

**Bodman PLC**

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### **Is it really over...COVID-19 Employment Rights Act Roll Back**

By: John D. Gardiner, Member, Workplace Law Group

On Monday, July 11, 2022 – retroactively effective to July 1, 2022, with a final end date of July 1, 2023 – Michigan’s COVID-19-era laws (three in total), including an amendment and repeal of Michigan’s COVID-19 Employment Rights Act were rolled back with Governor Whitmer’s signature.

Public Act 238 of 2020, known as The COVID-19 Employment Rights Act, prohibited employees from reporting to work after (1) testing positive for COVID-19; (2) experiencing the principal symptoms of COVID-19; or (3) being identified as a close contact of someone who has tested positive for COVID-19 (under enumerated circumstances), until the employee had completed the applicable self-isolation or quarantine period. Under the new law, no claim or cause of action under the COVID-19 Employment Rights Act can accrue after July 1, 2022 – so between now and July 1, 2023, any employee can pursue against their employer (current, former, or prospective) any event that was protected under the COVID-19 Employment Rights Act that occurred before July 1, 2022 – until the Act is repealed in its entirety, effective July 1, 2023.

Employers are still required to prohibit employees from reporting to work if they are (1) testing positive for COVID-19; (2) experiencing the principal symptoms of COVID-19; or (3) being identified as a close contact of someone who has tested positive for COVID-19 (under enumerated circumstances), until the employee has completed the applicable self-isolation or quarantine period. However, the COVID-19 Employment Rights Act deterrent has been eliminated for a claim (e.g. retaliation) accruing after July 1, 2022.

Pragmatically speaking, COVID-19 related absences are still subject to diligent review and vetting under paid medical leave (see the July 20, 2022 Bodman PLC Workplace Law Update, “Court Decision Expands Paid Sick Time Requirements and Increases Minimum Wage”), the Family and Medical Leave Act, and the ongoing MIOSHA requirement “to provide each employee a place of employment that is free from recognized hazards that are causing or are likely to cause death or serious physical harm to its employees.”

Contact any member of **Bodman's Workplace Law Group** for more information. Bodman cannot respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

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