

WORKERS' COMPENSATION COMPLIANCE

Summary of legislative and regulatory changes

June 2020

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Colorado

Senate Bill 20-026

On June 29, 2020, Governor Jared Polis signed this [bill](#) into law. This measure expands the definition of a “psychologically traumatic event” for the purpose of determining eligibility for workers’ compensation benefits to include the audible witness of the death or serious bodily injury of one or more people as the result of a violent event or its immediate aftermath. Current law allows workers who visually witness psychologically traumatic events to qualify for workers’ compensation benefits.

To qualify, the worker must be diagnosed with post-traumatic stress disorder by a licensed psychiatrist or psychologist after the work experienced exposure to the event(s).

This legislation becomes effective on the day following the expiration of the 90-day period after final adjournment of the General Assembly. Since the General Assembly adjourned June 15, 2020, this bill will be effective on September 14, 2020.

Senate Bill 20-096

This [bill](#) replaces Rule 5 of the notary program rules adopted by the secretary of state to allow remote authorization for the interim period from March 30, 2020 through December 30, 2020. The legislation also establishes the statutory framework for remote notarization occurring on or after December 31, 2020.

Florida

Senate Bill 292

This [bill](#) requires all admitted and non-admitted insurers for all lines of insurance to provide a loss run statement to the insured within 15 calendar days of receipt of a written request. Prior to the passage of this legislation, Florida did not have a statutory framework regarding when and how insurers were required to provide loss run statements to insureds.

The bill defines “loss run statement” as a report that contains the policy number, the period of coverage, the number of claims, the paid losses on all claims and the date of each loss. The term does not include supporting claim file documentation. Such a loss run statement must contain a claims history with the insurer for the preceding five years or, if the claims history is less than five years, a complete claims history with the insurer. It is specified that an insurer is not required to provide loss reserve information.

Governor Ron DeSantis signed the bill on June 20, 2020, and it becomes effective January 1, 2021.

Senate Bill 1606

[Senate Bill 1606](#), signed into law June 20, 2020, makes numerous changes to the laws governing insurance administration in the state including workers' compensation.

Sections 2 and 3 of this bill add that employers and their carriers — if authorized by the employee — may pay indemnity benefits, including associated monetary penalties, by transmission to the employee’s account with a licensed money transmitter. This means of payment is in addition to payment by check or, upon authorization of the injured worker, direct deposit into the employee’s account at a financial institution or onto a prepaid card. Indemnity and penalties paid via money transmitter accounts is considered paid on the date the funds become available to the injured worker for withdrawal.

The provisions of these sections became effective on July 1, 2020.

Carriers are required to keep records of all payments made, and the Department of Financial Services audits employers and carriers for appropriate payment of indemnity benefits.

Louisiana

The 2020 regular session of the Louisiana legislature adjourned on June 1, 2020. Below is an overview of workers' compensation bills enacted.

Senate Bill 517

This [bill](#), passed during the 2020 regular session of the Louisiana legislature, provides an exception for the surviving spouse of a law enforcement officer who was killed in the line of duty to allow continuation of workers' compensation weekly death benefits after remarriage. The death benefits for the surviving spouse of any other worker who remarries is limited to a two-year lump sum payment.

Click here to view the classes of persons that are a "law enforcement officer" as defined in [Louisiana Revised Statute Section 40:1665.2\(B\)](#). The law becomes effective August 1, 2020.

House Bill 122

This [legislation](#) ratified the governor's authorization of remote electronic notarial transactions during the COVID-19 public health emergency that was included in Proclamation Numbers 37 JBE 2020 and 41 JBE 2020.

The bill became effective upon being signed on June 9, 2020, and is to be applied retroactively as well as prospectively.

House Bill 826

[House Bill 826](#) bars civil damages due to the COVID-19 public health emergency for the following groups as long as the relevant institutional and/or public health guidelines are followed.

- Businesses and public entities in performance or provision of business operations.
- Event organizers, including corporate meeting planners, independent trade show organizers or owners of other entity hosting, promoting or producing an event of any kind.
- Personal protective equipment designers, manufacturers, labelers and distributors.

This immunity does not apply to any instances of "gross negligence or willful or wanton misconduct." Also barred from suing are employees whether or not covered by workers' compensation unless exposure to COVID-19 was "intentional." This legislation, passed unanimously in both the House and Senate, was signed into law by Governor John Bel Edwards on June 13, 2020, and became effective immediately upon signing retroactive to March 11, 2020.

Ohio

House Bill 81

On June 17, 2020, Governor Mike DeWine signed [House Bill 81](#) into law. This bill makes a number of changes that affect the handling of workers' compensation claims by the Bureau of Workers' Compensation and self-insured employers. Following is an overview of several significant areas addressed in this bill.

- Expands the safety officers eligible for post-exposure diagnostic services to include detention facility employees and correction officers who:
 - come into contact with the blood or other body fluid of another person in the course of and arising out of their employment, or
 - are exposed to a drug or other chemical substance in the course of their employment.
- Clarifies the voluntary abandonment doctrine to address any previous judicial decisions that applied this doctrine.
 - Provides that to be eligible to receive temporary total disability (TTD) compensation, a person must be unable to work or must suffer wage loss as the direct result of an impairment arising from an injury or occupational disease.
 - Prohibits a person from receiving TTD or permanent total disability (PTD) when the person is not working for reasons unrelated to an allowed injury or occupational disease.
 - Applies to claims pending as of the date the bill becomes effective and claims arising after that date.
- Changes time within which a claim for an additional award for violation of a specific safety rule (a "VSSR" award) must be filed.
 - Requires, for claims arising on or after this bill's effective date, a claim for an additional award of compensation for a violation of a specific safety rule be filed within one year after the date of injury or death or within one year after the disability due to an occupational disease began, instead of two years.
 - This modification now makes the time for workers to report an injury claim and file a claim for a VSSR award consistent.
- Increases funeral expense benefit maximum from \$5,500 to \$7,500 when an employee dies from a compensable injury or occupational disease claim arising on or after this bill's effective date.
- Reduces the statute of limitation in some cases by starting the timeframe from the date the last medical services were rendered rather than the day the last medical bill is paid.
- Prohibits an employer, for claims pending on or arising after the bill's effective date, from refusing or withdrawing from a proposed settlement agreement if both of the following apply:
 - The employee named in the claim is no longer employed by the employer; and
 - The claim is no longer within the experience period for premium calculation purposes.
- Extends the time to appeal an industrial commission order to a court of common pleas from 60 days to 150 days provided a party gives notice of intent to settle and the opposing party does not object to workers' compensation claims pending on or arising after September 29, 2017.

- Prohibits a private employer furnishing services for a public employer under a contract governed by the federal Service Contract Act of 1965 from requiring an applicant, prospective employee or employee to pay for an initial or any subsequent medical examination that is required as a condition of employment or continued employment.

The new law takes effect September 1, 2020.

Tennessee

The Tennessee 2020 General Assembly adjourned on June 19, 2020. Following is a summary of several workers' compensation bills that were enacted after receiving favorable recommendations from the Tennessee Advisory Council on Workers' Compensation.

Senate Bill 2190/House Bill 2257

This [legislation](#) makes several changes that impact an injured worker's eligibility to benefits under workers' compensation. Following is a brief summary of those changes.

- Adds language that allows an injured worker to file a claim for increased benefits 180 days after the worker reaches maximum medical improvement (MMI) if later than when permanent partial disability compensation ends, if the employee has not returned to work or has returned to work with a salary that is less than 100% of his/her pre-injury salary.
- Adds language that allows an injured worker to file a claim for increased benefits by filing a new petition for benefit termination one (1) year after the 180 period after the employee reaches MMI if later than the one (1) year period of compensation.
- Changes from 60 days to 180 days when a worker must provide notice to Tennessee Bureau of Workers' Compensation of the injury and of the failure of the employer to secure the payment of compensation with a reasonable period of time to be eligible for benefits from the Uninsured Employer's Compensation Fund.
- Deletes requirement that Workers' Compensation Court must convene a full and final hearing no more than 60 days after an injured worker files a notice of hearing related to eligibility for the Uninsured Employers' Compensation Fund.

This bill became effective upon being signed into law by Governor Bill Lee on June 22, 2020. The bill's provisions apply to injuries that occur on or after that date.

Senate Bill 2863/House Bill 1819

This [bill](#) now requires any firefighter, regardless of employment date, seeking to use the rebuttable presumption that non-Hodgkin's lymphoma cancer, colon cancer, skin cancer or multiple myeloma cancer arose out of employment to obtain a physical examination after July 1, 2019 that must include a cancer screening that fails to reveal any evidence of the cancers listed.

Prior to the enactment of this measure, a firefighter employed before July 1, 2019 had to obtain a cancer screening before July 1, 2020, while a firefighter who was employed on or after July 1, 2019 had to successfully pass a pre-employment examination.

This bill became effective upon being signed into law by Governor Bill Lee on June 22, 2020. The bill's provisions apply to injuries that occur on or after that date.

Click [here](#) to view the 2020 Workers' Compensation Legislative Changes general overview provided by the State of Tennessee Bureau of Workers' Compensation.

Utah

House Bill 5006

This [bill](#) was approved by the governor on June 25, 2020, and took effect upon the governor's approval. In addition to making technical changes, Utah House Bill 5006 modifies the definition of first responder and moves provisions pertaining to coverage for first responders diagnosed with COVID-19 from the Workers' Compensation Act to the Occupational Disease Act.

The bill amends the presumption established by [HB 3007](#), enacted April 22, 2020. In HB 3007, the definitions of "emergency responder" and "health care provider" were from the Code of Federal Regulations. HB 5006 changes that, using existing Utah statute to define a first responder and specifying a list of employment to which the presumption applies.

The Information contained within this document is intended to provide summary level information on proposed or enacted laws related to workers' compensation. It is not intended to provide guidance on the application of these legal requirements or as an update to your Company's workers' compensation policies. We recommend you consult with Legal Counsel to determine what changes, if any, should be applied to Company Policy.

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