

Ford|Richardson

The Virginia General Assembly at its 2021 Regular Session and 2021 Special Session produced several new pieces of legislation of particular interest including the following:

HB2099 Limitations on enforcement of judgments; judgment liens; settlement agents. Reduces from 20 years to 10 years from the date of a judgment the period of time within which an execution may be issued or action may be taken on such judgment.

SB1108 General district courts; jurisdictional limits. Increases from \$25,000 to \$50,000 the maximum civil jurisdictional limit of general district courts for civil actions for personal injury and wrongful death.

SB1261 Court of Appeals; jurisdiction; number of judges. Expands the jurisdiction of the Court of Appeals of Virginia by providing for an appeal of right in every civil case and provides that the granting of further appeal to the Supreme Court of Virginia shall be within the discretion of the Supreme Court. The bill increases from 11 to 17 the number of judges on the Court of Appeals Court.

HB1862 Employee protections; medicinal use of cannabis oil. Prohibits an employer from discharging, disciplining, or discriminating against an employee for such employee's lawful use of cannabis oil pursuant to a valid written certification issued by a practitioner for the treatment or to eliminate the symptoms of the employee's diagnosed condition or disease. The bill provides that such prohibition does not (i) restrict an employer's ability to take any adverse employment action for any work impairment caused by the use of cannabis oil or to prohibit possession during work hours; (ii) require an employer to commit any act that would cause the employer to be in violation of federal law or that would result in the loss of a federal contract or federal funding; or (iii) require any defense industrial base sector employer or prospective employer to hire or retain any applicant or employee who tests positive for tetrahydrocannabinol (THC) in excess of certain amounts.

HB1818 Workers' compensation; presumption of compensability for certain diseases.

Provides that the occupational disease presumption for death caused by hypertension or heart disease will apply for salaried or volunteer emergency medical services personnel who have at least five years of service and are operating in a locality that has legally adopted a resolution declaring that it will provide one or more of such presumptions. The provisions of the bill do not apply to any individual who was diagnosed with hypertension or heart disease before July 1, 2021. This bill incorporates HB 2080 and is identical to SB 1275

HB1985 Workers' compensation; presumption of compensability for COVID-19. Establishes a presumption that COVID-19 causing the death or disability of health care providers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19 and signs and symptoms of COVID-19 that require medical treatment. The bill provides that such presumption applies to 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 July 1, 2020, either of the following criteria must be met, and on or after July 1, 2020, and prior to December 31, 2021, both of the following criteria must be met: (i) the claimant received a positive diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after either a presumptive positive test or a laboratory-confirmed test for COVID-19 and (ii) the claimant presented with signs and symptoms of COVID-19 that required medical treatment. The bill provides that such presumptions do not apply to any person offered by his employer a vaccine for the prevention of COVID-19 unless the person is immunized or the person's physician determines in writing that immunization would pose a significant risk to the person's health.

HB2207 Workers' compensation; presumption of compensability for COVID-19. Establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, correctional officers, and regional jail officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that such presumption applies to any death or disability occurring on or after September 1, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after September 1, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either 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. This bill is identical to SB 1375. This bill received Governor's recommendations.

SB1275 Workers' compensation; presumption of compensability for certain diseases. Provides that the occupational disease presumption for death caused by hypertension or heart disease will apply for salaried or volunteer emergency medical services personnel who have at least five years of service and are operating in a locality that has legally adopted a resolution declaring that it will provide one or more of such presumptions. The provisions of the bill do not apply to any individual who was diagnosed with hypertension or heart disease before July 1, 2021. This bill is identical to HB 1818.

SB1351 Workers' compensation; claims not barred. Provides that an order issued by the Workers' Compensation Commission awarding or denying benefits shall not bar by res judicata any claim by an employee or cause a waiver, abandonment, or dismissal of any claim by an employee if the order does not expressly adjudicate such claim.

SB1375 Workers' compensation; presumption of compensability for COVID-19. Establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, correctional officers, and regional jail officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that such presumption applies to any death or disability occurring on or after September 1, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after September 1, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either 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. This bill incorporates SB 1342 and is identical to HB 2207. This bill received Governor's recommendations.

Scott Ford is a trial lawyer and co-founder of Ford Richardson. The firm has offices throughout Virginia in Richmond, Fairfax, Virginia Beach and Roanoke.

www.fordrichardsonlaw.com

(804) 220 - 6113

