

# PUBLICATION

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## Coronavirus: Maryland's COVID-19 Public Health Emergency Protection Act of 2020 Establishes Protections for Employees and Businesses

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Maryland's Emergency Management Agency Act grants the Governor the authority to establish protections for the people of Maryland during a state of emergency.<sup>1</sup> Accordingly, Governor Larry Hogan signed the COVID-19 Public Health Emergency Protection Act of 2020 (COVID-19 Act) into law on March 19, 2020. The COVID-19 Act contains three key provisions that address (1) employees' access to unemployment insurance benefits, (2) the termination of employees during the COVID-19 pandemic, and (3) alternative workweeks for employees of State-owned or operated health care facilities.

### Increased Unemployment Insurance Eligibility Due to COVID-19

The COVID-19 Act authorizes the Secretary of Labor (Secretary) to determine whether an individual is eligible for unemployment insurance benefits due to COVID-19. More specifically, the COVID-19 Act gives the Secretary the discretion to permit an individual who has not been terminated from employment to collect unemployment insurance if:

- the individual's employer temporarily ceases operations due to COVID-19 preventing employees from coming to work;
- the individual is quarantined due to COVID-19 with the expectation of returning to work after the quarantine is over; or
- the individual leaves employment due to a risk of exposure or infection of COVID-19, or to care for a family member due to COVID-19.

Although the COVID-19 Act is silent as to whether the Secretary intends to waive the requirement that a claimant search for substitute employment during the state of emergency, the Maryland Department of Labor (DOL) has issued guidance indicating that claimants may instead be required to perform other reemployment activities in lieu of the work search requirement due to the instability of the current labor market. The DOL's guidance on accessing unemployment insurance during the COVID-19 pandemic may be accessed [here](#).

### Employee Protection From Termination Due to COVID-19

The COVID-19 Act also permits the Governor to prohibit Maryland employers from terminating an employee solely on the basis that the employee has been required to be isolated or quarantined, or if the individual leaves their employment due to a risk of exposure or infection. Employees who leave their employment to care for a family member affected by COVID-19 are also afforded protection from termination pursuant to this emergency legislation.

### Alternative Workweeks for Employees of State-Owned or Operated Health Care Facilities

Additionally, the COVID-19 Act contains a provision allowing the Maryland Department of Health (MDH) to offer flexibility in staffing during the current state of emergency. Pursuant to this law, the Governor is permitted to order MDH to authorize alternative workweeks for employees of State-owned or operated health care facilities. Therefore, employees of these State facilities are permitted to work a 12-hour shift, three days per week instead of the traditional eight-hour shift for 40 hours per week.

The COVID-19 Act permits alternative workweeks for employees of facilities that are owned or operated by MDH, open 24 hours a day and seven days a week, and subject to a Memorandum of Understanding with the American Federation of Teachers. The alternative workweek permits employees to work less than 40 hours per week.

An employee who is authorized to work an alternative workweek must be:

- considered a full-time State employee; and
- entitled to compensation for overtime work.

Employers of these facilities owned or operated by MDH should note that the time worked by an employee authorized to work an alternative workweek includes only the hours actually worked by the employee and does not include paid leave hours taken by the employee during the workweek.

Notably, this emergency legislation was enacted by Governor Hogan as a temporary measure to protect Marylanders from certain economic hardships that may result from this pandemic. The COVID-19 Act will remain effective through April 30, 2021 and will be repealed after that date.

If you have any questions about how the COVID-19 Act may affect your business operations, please contact [Jennifer L. Curry](#), [Reba Letsa](#), or any other member of Baker Donelson's Labor & Employment Group. Also, please visit the [Coronavirus \(COVID-19\): What You Need to Know information page](#) on our website for more information.

<sup>1</sup> Md. Code Ann., Pub. Safety §14-101 *et seq*