an essential worker's contraction of COVID-19 during an emergency declared by the governor. "Essential worker" means an employee whose employer requires the employee to work outside of the employee's home during the emergency. The provision applies to a personal injury that occurs on or after the effective date of Executive Order No. 2020-4.</p> <p>HB 4753, introduced on April 29, 2021 would exclude COVID-19 from being considered an ordinary disease of life in order to prevent the disease from being excluded from coverage under the occupational disease statute.</p>	
Minnesota	<p>Yes. On April 8, 2020, Minnesota passed a new law stating that certain employees who contract COVID-19 are presumed to have an occupational disease covered by the Minnesota workers' compensation law. An employee who would qualify for the presumption includes a firefighter; paramedic; emergency technician; a licensed peace officer under Minn. Stat. Sec. 626.84, subd. 1; a health care provider, nurse or assistive employee 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; and a worker required to provide child care to first responders and health care workers under Executive Order 20-02 and Executive Order 20-19. The employee's contraction of COVID-19 must be confirmed by a positive laboratory test or, if a test was not available for the employee, as diagnosed and documented, based on the employee's symptoms, by a licensed physician, licensed physician's assistant or licensed advanced practice registered nurse (APRN). A copy of the positive test or documentation of the diagnosis must be provided to the employer or the employer's workers' compensation insurer. The law is effective for employees who contract COVID-19 on or after April 9, 2020, and sunsets May 21, 2021. Thus, <i>it has now expired</i>.</p>	<p>WC Website: http://www.dli.mn.gov/updates.</p> <p>Bill language: https://www.house.leg.state.mn.us/dfl/pdf/a7308a83-b58d-4578-93b1-1ac3f8475906.pdf</p> <p>Bill Summary: http://www.dli.mn.gov/sites/default/files/pdf/COVID-19_work_comp_presumption.pdf.</p> <p>FAQs: http://www.dli.mn.gov/sites/default/files/pdf/COVID-19_work_comp_presumption_faqs.pdf</p> <p>Proposed Legislation: https://www.revisor.mn.gov/bills/text.php?number=HF9&version=0&session=ls91&session_year=2020&session_number=4; https://www.revisor.mn.gov/bills/text.php?number=SF16&version=0&session=ls91&session_year=2020&session_number=5&format=pdf; https://www.revisor.mn.gov/bills/text.php?number=HF6&version=</p>

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	<p>Legislation is also pending (HF 9) that would expand the new law implementing presumptive coverage for a COVID-19 contraction to employees of a public school district, charter school, private school, or the state higher education system who perform work in a school building, school bus, or other facility that provides educational services.</p> <p>Other legislation introduced in October 2020 (SF 16; HF 6; HF 2; HF 37) would create a rebuttable presumption of occupational disease for certain school employees who contract COVID-19. The class of covered school employees includes a teacher or school administrator by a school district, charter school, or nonpublic school; a contract employee 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; or 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. The employee's contraction of COVID-19 must be confirmed by a positive laboratory test or, if a laboratory test was not available for the employee, as diagnosed and documented by the employee's licensed physician, licensed physician's assistant, or licensed advanced practice registered nurse (APRN) based on the employee's symptoms. A copy of the positive laboratory test or the written documentation of the physician's, physician assistants, or APRN's diagnosis shall be provided to the employer or insurer. The law would apply retroactively for employees who contracted COVID-19 on or after July 15, 2020 and would sunset on July 30, 2021.</p>	<p>0&session=ls91&session_year=2020&session_number=5&format=pdf; https://www.revisor.mn.gov/bills/text.php?number=HF2&type=bill&version=0&session=ls92&session_year=2021&session_number=0; https://www.revisor.mn.gov/bills/text.php?number=HF37&type=bill&version=0&session=ls92&session_year=2021&session_number=0</p>
Mississippi	No.	WC Website: https://mwcc.ms.gov/#/home
Missouri	Yes. On April 7, 2020, the Department of Labor and Industrial Relations filed an emergency rule under the workers' compensation statute to provide a rebuttable presumption that first responders (as defined in Section 287.243) who contract COVID-19 have an occupational disease arising out of and in the course of their employment. Such presumption includes situations where the first responder is quarantined at the direction of the employer due to suspected COVID-19 exposure, or the display of any COVID-19 symptoms, or receives a presumptive positive COVID-19 test, or receives a COVID-19	<p>WC Website: https://labor.mo.gov/dwc</p> <p>Emergency Rule: https://labor.mo.gov/sites/labor/files/8_CSR_50-5.005_Emergency_Final.pdf</p> <p>Section 287.243: https://revisor.mo.gov/main/OneSection.aspx?section=287.243</p>

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	<p>diagnosis from a physician, or receives a laboratory-confirmed COVID-19 diagnosis.</p> <p>Most employees covered under this emergency rule will be public employees. The emergency rule became effective on April 22, 2020 and allows for retroactive application of the presumption for instances which occurred prior to its effective date. The rule ceases to be in effect at the expiration of the state of emergency declared in Executive Order 20-02 or any successor executive order extending the state of emergency, whichever occurs later, or upon the expiration of the emergency rule as set forth in Chapter 536. The emergency rule expired on February 1, 2021.</p> <p>Effective February 1, 2021 - Emergency Rule 8 CSR 50-5.007 (filed January 15, 2021) directs that an affirmation from the employer of a first responder that the first responder's duties were such as to create an exposure to COVID-19 not typically required of the general public may be relied upon as competent and substantial evidence. This rule is promulgated due to the expiration of the presumption of exposure as provided in Emergency Rule 8 CSR 50-5.005 (detailed above), and is currently set to expire on July 30, 2021. Specifically, the rule provides that a first responder: "who has contracted COVID-19 may present evidence in the form of an affirmation from their employer that the First Responder's duties were such as to create an occupational exposure to COVID-19. In any proceeding under Chapter 287, such affirmation may be relied upon as sufficient competent evidence in the record for a finding that the occupational disease arose out of and in the course of such employment and that such occupational exposure was the prevailing factor in causing the resulting medical condition, disability and/or death. When such affirmation is presented, medical conditions, disability and/or death resulting from COVID-19 shall be considered to follow as an incident of an occupational disease and shall not be considered an ordinary disease of life to which the general public is exposed outside of the employment." The majority, if not all, of the first responders covered by this new emergency rule are employees of state or local governments.</p> <p>The new rule also includes the language/form for the affirmation of the employer. This section does not apply if a subsequent medical determination</p>	<p>New Emergency Rule: https://protect-us.mimecast.com/s/eNFkCKrB2Bu0LqGKtvGXBm?domain=sos.mo.gov</p>

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	establishes the individual did not contract COVID-19. Further, if the "weight of sufficient competent evidence demonstrates that a First Responder contracted COVID-19 resulting from exposure that was not related to the First Responder's employment, the claim shall not be compensable."	
Montana	<p>No. Legislation (HB 297) failed that would have established a conclusive presumption of compensable occupational disease for nurses if they are: (a) employed as a nurse in a health care setting; (b) exposed to COVID-19 in the course of employment as a nurse; and (c) receive a: (i) COVID-19 diagnosis by a physician, physician assistant, or advanced practice registered nurse; (ii) presumptive positive COVID-19 test result; or (iii) laboratory-confirmed COVID-19 diagnosis. "Nurse" means a registered professional nurse or licensed practical nurse licensed to practice in this state as provided in Title 37, chapter 8, or an advanced practice registered nurse as defined in 37-8-102. The new law would have been retroactive to March 12, 2020, and would have terminated March 12, 2030.</p> <p>Other legislation (HB 550) failed that would have established a conclusive presumption of compensable occupational disease for essential employees if the employee: (a) is exposed to COVID-19 in the course of employment as an essential worker; and (b) receives a: (i) COVID-19 diagnosis by a physician, physician assistant, or advanced practice registered nurse; (ii) presumptive positive Covid-19 test result; or (iii) laboratory-confirmed COVID-19 diagnosis. "Essential employee" means a public safety employee, a school employee, or any other employee declared to be an essential employee pursuant to a public health order of the governor or federal directives, provided that the employee was required to work at the physical location of the employment at any time, up to 20 days prior to the diagnosis of COVID-19. The presumption may be rebutted by clear and convincing evidence in a court of competent jurisdiction establishing that the employee engaged in conduct or activities outside of employment that substantially violated the then existent public health orders related to Covid-19. The new law would have applied retroactively to March 12, 2020, and terminated March 12, 2030.</p>	<p>WC Website: http://erd.dli.mt.gov/work-comp-claims</p> <p>Failed Legislation: https://leg.mt.gov/bills/2021/billhtml/HB0297.htm; http://laws.leg.mt.gov/legprd/LAW0203W\$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=550&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=</p>
Nebraska	No. However, legislation is pending (LB 441) that would create a rebuttable presumption of compensability for certain employees who are affected by COVID-19. Specifically, the proposed law provides that (a) an essential worker	WC Website: https://das.nebraska.gov/risk/workers-comp.html

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	<p>who otherwise qualifies for workers' compensation and (i) is confirmed as COVID-19 positive on or after March 13, 2020, either by physician or by test, (ii) has COVID-19 listed as the cause of death on the essential worker's death certificate, or (iii) quarantined at the direction of the employer due to suspected COVID-19 exposure or the display of any COVID-19 symptoms, shall be presumed to have suffered from an accident arising out of and in the course of his or her employment. An employer may rebut the presumption by affirmatively proving that the employee contracted COVID-19 outside of the workplace.</p> <p>An "essential worker" means an employee who is required to report to work, whose job responsibilities include contact with or work in proximity to or in the same space as the public or co-workers in the course of his or her employment, and who performs essential functions for society to continue operating. The following individuals are some examples of those the proposed law considers essential workers: health care workers; a food processing employee who is employed in a meatpacking operation as defined in section 48-2208; a public or private school employee; a grocery store employee; a truck driver; a mortuary or funeral home employee; a childcare employee; a postal service employee; or any other individual employed by an essential or life-sustaining business or occupation.</p>	<p>Proposed Legislation: https://nebraskalegislature.gov/FloorDocs/107/PDF/Intro/LB441.pdf</p>
<p>Nevada</p>	<p>No.</p>	<p>WC Website: http://dir.nv.gov/WCS/Home/</p>
<p>New Hampshire</p>	<p>Yes. Under an Executive Order issued by Governor Sununu on April 24, 2020, and amended on June 17, 2020, any "First Responder" or Emergency Response Public Safety Worker, as well as any member of the New Hampshire National Guard ordered into active duty status/service, who tests positive for COVID-19 which has been reported to the Department of Health and Human Services, shall have a prima facie presumption that the exposure and infection were occupationally related in proceedings before the New Hampshire Department of Labor or the administratively attached Compensation Appeals Board. "Emergency response/public safety worker" means call, volunteer, or regular firefighters; law enforcement officers certified under RSA 106-L; certified county corrections officers; emergency communication dispatchers; and rescue or ambulance workers including ambulance service, emergency medical personnel, first responder service, and volunteer personnel.</p>	<p>WC Website: https://www.nh.gov/labor/workers-comp/index.htm</p> <p>Executive Orders: https://www.governor.nh.gov/sites/g/files/ehbemt336/files/documents/emergency-order-36.pdf; https://www.governor.nh.gov/sites/g/files/ehbemt336/files/documents/emergency-order-53.pdf</p>

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	<p>The provisions of the executive orders shall remain in effect for the duration of the state of emergency.</p>	
<p>New Jersey</p>	<p>On September 14, 2020, New Jersey Governor, Phil Murphy, signed SB 2380 in to law. The law creates a rebuttable presumption of a fully compensable work-related injury/illness for an individual who contracts COVID-19 during a time period in which the individual is working in a place of employment other than the individual’s own residence as a health care worker, public safety worker, or other essential employee. Further, the contraction must occur during the public health emergency declared by an executive order of the Governor and any extension of the order.</p> <p>The law defines “essential employee” as an employee in the public or private sector who, during a state of emergency: (1) is a public safety worker or first responder, including any fire, police or other emergency responders; (2) is involved in providing medical and other healthcare services, emergency transportation, social services, and other care services, including services provided in health care facilities, residential facilities, or homes; (3) performs functions which involve physical proximity to members of the public and are essential to the public’s health, safety, and welfare, including transportation services, hotel and other residential services, financial services, and the production, preparation, storage, sale, and distribution of essential goods such as food, beverages, medicine, fuel, and supplies for conducting essential business and work at home; or (4) is any other employee deemed an essential employee by the public authority declaring the state of emergency.</p> <p>This prima facie presumption may be rebutted by an employer by a preponderance of the evidence showing that the worker was not exposed to the disease while working in the place of employment other than the individual’s own residence. Any workers’ compensation claims paid as a result of the rebuttable presumption provided in the law will not be considered in calculating an employer’s Experience Modification Factor, pursuant to the New Jersey Workers’ Compensation and Employers Liability and Insurance Manual administered by the Compensation Rating and Inspection Bureau established by section 2 of P.L.1995, c.393 (C.34:15-89.1) and section 1 of P.L.2008, c.97 (C. 34:15-90.1).</p>	<p>WC Website: https://www.nj.gov/labor/wc/wc_index.html</p> <p>Bill: https://www.njleg.state.nj.us/2020/Bills/S2500/2380_R1.PDF</p> <p>Proposed legislation: https://www.njleg.state.nj.us/2020/Bills/A5000/4784_I1.PDF</p>

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	Other legislation is pending (AB 4784) that would create a rebuttable presumption of work-related and fully compensable injury for those employees who contract COVID-19 during the public health emergency and work at a distribution center or warehouse. The prima facie presumption may be rebutted by a preponderance of the evidence showing that the employee was not exposed to the disease while working in the distribution center or warehouse. The bill would be retroactive to March 9, 2020.	
New Mexico	No. However, legislation (HB 268) is pending that would create a rebuttable presumption of compensable injury for essential employees who are diagnosed with COVID-19 and establish that the employer has not strictly complied with the then existent public health orders related to COVID-19. Essential employees are defined as any public safety employee or school employee or an employee declared to be an essential employee pursuant to a public health order of the governor or the secretary of health; provided that the employee was required to work at the physical location of employment at any time, up to twenty days prior to the diagnosis of COVID-19. The new law would be in effect until January 31, 2023. The presumption may be rebutted by a preponderance of evidence in a court of competent jurisdiction establishing that the employee engaged in conduct or activities outside of employment that substantially violated the then existent public health orders related to COVID-19.	WC Website: https://workerscomp.nm.gov/ Proposed Legislation: https://www.nmlegis.gov/Legislation/Legislation?Chamber=H&LegType=B&LegNo=268&year=21
New York	No. However, legislation is pending that would create a rebuttable presumption that impairment of health caused by COVID-19 confirmed by a positive test was incurred in the performance and discharge of the duties of certain police, parole and probation officers, and other emergency responders. The bill would also provide for the creation of a new section in the workers compensation law to ensure that all essential employees at private and public institutions (defined as an employee who worked at an essential business during the COVID-19 outbreak beginning January 1, 2020 as defined by Executive Order 202.6 or guidance by the Empire State Development, or received a waiver as an essential business from Empire State Development) are afforded the opportunity to be eligible for benefits if they test positive for COVID-19 while working for an essential employer. However, in order to receive benefits, the essential employee must file a written and sworn statement with the board on a form promulgated by the	WC Website: http://www.wcb.ny.gov/ Proposed Legislation: https://www.nysenate.gov/legislation/bills/2019/s8117 ; https://legislation.nysenate.gov/pdf/bills/2019/S8266 ; https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=S01241&term=2021&Summary=Y&Actions=Y&Text=Y ; https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=S03725&term=2021&Summary=Y&Text=Y Executive Order 202.6: https://www.governor.ny.gov/news/no-2026-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency

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	<p>commission indicating the dates and locations of such participation and the name of the participant’s employer during the period of participation. The statute allows for the possibility for previously disallowed claims to be re-opened should the employee comply with the written submission requirements.</p> <p>Other legislation is pending (SB 8266; SB 1241) that would add certain essential employees (defined broadly in the bill) who contract COVID-19 to the list of occupational diseases that shall be presumptively deemed to have been due to the nature of their employment.</p> <p>Other legislation (SB 3725) is pending that would exclude diseases contracted in a pandemic from the occupational disease statute when an employer acts in accordance with law related to business safety plans described in the SB 3725.</p>	
<p>North Carolina</p>	<p>No. Two house bills failed that would have provided a rebuttable presumption of compensability for covered employees who contract COVID-19 in the course of their employment. “Covered employees” would have included certain first responders, health care workers, and employees required to work during a pandemic for a business declared essential by an executive order of the Governor or by order of a local governmental authority, including food service, retail, and other essential personnel.</p>	<p>WC Website: https://www.ic.nc.gov/</p> <p>Failed Legislation: https://www.ncleg.gov/Sessions/2019/Bills/House/PDF/H1056v0.pdf; https://www.ncleg.gov/Sessions/2019/Bills/House/PDF/H1057v0.pdf</p>
<p>North Dakota</p>	<p>Yes. On March 25, 2020, Governor Burgum issued Executive Order 2020-12 extending workers’ compensation coverage to first responders and front-line health care workers who contract COVID-19. An additional Executive Order 2020-12.1 also extends workers’ compensation coverage to funeral directors and funeral home workers who contract COVID-19. Both classes of employees who are exposed to COVID-19 in the course of employment may file a claim for workers' compensation coverage but may only be eligible for up to 14 days of wage replacement and medical coverage if quarantined. However, eligibility for wage loss benefits during a quarantine period only applies if the employee is not eligible for wage loss benefits from another source. If the employee tests positive for COVID-19 and can demonstrate that the infection resulted from a work-related exposure, he or she will be eligible for wage replacement and medical benefits. The order applies to individuals working in</p>	<p>WC Website: https://www.workforcesafety.com/</p> <p>FAQs: https://www.workforcesafety.com/sites/www/files/documents/claims/resources/WSI%20COVID%20Employees.pdf</p> <p>Executive Order 2020-12: https://www.governor.nd.gov/sites/www/files/documents/executive-orders/Executive%20Order%202020-12%20WSI%20extension%20for%201st%20responders.pdf</p> <p>Executive Order 2020-12.1: https://www.governor.nd.gov/sites/www/files/documents/executive-orders/Executive%20Order%202020-12.1%20WSI%20extension%20for%201st%20responders.pdf</p>

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	<p>a paid or a voluntary capacity. Coverage applies for claims occurring between March 13, 2020, and the date the emergency is declared over, or the order is ended by the Governor, whichever occurs first.</p> <p>On July 28, 2020, Governor Burgum issued Executive Order 2020-12.2 extending the applicability of eligibility for workers' compensation benefits under Executive Order 2020-12.1 to individuals employed by: (1) a provider of treatment, care, programs or services to individuals with intellectual or developmental disabilities, licensed under North Dakota Century Code Chapter 25-16 or North Dakota Administrative Code Article 75-04; or (2) the Life Skills and Transition Center, as defined under North Dakota Century Code Chapter 25-04. Coverage will extend to those employees who provide direct care and services to individuals with intellectual or developmental disabilities, if the employee is exposed to, or diagnosed with COVID-19 resulting from contact with an individual to whom services are being provided. The order remains in effect for the duration of the state of emergency.</p> <p>On January 19, 2021, legislation (HB 1433) was introduced, but later failed, that would have created a rebuttable presumption of compensable occupational injury for a laundry list of "essential workers" identified in the proposed law. An essential worker's home or residence is not a place of employment, except for a home care worker. The presumption would not have applied if an essential worker provided a positive laboratory test for COVID-19 or COVID-19 antibodies. The law would have applied retroactively to a claim for workers' compensation benefits filed after March 24, 2020, regardless of the date of injury. The new law would have been effective through July 31, 2023.</p>	<p>e-orders/Executive%20Order%202020.12.1%20Extending%20Workers%20Compensation%20to%20Funeral%20Directors%20and%20Funeral%20Home%20Workers.pdf</p> <p>Executive Order 2020-12.2: https://www.governor.nd.gov/sites/www/files/documents/Executive%20Order%202020-12.2.pdf</p> <p>Proposed Legislation: https://www.legis.nd.gov/assembly/67-2021/documents/21-0323-05000.pdf</p>
Ohio	<p>No. However, legislation is pending that would provide a rebuttable presumption of compensability for employees (1) of a retail food establishment or food processing establishment who contract COVID-19 during the emergency declared by Executive Order 2020-01D or (2) those employees required to work outside the employees' home who contract COVID-19 during the emergency declared by Executive Order 2020-01D.</p> <p>Other legislation is pending (HB 633) that would create a rebuttable presumption of compensable occupational disease for certain essential</p>	<p>WC Website: https://info.bwc.ohio.gov/wps/portal/bwc/site/home/!ut/p/z1/dY3BCoJAFEW Zra-RzII7YTIDEuIH2bGGMcRXNknJrfT6hNkHd3LudygSAD6sSrVsLWuhPtyDktbukqiXaxj8dgFiwx3PL4nESndONzuAIBTSv84n8FnEilsAdSrS4-d2FXzAMFZGQpjTTe04x1ZW0_rBkydM55SmvVSu-uHwz_TSo9WMh-TeibpYnr8BEXo5dA!/dz/d5/L2dBISEvZ0FBIS9nQSEh/</p>

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	<p>workers who contract COVID-19. The new law would apply to an employee employed at a nursing home or residential care facility (as those terms are defined in section 3721.01 of the Revised Code) or a health care facility or location (as that term is defined in Section 2305.234 of the Revised Code). The law would apply to claims arising during the period of the emergency declared by Executive Order 2020-01D, issued on March 9, 2020, and to claims arising during the 14-day period after that emergency ends.</p>	<p>Proposed Legislation: http://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_133/bills/hb605/IN/00?format=pdf; http://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_133/bills/hb573/IN/00?format=pdf; http://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_133/bills/hb633/IN/00?format=pdf; http://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_133/bills/hb606/PH/02?format=pdf</p> <p>Executive Order 2020-01D: https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/executive-order-2020-01-d</p>
Oklahoma	No.	WC Website: https://www.ok.gov/wcc/
Oregon	<p>No. However, on January 26, 2021, the Department of Consumer and Business Services (Workers' Compensation Division) issued a notice of permanent changes to workers' compensation rules, which became effective on February 1, 2021. The new rule provides that, under OAR 436-060-0140(1), insurers must conduct a "reasonable investigation" before denying any claim. For claims filed on or after Feb. 1, 2021, for COVID-19 or exposure to SARS-CoV-2, in addition to the requirements of OAR 436-060-0140(1), a reasonable investigation must include the steps in subsections (a) through (d) of this section. The steps are described in subsections (a) through (d) of the new rule, but these steps are not required if the claim is denied for procedural reasons not related to the worker's exposure to COVID-19 or SARS-CoV-2 (for example, the claim was filed with the wrong insurer, the insurer did not provide coverage, or the worker is nonsubject). The new rule also provides a procedure for auditing and monitoring denied claims related to COVID-19.</p> <p>Previously, on September 30, 2020, the Department of Consumer and Business Services (Workers' Compensation Division) issued a temporary change to the state's workers' compensation rules. The temporary change is effective October 1, 2020 through March 29, 2021. The rule explains that insurers must conduct a "reasonable investigation" before denying any claim,</p>	<p>WC Website: https://wcd.oregon.gov/Pages/COVID-19-updates.aspx</p> <p>Permanent Rule Change: https://wcd.oregon.gov/laws/Documents/New_rules/60-21050-new.pdf</p> <p>Previous Temporary Rule: https://wcd.oregon.gov/laws/Documents/New_rules/60-20061t-new.pdf</p> <p>Proposed Legislation: https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB488/Introduced; https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/hb3025/Introduced</p>

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	<p>and describes what a “reasonable investigation” must include when the claim relates to COVID-19. It also explains that, as of October 1, 2020, if an insurer has reported to the director five or more claims for COVID-19 exposure or SARS-CoV-2, regardless of whether those claims have been accepted or denied, the director will audit the insurer’s files for all claims denied by the insurer for COVID-19 or exposure to SARS-CoV-2 for which the denial has become final by the operation of law by the date of audit.</p> <p>On January 11, 2021, legislation (SB 488; HB 3025) was introduced that would add exposure to or infection by SARS-CoV-2 to the definition of occupational disease for purposes of workers’ compensation and also specifies presumptions as to compensability for occupational disease or occupational injury that apply to a subject worker’s death, disability, impairment of health, loss of work time and expenses of medical treatment or services, including diagnostic or preventive medical treatment or services, as result of exposure to SARS-CoV-2 or COVID-19. Specifically, the new law would create a rebuttable presumption of compensable injury for an essential worker who: (1) was exposed at work to a known or suspected source of SARS-CoV-2 or COVID-19 and the employer, a medical provider or a federal, state or local public health authority required the subject worker to remain away from the subject worker’s work site; (2) was exposed at work to a known or suspected source of SARS-CoV-2 or COVID-19 and becomes symptomatic for COVID-19; (3) becomes symptomatic for COVID-19 and receives a diagnosis of COVID-19 from a medical provider or a federal, state or local public health authority; (4) received a laboratory-confirmed diagnosis of COVID-19 or infection by SARS-CoV-2; or (5) received a presumptive positive test result for COVID-19 or infection by SARS-CoV-2.</p> <p>Essential workers entitled to the presumption are defined as employees who, at an employer’s direction, must or may work at the subject worker’s regular or temporarily assigned work site, other than the subject worker’s residence, during a period in which a declaration of a state of emergency issued by the Governor is in effect for a location that includes the subject worker’s work site; and who work in certain occupations, to include: health care workers, retail store or grocery workers, employees of a public, private or charter school, employees of a child care facility who cares for the dependent of</p>	

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	<p>another essential worker, agricultural worker, janitorial worker who provides services in locations, buildings or facilities that operate in compliance with the provisions of the March 8, 2020, declaration of emergency by the Governor, and any extensions to the declaration of emergency; or another occupation if (i) more than 10 employees work at the subject worker’s work site and 10 percent or more of the employees at the work site have tested positive or presumptively positive for exposure to COVID-19; or (ii) not more than 10 employees work at the subject worker’s work site and two or more of the employees at the work site have tested positive or presumptively positive for exposure to SARS-CoV-2 or for COVID-19.</p> <p>These provisions would be repealed on the 180th day following the expiration or termination of the Governor’s March 8, 2020, declaration of emergency concerning the COVID-19 pandemic or any extensions of the state of emergency.</p>	
<p>Pennsylvania</p>	<p>Legislation failed that would have created a presumption of a work-related hazardous duty for individuals employed by a life-sustaining business or occupation and who are required to work and contract, have symptoms of or are otherwise exposed to an infectious disease (including COVID-19) which results in hospitalization, quarantine, isolation or other control measures due to infection or exposure during the public health emergency. Such employees may not be required to use sick time, vacation time, personal time or any other accrued paid time off to cover the period of inability to work. The proposed law defines “individual employed by a life-sustaining business or occupation” to include, but not be limited to: first responders, correction officers, emergency services dispatchers, ambulance drivers, retail workers (including restaurant workers, food services and grocery store workers, cashiers and other support staff), food and agriculture workers, health care workers, pharmacists, public utility workers, trash collectors, and warehouse workers.</p> <p>Legislation is pending (HB 2485), introduced on July 1, 2020, that would add COVID-19 to the list of occupational diseases under the Workers’ Compensation Act, in the occupations of employees of a health care provider who are responsible for providing in-person care to patients involving exposure to such disease or employees of the provider who may have had</p>	<p>WC Website: https://www.dli.pa.gov/Businesses/Compensation/WC/Pages/default.aspx</p> <p>Failed Legislation: https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=H&billTyp=B&billNbr=2396&pn=3545;</p> <p>Proposed Legislation: https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=H&billTyp=B&billNbr=2485&pn=4060; https://www.legis.state.pa.us/cfdocs/billInfo/bill_history.cfm?year=2021&sind=0&body=H&type=B&bn=1078</p>

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	<p>exposure to the disease. A positive test for infection with COVID-19 in an individual in such occupations would establish a rebuttable presumption that the disease is an occupational disease within the meaning of the Act.</p> <p>Legislation introduced on April 1, 2021 (HB 1078) would establish a rebuttable presumption of compensable work-related hazardous duty for an individual employed by a life-sustaining business or occupation who is required to work and who contracts, has symptoms of or is otherwise exposed to an infectious disease during the declaration of a disaster emergency under section 7301 (relating to general authority of Governor), the declaration of an epidemic or a public health emergency in this Commonwealth by the Governor or a pandemic, which results in a period of hospitalization, quarantine, isolation or other control measures due to infection or exposure. Covered workers would include:</p> <ol style="list-style-type: none"> (1) A first responder, including a law enforcement officer, firefighter, emergency medical technician and any other individual who is considered to be a first responder. (2) A corrections officer or other support staff. (3) An emergency services dispatcher. (4) An ambulance driver. (5) A retail worker, including a restaurant, food services or grocery store worker, cashier or other support staff. (6) A food or agriculture worker. (7) A medical, health care or public health worker, including a doctor, nursing professional, physician assistant, paramedic or other support staff. (8) A pharmacist or any cashier or other support staff. (9) A home health care worker. (10) A public utility worker, including a worker engaged in providing telecommunications, energy, water or wastewater services or public works. (11) An employee of State or local government. (12) A trash collector. (13) A warehouse worker. (14) Any other individual who is employed by a life-sustaining business or occupation and who is required to work during a public health emergency. 	
Rhode Island	No. However, legislation (HB 8066) is pending that would establish that any public safety official or other enumerated employee, including essential	WC Website: http://www.dlt.ri.gov/wc/

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	<p>workers, who contract, have symptoms of or otherwise become infected with COVID-19 during the state of emergency would be entitled to a presumption that the infection was cause as a result of the performance of their duties and would be entitled to workers' compensation benefits without the loss of vacation, sick, personal or other contractually afforded time.</p> <p>Other legislation (HB 5264) is pending that would create a rebuttable presumption of compensation occupational injury for certain workers who are disabled or quarantined as a result of COVID-19 or any other viral infection classified by an executive order issued during a declared state of emergency. The presumption would apply to certain health care workers and essential workers as defined by the statute. The employee's contraction of COVID-19 or other viral infection must be confirmed by a positive laboratory test or, if a test was not available for the employee, as diagnosed, based on the employee's symptoms, by a licensed physician, licensed physician's assistant or licensed advanced practice registered nurse (APRN). A copy of the positive test or documentation of the diagnosis must be provided to the employer or the employer's workers' compensation insurer. The employer or insurer shall only rebut the presumption that the employee's contraction of COVID-19 or other viral infection is an occupational disease by establishing by a preponderance of the evidence that the disease was caused by non-employment-connected risk factors or non-employment-connected exposure.</p> <p>Also, in an April 17, 2020 press release, Beacon Mutual Insurance Company announced that it would address compensability of COVID-19 under the states' workers compensation law as follows: "The disablement of any employee diagnosed with COVID-19 while acting as a health care provider, including as a physician, nurse, health care worker, emergency medical technician, or assistive employee 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, will be presumed to be an occupational disease arising out of and in the course of employment. Such presumption would only be rebutted on the basis of evidence showing that employment was not a direct cause of the disease."</p>	<p>Proposed Legislation: http://webserver.rilin.state.ri.us/BillText/BillText20/HouseText20/H8066.pdf; http://webserver.rilin.state.ri.us/BillText/BillText21/HouseText21/H5264.pdf</p> <p>Press Release: https://blog.beaconmutual.com/healthcare-workers-and-covid-19</p>
South Carolina	Legislation (H 5482) failed that would have created a rebuttable presumption of compensability for first responders, health care providers, and correctional	WC Website: https://wcc.sc.gov/

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	<p>officers who contract COVID-19. "Health care provider" means a person employed to provide "health service," as defined in Section 44-7-130(11). This includes, but is not limited to, employees of organizations defined in Section 44-7-130(2), (7), (10), and (12). A first responder, health care provider, or correctional officer who is diagnosed with COVID-19 is entitled to the presumption that the diagnosis of COVID-19 arose from and in the course and scope of his or her employment as a first responder, health care provider, or correctional officer.</p> <p>A first responder, health care provider, or correctional officer would also be entitled to temporary total disability benefits immediately upon isolation, and lasting until isolation is no longer recommended by a physician, if he or she: (1) is directed to isolate by his or her employer due to confirmed or suspected COVID-19 exposure; (2) receives a COVID-19 diagnosis from a physician; (3) receives a presumptive positive COVID-19 test; or (4) receives a laboratory-confirmed COVID-19 test. "Isolate" or "isolation" means an assignment of work restrictions resulting from exposure to or diagnosis of COVID-19 including, but not limited to, a restriction to stay at home, to distance oneself in such a manner so as to restrict the employee from doing his or her regular duties, or a respiratory-based limitation that causes the employee to be effectively restricted from performing his or her job duties. The new provision would have applied retroactively to first responders, health care providers, or correctional officers who, before the effective date of the law, received a COVID-19 diagnosis from a physician; received a presumptive positive COVID-19 test; received a laboratory-confirmed COVID-19 test; or were directed to isolate by an employer due to confirmed or suspected COVID-19 exposure.</p> <p>On December 9, 2020, an identical bill (H 3192) was pre-filed.</p>	<p>Failed Legislation: https://www.scstatehouse.gov/sess123_2019-2020/bills/5482.htm</p> <p>Proposed Legislation: https://legiscan.com/SC/text/H3192/2021</p>
South Dakota	No.	<p>WC Website: https://dlr.sd.gov/workers_compensation/default.aspx</p>
Tennessee	Two identical proposed bills (SB 8007; HB 8008) failed that would have created a rebuttable presumption that an employee who contracts COVID-19 has an occupational disease arising out of and in the course of employment if 10 or more employees at the same location have contracted COVID-19 or if the employee is an essential worker. This bill defines "essential worker" to	<p>WC Website: https://www.tn.gov/workforce/injuries-at-work.html</p> <p>Failed Legislation: https://legiscan.com/TN/text/SB8007/id/2204250/Tennessee-2019-SB8007-Draft.pdf;</p>

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	<p>mean a person working for a business that has been designated as essential by the government or a person working for a business providing essential services as defined in the governor's Executive Order No. 22, dated March 30, 2020. The presumption that COVID-19 is an occupational disease arising out of and in the course of employment may be rebutted if the employer or insurer demonstrates, by clear and convincing evidence that the employee's contraction of COVID-19 did not arise out of or in the course of the employee's employment. A nonessential worker is not entitled to the rebuttable presumption that COVID-19 is an occupational disease arising out of and in the course of employment, but is not precluded from filing workers' compensation claims based on contraction of COVID-19. Under this proposed bill, for purposes of a workers' compensation claim, the contraction of COVID-19 may be demonstrated through a positive laboratory diagnostic test; the written diagnosis of a licensed physician, physician's assistant, or nurse practitioner; or, in the case of a deceased employee, COVID-19 being listed as the cause of death on the employee's death certificate.</p>	<p>https://legiscan.com/TN/text/HB8008/id/2204260/Tennessee-2019-HB8008-Draft.pdf</p> <p>Executive Order No. 22: https://publications.tnsosfiles.com/pub/execorders/exec-orders-lee22.pdf</p>
<p>Texas</p>	<p>No. However, Texas legislators recently pre-filed several bills for the next legislative session that would provide presumptive coverage to first responders and school district employees. Additionally, HB 396, SB 433, and SB 439 would create a presumption that nurses who contracted COVID-19 on or after February 1, 2020, resulting in a disability or death, are presumed to have contracted the virus in the course and scope of their employment if the nurse (1) is assigned to treat a patient diagnosed with the disease; or to duties that require the nurse to come in contact with a patient diagnosed with the disease; and (2) contracts the disease during the patient's admission to the health care facility at which the nurse treated or came in contact with the patient or not later than the 14th day following the date of the patient's discharge from the facility. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.</p> <p>The above-referenced proposed bills that were pre-filed at the end of 2020, have now been introduced as of January 12, 2021. HB 396, SB 433, and SB 439 relates to the eligibility of nurses for workers compensation for COVID-19 and payment of those benefits (more above). HB 47 relates to the presumptive</p>	<p>WC Website: https://www.tdi.texas.gov/wc/index.html</p> <p>Proposed Legislation: https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB00396l.pdf#navpanes=0; https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB00047l.pdf#navpanes=0</p>

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	<p>coverage for school district employees that contract COVID-19. The proposed language states "An employee of a school district who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the [CDC] that results in death or total or partial disability is presumed to have contracted the disease or illness during the course and scope of employment as an employee of a school district." This would take effect immediately if passed.</p>	
<p>Utah</p>	<p>Yes, on April 22, 2020, Utah passed a new law that amends the state’s workers’ compensation law to include a rebuttable presumption of compensability for first responders (including volunteers) and health care providers (defined by 29 C.F.R. Part 826 - Subpart C) who test positive and are diagnosed with COVID-19 by a physician if they contract COVID-19 while employed or serving as a first responder (or if the first responders' employment or service as a first responder terminates, within 2 weeks after the day on which the first responder's employment or service terminates) and they provide a copy of the positive laboratory test or the written documentation of a physician's diagnosis to the first responder's employer or insurer. The law applies to claims on or after March 21, 2020 and before June 1, 2021. Thus, <i>it has now expired</i>.</p> <p>Another law was enacted on June 25, 2020, that modifies the definition of a first responder and moves provisions related to coverage for first responders diagnosed with COVID-19 from the Workers’ Compensation Act to the Utah Occupational Disease Act.</p>	<p>WC Website: https://insurance.utah.gov/consumer/other/workers-comp</p> <p>Bills: https://le.utah.gov/~2020S3/bills/hbillint/HB3007S01.pdf; https://le.utah.gov/~2020S5/bills/static/HB5006.html</p>
<p>Vermont</p>	<p>Yes, on July 13, 2020, Governor Scott signed SB 342 into law. The law provides a presumption of compensability under the state’s workers’ compensation laws for any front-line workers whose death or disability results from COVID-19. The presumption is applicable provided the employee receives a positive laboratory test or a diagnosis by a licensed healthcare provider for COVID-19 between March 1, 2020, and January 15, 2021. The definition of “front-line workers” includes: firefighters; law enforcement officers; emergency medical personnel, first responders and volunteer personnel; workers in a health care facility or an office where health care services are provided by licensed healthcare professionals; correctional officers; workers in long-term care facilities or other residential care facilities;</p>	<p>WC Website: https://labor.vermont.gov/workers%E2%80%99-compensation</p> <p>Bills: https://legiscan.com/VT/text/S0342/id/2198551/Vermont-2019-S0342-Enrolled.pdf; https://legislature.vermont.gov/Documents/2022/Docs/BILLS/S-0009/S-0009%20As%20Introduced.pdf</p>

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	<p>childcare providers required to provide childcare to the children of other front-line workers pursuant to Executive Order 01-20; home health workers or personal care attendants; workers in a morgue, funeral establishment, or crematory facility; and any other workers providing a service that the Commissioner determines creates a similarly elevated risk of exposure to or contraction of COVID-19.</p> <p>Employees who do not meet the front-line worker definition are also entitled to the presumption of compensability if they receive a positive laboratory test or a diagnosis from a licensed health care provider for COVID-19 between April 1, 2020 and January 15, 2021 and not more than 14 days prior to the date on which the employee is tested or examined, either: (1) had a documented occupational exposure in the course of their employment to an individual with COVID-19; or (2) performed services at the residence or facility with residents or employees who (A) were present when services were performed and either (B)(i) had COVID-19 at the time or (ii) tested positive for COVID-19 within 14 days after the services were performed.</p> <p>The presumption of compensability for both front-line and non-front-line workers is rebuttable upon a showing by a preponderance of the evidence that the disease was caused by non-employment-connected risk factors or non-employment-connected exposure. Employers can also rebut the presumption by showing compliance with relevant COVID-19 related guidance for businesses and workplaces.</p> <p>Also, on February 3, 2021, Governor Scott signed SB 9 into law. SB 9 extends the presumption for certain workers who are diagnosed with COVID-19 until July 1, 2021.</p>	
Virginia	<p>Multiple bills (HB 5028, SB 5104, SB 5097, SB 5066) failed that would have established a rebuttable presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, first responders, health care providers, and school board employees is an occupational disease compensable under the Workers' Compensation Act. The presumption would only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone pre-employment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on</p>	<p>WC Website: http://www.vwc.state.va.us/</p> <p>Failed Legislation: https://lis.virginia.gov/cgi-bin/legp604.exe?202+ful+HB5028+pdf; https://lis.virginia.gov/cgi-bin/legp604.exe?202+ful+SB5104+pdf; https://lis.virginia.gov/cgi-bin/legp604.exe?202+ful+SB5097+pdf; https://lis.virginia.gov/cgi-bin/legp604.exe?202+ful+SB5066S1+pdf.</p>

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	<p>such presumption, (ii) were performed by physicians whose qualifications are as prescribed by the appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of COVID-19 at the time of such examinations. This subdivision shall only apply to persons hired after January 1, 2021.</p> <p>On March 31, 2021, Governor Northam signed HB 1985 into law. The new law provides that COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any health care provider, as defined in § 8.01-581.1, who as part of the provider's employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19, shall be presumed to be an occupational disease that is covered by this title unless such presumptions are overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19 and signs and symptoms of COVID-19 that require medical treatment, as described in subsection F. The relevant portion of subsection F states that the presumptions described in subsection B shall apply to any person entitled to invoke them for any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2021, and; (a) Prior to July 1, 2020, the claimant received a positive diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after either (i) a presumptive positive test or a laboratory-confirmed test for COVID-19 and presenting with signs and symptoms of COVID-19 that required medical treatment, or (ii) presenting with signs and symptoms of COVID-19 that required medical treatment absent a presumptive positive test or a laboratory-confirmed test for COVID-19; or (b) On or after July 1, 2020, and prior to December 31, 2021, the claimant received a positive diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after a presumptive positive test or a laboratory-confirmed test for COVID-19 and presented with signs and symptoms of COVID-19 that required medical treatment.</p>	<p>Bill (HB 1985): https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+HB1985ER</p>

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	<p>The presumptions shall not apply to any person offered by such person's employer a vaccine for the prevention of COVID-19 with an Emergency Use Authorization issued by the U.S. Food and Drug Administration, unless the person is immunized or the person's physician determines in writing that the immunization would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization shall disqualify the person from the presumptions.</p>	
<p>Washington</p>	<p>Yes. According to a March 5, 2020 press release, the Washington Department of Labor & Industries has changed its policy concerning workers' compensation coverage for health care workers and first responders who are quarantined by a physician or public health office. Under the clarified policy, Washington will provide benefits to these workers while quarantined after being exposed to COVID-19 on the job. Workers' compensation coverage can include medical testing, medical treatment expenses if a worker becomes ill or injured, and time-loss payments for those who cannot work if they are sick or quarantined. This policy does not appear to expand coverage, but only provides limited, additional coverage for a limited class of workers.</p> <p>Also on May 11, 2021, SB 5190 was signed into law. It creates a rebuttable presumption of compensable occupational disease for health care employees if they contract COVID-19 (or other "infectious disease") during a public health emergency. The health care employee must provide verification, as required by the department by rule, to the department and the self-insured employer that the employee has contracted or is in quarantine after exposure to the infectious or contagious disease that is the subject of the public health emergency. The presumption may be rebutted by clear and convincing evidence that: (a) The exposure to the infectious or contagious disease which is the subject of the public health emergency occurred from other employment or nonemployment activities; or (b) The employee was working from the employee's home, on leave from the employee's employment, or some combination thereof, for the period of quarantine outlined for the disease immediately prior to the employee's date of disease contraction or period of incapacity resulting from exposure to the disease which is the subject of the public health emergency. The Act takes effect immediately.</p>	<p>WC Website: https://www.lni.wa.gov/</p> <p>Press Release: https://www.governor.wa.gov/news-media/inslee-announces-workers-compensation-coverage-include-quarantined-health-workersfirst</p> <p>Bill: http://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Senate%20Passed%20Legislature/5190-S.PL.pdf?q=20210521034922</p>

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West Virginia	No.	WC Website: https://www.wvinsurance.gov/Workers-Compensation
Wisconsin	Yes, on April 15, 2020, Governor Evers signed Act 185 into law. Act 185 creates a rebuttable presumption that first responders who become infected with COVID-19 after coming into contact with a person who has COVID-19 through their employment contracted the illness at work. This presumption assists in making the COVID-19 injury compensable under workers' compensation law for first responders who have received a specific diagnosis of COVID-19 from a physician or by a positive COVID-19 test. First responders include employees of or volunteers for an employer that provides firefighting, law enforcement or medical treatment of COVID-19, and who have regular, direct contact with, or are regularly in close proximity to, patients or other members of the public requiring emergency services, within the scope of the individual's work for the employer. Similar to other laws of this kind, employers can challenge this presumption with specific evidence that the injury was caused by exposure outside of the employee's work for the employer.	WC Website: https://dwd.wisconsin.gov/wc/ FAQs: https://dwd.wisconsin.gov/covid19/public/wc.htm Bill: https://docs.legis.wisconsin.gov/2019/related/acts/185
Wyoming	Yes, on May 20, 2020, Governor Gordon signed SF1002 into law. The relevant provision provides the following within the definition of "injury" under the Act: "For the period beginning January 1, 2020 through December 30, 2020, if any employee in an employment sector for which coverage is provided by this act is infected with the COVID-19 Coronavirus, it shall be presumed that the risk of contracting the illness or disease was increased by the nature of the employment." Thus, <i>it has now expired</i> . Also, no injury related to COVID-19 for which coverage was provided under the Act and for which a claim was filed on or before December 30, 2020 was chargeable to an employer's experience rating under this section.	WC Website: http://wyomingworkforce.org/businesses/workerscomp/ Bill: https://wyoleg.gov/Legislation/2020/SF1002?specialSessionValue=1

Additional Summary

Is an employee eligible for workers' compensation benefits if he/she contracts COVID-19? Unfortunately, it depends. If the employee is a health care worker, first responder, or essential employee required to work during the pandemic, the answer is more likely to be "yes" (subject to variations in state law regarding coverage and an employee's burden of proof). In fact, some states' workers' compensation laws have established a presumption of coverage for certain government safety workers. For other categories of employees, a compensable workers' compensation claim is possible (but unlikely), though the analysis is very fact-specific. There are numerous novel pandemic factual scenarios (e.g., teleworking arrangements) whose workers' compensation compensability outcomes currently are unknown.

As a general matter, in order to qualify for workers compensation benefits, most states require an employee to prove that an injury occurred at work and was proximately caused by his or her employment. Importantly, it is unlikely that contracting COVID-19 would be considered an **injury** but instead likely will be analyzed under state law to determine if it is an **occupational disease**. To be an **occupational disease** (again subject to state law variations), an employee generally must show two things:

- (a) the illness or disease must be occupational, meaning that it arose out of and was contracted in the course and scope of employment; and
- (b) the illness or disease must arise out of or be caused by conditions peculiar to the work which creates a risk of contracting the disease in a greater degree and in a different manner than in the public generally.

The general test in determining whether an injury "**arises out of and in the course of employment**" is whether the employee was exposed to harm, in this case the virus, while involved in some activity for the benefit of the employer.

Compensability for a workers' compensation claim will be determined on a case-by-case basis. The key consideration generally will be whether the employee contracted the virus while working and whether the exposure to the disease was "peculiar" to the employment. Even if the employer takes all of the right steps to protect employees from exposure, a compensable claim may be determined where the employee can show that he/she contracted the virus after an exposure, the exposure was peculiar to the work, and there are no plausible alternative means of exposure demonstrated.