

## Final Draft Agreed Proposal 5-20

Add new Section 1(g) to the end of Section 1 of the Workers' Occupational Diseases Act (820 ILCS 310/1):

(g)(1) In any proceeding before the Commission in which the employee is a COVID-19 first-responder or front-line worker as defined in Section (g)(2) below, if the employee's injury or occupational disease resulted from exposure to and contraction of the COVID-19 virus, the exposure and contraction shall be rebuttably presumed to have arisen out of and in the course of the employee's first-responder or front-line worker employment and the injury or occupational disease shall be rebuttably presumed to be causally connected to the hazards or exposures of the employee's first-responder or front-line worker employment.

(2) The term "COVID-19 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 homecare 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. For purposes of this section only, an employee's home or place of residence is not a place of employment, except for homecare workers.

(3) The presumption in Section (g)(1) above may be rebutted by evidence including but not limited to the following:

- (A) the employee was working from his or her home, on leave from his or her employment, or some combination thereof, for a period of 14 or more consecutive days immediately prior to the employee's injury, occupational disease, or period of incapacity resulted from exposure to the COVID-19 virus; or
- (B) the employer was engaging in and applying to the fullest extent possible or enforcing to the best of its ability industry-specific workplace sanitation, social distancing, and health and safety practices based on updated guidance issued by the Centers for Disease Control or Illinois Department of Public Health or was using a combination of administrative controls, engineering controls, or personnel protective equipment to reduce the transmission of COVID-19 to all employees for at least 14 consecutive days prior to the employee's injury, occupational disease, or period of incapacity resulted from exposure to the COVID-19 virus. For purposes of this subsection "updated" means the guidance in effect at least 14 days prior to the COVID-19 diagnosis. For purposes of this subsection,

"personal protective equipment" means industry-specific equipment worn to minimize exposure to hazards that cause illnesses or serious injuries, which may result from contact with biological, chemical, radiological, physical, electrical, mechanical, or other workplace hazards. "Personal protective equipment" includes, but is not limited to, items such as face coverings, gloves, safety glasses, safety face shields, barriers, shoes, earplugs or muffs, hard hats, respirators, coveralls, vests, and full body suits.; or

(C)the employee was exposed to the COVID-19 virus by an alternate source.

(4) The rebuttable presumption in Section (g)(1) above shall apply to all cases tried after the effective date of this amendment and in which the diagnosis of COVID-19 was made on or after March 9, 2020 and on or before December 31, 2020.

(5) Under no circumstances shall any COVID-19 case increase or affect any employer's workers' compensation insurance experience rating or modification but COVID-19 costs may be included in determining overall state loss costs.

(6) In order for the presumption in Section g(1) above to apply at trial, for COVID-19 diagnoses occurring on or before June 15, 2020, an employee must provide a confirmed medical diagnosis by a licensed medical practitioner or a positive laboratory test for COVID-19 or for COVID-19 antibodies; for COVID-19 diagnoses occurring on after June 16,2020, an employee must provide a positive laboratory test for COVID-19 or for COVID-19 antibodies.

(7) The presumption in Section g(1) above does not apply if the employee's place of employment was solely the employee's home or residence for a period of 14 or more consecutive days immediately prior to the employee's injury, occupational disease, or period of incapacity resulted from exposure to the COVID-19 virus.

(8) The date of injury is either the date that the employee was unable to work due to contraction of COVID-19 or was unable to work due to symptoms that were later diagnosed, whichever came first.

(9) An employee who has contracted COVID but who fails to establish the rebuttable presumption is not precluded from filing for workers' compensation or occupational disease.

(10) To qualify for temporary total disability benefits under the presumption in Section g(1) above, the employee must be certified for or recertified for temporary disability.

(11) An employer is entitled to a credit against any liability for temporary total disability due to an employee as a result of the employee contracting COVID-19 for (1) any sick leave benefits or extended salary benefits paid to the employee by the employer under Emergency Family Medical Leave Expansion Act, Emergency Paid Sick Leave Act of the Families First Coronavirus Response Act, or any other federal law, or (2) any other credit to which an employer is entitled under the Workers' Compensation Act.