

Labor and Public Employees Committee

JOINT FAVORABLE REPORT

Bill No.: HB-6478

Title: AN ACT CONCERNING WORKERS' COMPENSATION.

Vote Date: 3/25/2021

Vote Action: Joint Favorable Substitute

PH Date: 3/11/2021

File No.:

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SPONSORS OF BILL:

Labor and Public Employees Committee

REASONS FOR BILL:

Essential workers have been heavily relied upon throughout the course of the COVID-19 pandemic to ensure that Connecticut's basic economic needs, such as healthcare, food production and distribution, emergency services, and more, are adequately met. This reliance has revealed the invaluable nature of these workers to the basic functioning of our society, while simultaneously placing them at the greatest risk of contracting COVID-19. These workers, now considered essential, also generally receive low pay and poor or nonexistent benefits in exchange for fulfilling these socially invaluable positions.

RESPONSE FROM ADMINISTRATION/AGENCY:

STEPHEN MORELLI, CHAIRMAN, WORKERS' COMPENSATION COMMISSION

Stephen testified on behalf of the Workers' Compensation Commission on subsection (f) of section 4 of the bill. Regarding item 2, Stephen testified that the requirement may result in more information being requested and processed from these entities, which may require the WCC to adopt new processes to provide the information in a manner which is useful to the committee. Regarding item 4, Stephen requested some clarification on when a claim would be considered "contested." Regarding item 9, Stephen again requested further clarification as to what constitutes the timeframe of a claim being adjudicated. The commission is always happy to work with the committee to report any information they have which may be useful.

NATURE AND SOURCES OF SUPPORT:

BOB FERNANDEZ, SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 32BJ

Bob testified on behalf of Local 32BJ of the SEIU in calling for the establishment of a worker's compensation presumption for COVID-19. Essential workers have risked exposure to the virus through their work in keeping society functioning during the pandemic. They were forced to choose between protecting themselves or putting food on the table. Without this COVID-19 presumption, employers can deny benefits and force workers to wait through a backlogged appeals process.

STEPHEN ANDERSON, PRESIDENT, CSEA SEIU LOCAL 2001

Stephen testified on behalf of CSEA SEIU Local 2001 that the worker's compensation presumption for COVID-19 would allow essential workers to qualify for benefits if/when they're unable to work due to a COVID-19 diagnosis. Without it, workers may be required to sacrifice accrued sick time, pay for their treatment, and contend with wage losses while navigating a lengthy appeals process.

JODY BARR, EXECUTIVE DIRECTOR, COUNCIL 4 AFSCME

Jody testified on how unconscionable it is that workers who contracted COVID while on the job are having their benefits delayed by employers who care more about saving some money than the sacrifice and well-being of their employees.

DEBBIE BERKOWITZ, WORKER SAFETY AND HEALTH PROGRAM DIRECTOR, NATIONAL EMPLOYMENT LAW PROJECT

Debbie testified to the statistics bearing out that essential workers are at far higher risk of contracting COVID-19 than non-essential workers. There have been examples in the past of established worker's compensation laws being inadequate to meet worker's needs as they evolve over time.

JOHN BRADY, EXECUTIVE VICE PRESIDENT, AFT CONNECTICUT

John testified on how the current Workers' Compensation system places the burden of proof on the injured party and that almost all COVID-19 claims are, at least initially, denied – requiring an attorney to appeal. These delay tactics utilized by employers inflict psychological harm on the victims and discourage other from filing new cases. Employees of non-union hospitals claims may go unreported or be dropped upon the initial denial.

KAREN BROWN, VERNON

Karen testified to her experience in contracting COVID-19 from a patient in the course of her employment, the debilitating effects on her health, both at the time and long-term, and the difficulties in fighting the government and her employer to receive the basic assistance she so desperately needs.

RALPH BUCCITTI, UNION BUSINESS AGENT, AMALGAMATED TRANSIT UNION LOCAL 281

Ralph testified to the union's experience and difficulties operating as essential workers in a dangerous environment during the pandemic. The bill would shift the burden of proof in COVID-19 workers' compensation claims, through the rebuttable presumption, onto the employer. The presumption assumes that the worker contracted COVID-19 in the course of their employment, while allowing employers to prove otherwise.

JAMES CASE, CWA LOCAL 1298

James testified to his personal experience in contracting COVID-19 through the course of his employment. A rebuttable presumption in worker's compensation for COVID-19 would protect essential employees like James from potentially catastrophic consequences to their health and financial stability.

CAMERON CHAMPLIN, PLUMBERS AND PIPEFITTERS LOCAL 777

Cameron testified on behalf of Plumbers and Pipefitters Local 777 that the rebuttable presumption shifts the burden of proof in workers' compensation claims off of the employee and onto the employer. They believe that this should be the case for all workers' compensation claims since most employees are not knowledgeable, or financially secure, enough to fully fight for what they deserve and are often forced to agree to lesser awards so they can meet their bills.

ERIC CHESTER, WORKERS COMPENSATION ATTORNEY

Eric testified that the bill would help to improve the workers compensation system towards further preserving and advancing the rights of workers who are injured or become ill at work. The rebuttable presumption for COVID-19 helps to address the harm caused to claimants by delays. With the presumption, an employee who contracted COVID-19 at work will be entitled to benefits no later than 38 days from filing the claim, which is still a long time for them to wait but is still an impactful improvement.

CARL CHISEM, PRESIDENT, CONNECTICUT EMPLOYEES UNION INDEPENDENT, SEIU LOCAL 511 & MUNICIPAL EMPLOYEES UNION INDEPENDENT, SEIU LOCAL 506

Carl testified that the bill would help to restore the dignity essential workers deserve. Many provisions of this bill are necessary. Making this bill law is the least we can do for the workers who put themselves and their family's health at risk for so long. All workers deserve dignity, respect and fairness, no matter their job title.

DALE CUNNINGHAM, PRESIDENT, LAWRENCE & MEMORIAL REGISTERED PROFESSIONAL NURSES AFT LOCAL 5049

Dale testified to the difficulties faced by the union throughout the pandemic caused by their employers. The union was not included in decisions regarding working conditions or hours of work. Union members were told by management that because the virus was so prevalent, they could not claim they had contracted it at work.

LISA EMMER, CNA, HARRINGTON COURT NURSING HOME

Lisa testified to her experience in contracting COVID-19 through work, her difficulties in navigating the workers' compensation system during the pandemic, and ultimately being denied benefits despite Chattam Healthcare's contact tracing claiming her infection was at work. Chattam claimed her employers knew that she contracted the virus while at work but couldn't state that in writing without violating HIPA laws.

SARAH GANONG, CAMPAIGNS DIRECTOR, CONNECTICUT WORKING FAMILIES

Sarah testified on behalf of the Connecticut Working Families that the bill will protect essential workers from bearing the financial burdens associated with contracting COVID-19 at work. This bill is even more urgent as the Governor plans to lift many safety restrictions in workplaces and essential workers have been denied priority access to vaccines, especially younger workers.

MADLINE GRANATO, POLICY DIRECTOR, CONNECTICUT WOMEN'S EDUCATION AND LEGAL FUND

Madeline testified on behalf of the CWEALF that it is nearly impossible for a worker to prove where and how they contracted COVID-19 because of how easily it spreads. However, as a result of restrictions of public gatherings and non-essential activities, it's likely the worker was infected on the job. Without the bill's rebuttable presumption workers are forced to rely on their own accumulated sick time, pay for treatment, and risk their income while navigating a lengthy appeals process.

RICK HART, DIRECTOR OF LEGISLATIVE AND POLITICAL AFFAIRS, UNIFORMED PROFESSIONAL FIREFIGHTERS ASSOCIATION OF CONNECTICUT

Rick testified on how the essential workers he represents didn't have the luxury of working from home. They must continue to do their jobs just as they always have, with or without personal protective equipment. This is not a facetious request. These essential workers risk themselves and their families every day when they go to work to keep our state functioning.

ED HAWTHORNE, PRESIDENT, WESTERN CONNECTICUT AREA LABOR FEDERATION AFL-CIO

Ed testified that the rebuttable presumption gives essential workers a fighting chance at receiving fair workers' compensation benefits when they contract COVID-19 at work. Section 2 of the bill, which prevents employers from firing or disciplining employees for filing workers' compensation claims or deliberately misinforming or dissuading them from doing so, also helps in providing essential workers a fighting chance to receive the benefits they're entitled to.

KERI HOEHNE, EXECUTIVE VICE PRESIDENT, UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL 371

Keri testified that the bill would protect essential workers, like the ones she represents, from suffering the financial hardship of contracting COVID-19 at work. She testified to the issues their members experienced and that this could be addressed by the bill's rebuttable presumption.

SEAN HOWARD, PRESIDENT, AFSCME LOCAL 387

Sean testified on behalf of AFSCME Locals 387, 1565, and 391 that many correctional staff and offenders have contracted COVID-19 within the past year, including him. Sean testified on the long-term effects of his illness. COVID left him with a heart condition which causes fatigue and shortness of breath. A rebuttable presumption would go a long way in helping him and other members.

ANIECE JONES, LPN, AUTUMN LAKE BUCKS HILL

Aniece testified to her personal experience as a result of contracting COVID-19. Aniece is asthmatic, was hospitalized, and dealt with debilitating health conditions as a result of her illness. She felt as if she wasn't properly cared for after caring for so many others at work, like her employer and the state had turned their backs on her, and like all the talk of "protecting our heroes" was a ruse.

DANIEL LIVINGSTON, CHIEF NEGOTIATOR, STATE EMPLOYEES BARGAINING AGENT COALITION

Daniel testified on behalf of SEBAC that frontline state workers contracted COVID-19 at a higher rate than the general public and concluded that they were at higher risk due to their essential status. The Governor's Executive Order 7JJJ, which established a rebuttable presumption for cases which experienced exposure between March 10 and May 20, 2020, was a good first step in addressing the issue, but was necessarily timebound. This legislation is necessary to protect these workers.

SAL LUCIANO, PRESIDENT, CONNECTICUT AFL-CIO

Sal testified on the many difficulties faced by essential workers as a result of the pandemic, and how the current law and workers' compensation system is failing to meet their basic needs. The rebuttable presumption would help to assuage these issues and is unlikely to raise costs for employers. The increased burial benefit is helpful as well. They asked the committee to make two additions to the bill. One would ensure that those who died of COVID would also be covered by the presumption, not just those who were unable to work, and the other would make the presumption retroactive to provide the intended assistance to essential workers.

LISA MARQUIS, CNA, DAVIS PLACE NURSING HOME

Lisa testified on her personal experience in contracting COVID-19 through work, the effects of the illness on her health, both immediate and long-term, and the effects on her financial stability. She's attempted to file for workers' compensation benefits through her employer, although the employer claims they never received her form and she fears she will ultimately be denied. This bill helps to amend the situation and begins to care for our essential healthcare workers the way they care for us.

DEBORAH MCKENNA, VICE PRESIDENT, CONNECTICUT EMPLOYMENT LAWYERS' ASSOCIATION

Deborah testified on behalf of CELA that the limited implementation of a COVID-19 rebuttable presumption for workers' compensation was a good start but was ultimately too narrow of a timeframe. This bill would extend the presumption for the duration of the public health emergency. Employers may still contest a claim, but the presumption shifts the burden of proof from the employee to the employer.

RONALD MCLELLAN, CONNECTICUT AFL-CIO SAFETY COMMITTEE

Ronald testified that many of the workers who were deemed essential are also the lowest paid and least protected workers in the state. The rebuttable COVID-19 presumption moves the burden of proof onto the employer, assuming the employee contracting COVID while at work unless the employer can prove otherwise. The timeframe of the Governor's Executive Order which established a presumption was too narrow, and now the Governor plans to lift most safety restrictions in many workplaces.

JOHN MURPHY, UNITED AUTO WORKERS LOCAL 376

John testified that Section 1 of the bill expands workers' compensation benefits to workers who've lost function of a member or limb, which is an issue some of John's previous co-workers are forced to deal with. Section 2 offers sorely needed protections for workers attempting to file a worker's compensation claim. Section 4 extends the COVID-19 rebuttable presumption to protect all essential workers. Section 5 raises the burial benefit and is sorely overdue.

ROCHELLE PALACHE, DISTRICT DIRECTOR, SERVICE EMPLOYEES INTERNATIONAL UNION 32BJ

Rochelle testified on behalf of Local 32BJ of the Service Employees International Union that the bill would alleviate some of the pandemic-related stress endured by essential workers by establishing a rebuttable workers' compensation presumption for COVID-19. Their membership, especially commercial cleaners, have been performing the necessary work throughout the pandemic which allows everyone else to stay home.

PAMELA PUCHALSKI, PROJECT COORDINATOR, CONNECTICOSH

Pamela testified that the bill addresses numerous issues which make it more difficult for an injured worker to recover from a workplace injury or illness. The bill opens employers who willfully interfere with a worker's right to file a workers' compensation claim to civil litigation. Pamela expressed concern that Section 3 may negatively impact the number of medical providers willing to take on patients with a workplace injury or illness. ConnectiCOSH supports the rebuttable presumption outlined in Section 4, and the increase in burial benefits detailed in Section 5.

MICHAEL QUINN, REPRESENTATIVE, CONNECTICUT GENERAL ASSEMBLY

Michael testified in strong support of the rebuttable presumption for COVID-19, likening it to a bill he previously introduced, HB 6277. Unfortunately, the deaths caused by the virus are only the beginning of the long-term harm it will cause. For some, the disease may carry long-term debilitating effects. This bill is imperative in protecting those who put their lives at risk to perform essential duties.

JEFF REIMER & DEREK PUORRO, PRESIDENT & LEGISLATIVE CHAIRMAN, COUNCIL 4 AFSCME PUBLIC SAFETY COUNCIL

Jeff and Derek submitted joint written testimony stating that the bill protects workers from employers who drag their feet or try to avoid their responsibility in assisting workers whose exposure was almost assuredly on the job. Specialized risk and essential workers have suffered higher COVID infection rates than other workers.

KATHLEEN RINKES, INTENSIVE CARE UNIT REGISTERED NURSE, LAWRENCE & MEMORIAL HOSPITAL

Kathleen testified to her personal experience in contracting COVID-19 through work, spreading it to her family, and applying for and being denied workers' compensation benefits. Contracting COVID wasn't only scary because of concern for her health, but also her financial situation. This bill's rebuttable presumption is an important provision which helps support workers like Kathleen.

DAVID ROCHE, PRESIDENT, CONNECTICUT STATE BUILDING AND CONSTRUCTION TRADES COUNCIL

David testified on behalf of the CSBT Council that construction workers are familiar with the workers' compensation system, yet still face difficulties in claiming benefits for COVID-19. Section 4 alleviates these issues by extending the rebuttable workers' compensation presumption for COVID-19 to cover the full duration of the public health and civil preparedness emergency.

JAMES ROOT, DANBURY

James testified to his experience as an essential worker in support of the bill's rebuttable presumption. Helping these workers is the right thing to do. However, the state should take on the weight of the added workers' compensation costs rather than businesses, particularly small ones, whenever possible.

NATHAN SHAFNER, CHAIRMAN, WORKERS' COMPENSATION SECTION, CONNECTICUT TRIAL LAWYERS ASSOCIATION

Nathan testified on behalf of the CTLA in strong support of Section 1, which extends the maximum duration of workers' compensation discretionary benefits. The CTLA also supports the full increase in burial benefits to \$20,000 indexed to inflation, detailed in Section 5, but the final negotiated increase should be no less than \$12,500. CTLA supports the bill's rebuttable presumption provision but suggests a change in the language to ensure it has the intended effect by applying retroactively. CTLA also supports Sections 2 and 3 of the bill.

MARK TURCZAK, PRESIDENT, CONNECTICUT ACADEMY OF PHYSICIAN ASSISTANTS

Mark testified on behalf of ConnAPA in support of the bill, thanking the committee for their inclusion in the bill and asking to be included in future legislation regarding workers' compensation matters where Physicians and APRNs are included, as Physicians Assistants are also licensed to practice medicine in the state.

MARY JANE WILLIAMS, SENIOR POLICY ADVISOR, CONNECTICUT NURSES ASSOCIATION

Mary Jane testified, on behalf of the CT Nurses Association, to the unique and profound difficulties faced by nurses throughout the pandemic as a result of inadequate PPE, caring for COVID patients, and more. Many of them became infected with COVID-19, and many more feared spreading it to their loved ones. They strongly support and appreciate Section 4 of the bill, which extends the rebuttable presumption for COVID-19.

NATURE AND SOURCES OF OPPOSITION:

Several speakers testified that the bill would impose significant costs on Connecticut's municipalities and businesses. Increasing workers' compensation costs for municipalities will be passed on to property taxpayers. Testimony lists several harmful consequences of establishing a rebuttable presumption for communicable diseases such as COVID-19.

- Connecticut Conference of Municipalities
- Matt Knickerbocker, First Selectman, Town of Bethel

JOY AVELLONE, GENERAL COUNSEL, INSURANCE ASSOCIATION OF CONNECTICUT

Joy testified on behalf of the IAC on several Sections of the bill. Section 1 would raise costs for businesses and municipalities. Section 2 may have unintended consequences which do more harm than good. Section 3 will result in hearing scheduling delays that are burdensome and costly for claimants, employers, insurers, and the Worker's Compensation Commission. Section 4 (a), the rebuttable presumption, is unnecessary and would result in claims unrelated to work to be accepted as work-related. Section 4 (b) extends the presumption too broadly, essentially covering all employees who worked at any time during the pandemic. The timeframe for employers to present evidence to rebut the presumption in Section 4 (d) is too short. The data collection in Section 4 (f) is time consuming, burdensome, and costly and should not be continued. The increased payments for burial expenses in Section 5 far exceed

average funeral costs in the United States, and retroactive application could result in unfunded liabilities.

KRISTINA BALDWIN, VICE PRESIDENT-NORTHEAST REGION, AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION

Kristina testified on behalf of the APCIA that the bill's provisions would distort the purpose of the worker's compensation system and add significant costs by shifting the burden of the pandemic response onto employers. The scope of the presumption is far too broad and lacks medical proof. Connecticut's businesses are already at risk as a result of the pandemic and these added costs may be too much to bear.

JOHN BLAIR, ASSOCIATE COUNSEL, CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

John testified that the bill will add burdensome costs to Connecticut's businesses and workers compensation program. Sections 1, 2, 3, and 4 would all result in substantially increased costs for employers.

CONNECTICUT HOSPITAL ASSOCIATION

The CHA submitted testimony opposing Sections 1, which greatly increases the potential workers' compensation benefits paid, and 4, which creates a rebuttable presumption for COVID-19, of the bill. Both of these sections will significantly increase costs for employers, including hospitals, by increasing the cost of obtaining workers' compensation insurance or self-funding coverage.

MICHAEL DIAMOND, MANAGING PARTNER, AFFINECO, LLC

Michael testified that the liability exposure to commercial cleaning companies presented by the bill could threaten the viability of these same businesses which remediate cases of COVID-19 at worksites, allow workplaces to safely reopen, and employ thousands throughout the state. If some commercial cleaning companies fail as a result of these increased costs it could hurt Connecticut's response to any future outbreaks of disease. The presumption would ultimately replace federal Pandemic Unemployment Assistance funds, shifting the funding burden from the federal program to state employers.

BETSY GARA, EXECUTIVE DIRECTOR, CONNECTICUT COUNCIL OF SMALL TOWNS

Betsy testified that the bill would significantly increase workers' compensation and healthcare costs for municipalities and other employers. The bill greatly increases the length of time a beneficiary may collect permanent partial disability benefits and creates a rebuttable presumption for COVID-19. Both of which will greatly increase costs for towns and taxpayers at a time when they can least bear that burden.

DIANE RITUCCI, PRESIDENT & CEO, WORKERS' COMPENSATION TRUST

Diane testified on behalf of the Workers' Compensation Trust (the Trust) that we should continue to allow the workers' compensation system work without adding more impediments or burdens which will only delay decisions and claim progression. The COVID-19 presumption takes a community spread disease and incorrectly categorizes it as an occupational exposure. The extended permanent partial disability benefits under Section 1 last for far too long. It shouldn't take 3 ½ years for someone to transition back into work even in a high unemployment climate. Section 2 will unnecessarily burden the Workers' Compensation Commission. While current burial expense benefits may be too low, the

proposed increase in Section 5 is far too high. Additional reporting detailed in Section 4 (c) is unnecessary and will only add administrative burden and expense. The NCCI estimates the total increase in cost, just for the COVID presumption to be between \$54M and \$378M annually.

RORY WHELAN, NORTHEAST REGIONAL VICE PRESIDENT, NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

Rory testified on behalf of NAMIC that the intent of the COVID-19 rebuttable presumption may be well-meaning, but its effects may be devastating to the workers' compensation system. The presumption will result in significantly higher costs, but exactly how much higher is generally unknown. NAMIC also lists reasons for opposition to Sections 1, 2, 3, and 5 of the bill.

ANNE KELLY ZOVAS, ATTORNEY

Anne testified that the extension of benefits detailed in Section 1 will increase workers' compensation costs and incentivize workers to stay out of work for as long as possible following an injury. Section 2 is unnecessary, as current law addresses these issues and provides reasonable remedies. Section 3 unnecessarily shifts the responsibility for pursuit of medical expenses to the healthcare provider. Section 4 is an unnecessarily broad presumption and classification as an occupational disease. COVID-19 may already be found compensable if workplace exposures were a significant contributing factor in the development of the disease. There is no need for additional costly data collection procedures as outlined in Section 4 (f) of the bill. The proposed burial expense award of \$20,000 far exceeds typical funeral costs and should be rejected. The current workers' compensation system works well and should not be burdened with these added costs.

Reported by: Mike Antonakos, Assistant Clerk Date: 4/14/21