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# OHIO LEGISLATIVE SERVICE COMMISSION

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and Drafting

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H.B. 633  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Boggs

Paul Luzzi, Attorney

### SUMMARY

- Creates a presumption that COVID-19 is an occupational disease under the Workers' Compensation Law for an employee at a nursing home, residential care facility, or health care facility or location who contracts COVID-19 during the emergency declared by Executive Order 2020-01D, issued March 9, 2020.
- Allows the presumption to be rebutted by affirmative evidence.
- Applies the presumption to claims arising only during the period of the emergency declared by the Order and to claims arising during the 14-day period after the emergency ends.
- Declares an emergency.

### DETAILED ANALYSIS

#### Presumption that COVID-19 was contracted during employment

For purposes of the Workers' Compensation Law,<sup>1</sup> the bill creates a presumption that an employee at a nursing home, residential care facility, or a health care facility or location who contracts COVID-19 during the emergency declared by Executive Order 2020-01D, issued March 9, 2020, contracted the disease in the course of and arising out of employment. The presumption only applies to claims arising during the period of the emergency declared by the Order and claims arising during the 14-day period after the emergency ends. The presumption may be rebutted with affirmative evidence.<sup>2</sup>

<sup>1</sup> R.C. Chapters 4121, 4123, 4127, and 4131.

<sup>2</sup> R.C. 4123.68(CC), by reference to R.C. 2305.234 and 3721.01.

The bill includes the presumption in the schedule of occupational diseases that are compensable under continuing law. An employee who is disabled by a scheduled occupational disease, or the dependent of an employee whose death is caused by the disease, is typically entitled to any compensation and benefits provided by the Law. The schedule, however, is not exclusive; any disease that satisfies the continuing law definition of occupational disease is compensable. For a disease to be considered an occupational disease under the Law, all of the following conditions must be satisfied:

1. The disease is contracted in the course of employment;
2. The employment creates a risk of contracting the disease in greater degree and in a different manner from the general public;
3. Either of the following applies:
  - a. The disease is peculiar to that type of employment by the disease's causes and the characteristics of the disease's manifestations;
  - b. The conditions of the employment results in a hazard that distinguishes the employment in character from employment generally.<sup>3</sup>

## Emergency

The bill declares it to be an emergency law, meaning that it will take immediate effect once signed by the Governor.<sup>4</sup>

## Definitions

Under continuing law, a "nursing home" is a facility used for the reception and care of individuals who by reason of illness or impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

Under continuing law, a "residential care facility" means a facility that provides either of the following:

- Accommodations for 17 or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;
- Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of

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<sup>3</sup> R.C. 4123.68; R.C. 4123.01(F), not in the bill, and *State ex rel. Ohio Bell Tel. Co. v. Krise*, 42 Ohio St.2d 247, 253-254 (1975).

<sup>4</sup> Section 3.

others by reason of age or impairment, and, to at least one of those individuals, supervision of special diets, applications of dressing, or administration of medication.<sup>5</sup>

Under continuing law, a "health care facility or location" means any of the following:

- A hospital;
- A clinic;
- An ambulatory surgical facility;
- A health care professional's or group of health care professionals' office;
- A training institution for health care professionals;
- A free clinic or nonprofit charitable organization that provides shelter, health care services, or both to indigent and uninsured persons.
- Any other place where medical, dental, or other health-related diagnosis, care, or treatment is provided to a person.<sup>6</sup>

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## HISTORY

Action	Date
Introduced	05-13-20

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<sup>5</sup> R.C. 3721.01 and 3721.011, not in the bill.

<sup>6</sup> R.C. 2305.234 by reference to 3701.071, not in the bill.