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Georgia House Bill 700 Contemplates a COVID-19 Carve Out

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In a surprise move in the beginning of March, six state house representatives have sponsored a bill to greatly expand COVID-19's potential compensability in workers' compensation.

Georgia's House Bill 700 aims to expand O.C.G.A. § 34-9-280, Occupational Disease, to include COVID-19. In terms of when COVID-19 can be considered an occupational/compensable disease, since symptoms vary, this bill goes on to state COVID-19 means any mutation or viral fragments thereof, or any disease or condition caused by severe acute respiratory syndrome coronavirus 2, that causes the employee to become disabled to work (even temporarily) due to this occupational disease. If passed, Georgia's House Bill 700 will apply to essential workers, and this bill defines essential workers as employees who are not permitted to work remotely.

In order to establish COVID-19 as an occupational disease, the employee still must show his exposure to COVID-19 arose out of and in the course of his employment. According to Georgia's House Bill 700, an employee would be able to establish COVID-19 arose out of and in the course of his employment by first showing:

- 1) a direct and causal connection between the conditions the work is performed and COVID-19;
- 2) the disease followed as a natural incident of exposure by reason of employment;
- 3) the employee was not likely to have has substantial exposure to COVID-19 outside of his employment;
- 4) that COVID-19 is not an ordinary disease of life that the general public is exposed to—More specifically, where COVID-19 is contracted by an essential worker within five calendar days of performing work for the employer, then COVID-19 is not considered to be an ordinary disease of life; and
- 5) that the employee's COVID-19 must appear to have had its origin in a risk connected with his employment and, as a natural consequence, flowed from that source.

The proposed language drastically alters the compensability of COVID-19 claims in Georgia Workers' Compensation by modifying the definition of essential workers and adding the 5-calendar day provision. The language aside, it will remain impossible to pinpoint the manner and location of the contracting of COVID-19 with or without on-site employment variables. This bill essentially punishes employers that simply cannot provide remote work to employees due to the duties that they fulfill. It is unknown whether this proposed legislation has the muster to pass through the hurdles and make it into law, including the Governor's desk, but it is certainly a disconcerting expansion on O.C.G.A. § 34-9-280.



Amanda Harper was born and raised in Americus, Georgia where she obtained her Bachelor of Science degree from Georgia Southwestern State University in 2016. She obtained her Juris Doctorate in 2019 from Mercer University, Walter F. George School of Law, and is a member of the State Bar of Georgia. Amanda started with Levy, Sibley, Foreman & Speir, LLC as an intern and joins the firm as an Associate Attorney working in workers' compensation insurance defense.