

### Executive Order 2020-21: Stay Home, Stay Safe

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On March 23, 2020, Governor Gretchen Whitmer issued [Executive Order 2020-21](#) (the "Order"), titled "Stay Home, Stay Safe" ordering Michigan residents to temporarily "suspend activities that are not necessary to sustain or protect life." The Order, to be "construed broadly," prohibits any in-person work that is not necessary to sustain or protect life" and Michigan residents from gathering with individuals who are not members of the same household. It went into effect on March 24, 2020, at 12:01 am and continues through April 13, 2020, at 11:59 pm.

Michigan residents may, however, leave their home or place of residence to:

- Perform tasks related to health and safety (e.g., picking up medication and seeking medical care to address a medical emergency) or obtain supplies for themselves and family members.
- Engage in outdoor activities.
- Care for family members and their pets.

When in public, Michigan residents must remain at least six feet from people outside their household to the extent feasible.

#### **Critical Infrastructure Work Is Allowed**

The Order allows individuals to leave their home or place of residence to work "as critical infrastructure workers after being so designated by their employers." Critical infrastructure workers are described by the [March 19, 2020 COVID-19 guidance](#) ("CISA Guidance") from the U.S. Cybersecurity and Infrastructure Security Agency ("CISA").

The Order lists additional critical infrastructure workers:

- Child care workers are critical infrastructure workers to the extent they are caring for the children or dependents of critical infrastructure workers;
- Workers at designated suppliers and distribution centers;
- Workers in the insurance industry "but only to the extent that their work cannot be done by telephone or remotely";
- Workers and volunteers for business or operations that provide services to economically disadvantaged individuals;

- Workers who perform critical labor functions; and
- Workers at companies that have been designated by their customers as “designated suppliers” and “only to the extent that those workers are necessary to support the critical infrastructures.”

The Order also allows Michigan residents to leave their homes to work if their presence is necessary to “allow the business or operation to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and benefits), or facilitate the ability of other workers to work remotely.”

### **Employee Designations and Notification Requirements**

Most employers<sup>1</sup> must determine which workers are critical infrastructure workers, or necessary to conduct the above-referenced minimum basic operations, and inform those workers of their designation. Designations may be made orally until March 31, 2020, at 11:59pm. After that deadline, designations must be made in writing.

Employers should be mindful of how they designate workers and assign tasks to those designed as critical infrastructure workers. Those sent to work to perform tasks to “maintain the value of inventory and equipment” should only be tasked with those “core business activities.” All other activities should be performed remotely or until the Order’s restrictions are lifted.

### **Additional Precautions**

The CISA Guidance requires that employers take the following measures to protect their remaining workforce:

- Encouraging remote work when possible and focus on core business activities
- Delay non-mandatory activities
- Separate staff by off-setting shift hours or days
- Separate staff by social distancing

Application of Executive Order 2020-21 is nuanced and requires customized evaluation of the facts and circumstances. Before issuing written designation letters, or performing work under the Order, contact a Workplace Law attorney to assist.

*The Order does not require employers to designate as essential healthcare workers, workers who perform necessary government activities, and workers and volunteers who assist the economically disadvantaged or otherwise needy individuals.*

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