



BOLINGER LAW

March 24, 2020

Dear Client,

On Monday, March 23, 2020, Governor Whitmer issued Executive Order 2020-21 (COVID-19) – attached – which requires all non-essential workers as defined in the Order, to Stay Home Stay Safe for the next three weeks at least, starting at midnight on March 23, 2020. The Order provides a list of exceptions to the rules including addressing compliance with custody and parenting time orders. Section 7(b)(4) states:

2. *Individuals may also travel:*

1. *To return to a home or place of residence from outside this state.*
2. *To leave this state for a home or residence elsewhere.*
3. *To travel between two residences in this state.*
4. *As required by law enforcement or a court order, including the transportation of children pursuant to a custody agreement.*

Further, last week on March 16, 2020, the Michigan State Supreme Court issued a Statement on Matters Concerning Children – attached - which provides in pertinent part:

“The Supreme Court wants to remind parents that all court orders for a child’s custody, parenting time and support are still in force. Only a new court order can change that. Parents should continue to follow their court orders.”

My interpretation when reading the Governor’s Stay Home Stay Safe Executive Order together with the Michigan Supreme Court’s Statement on Matters Concerning Children, is that all parties should comply with all existing custody, parenting time and support orders unless and until they are changed by an order of the court that issued your custody order.

The Governor’s Stay Home Stay Safe Order does NOT prohibit parents from leaving home to pick up or drop off their children to the other party’s residence to comply with custody and parenting time Orders and Agreements.

We are advising our clients to comply with all custody, parenting time and support Orders and to carry a copy of the relevant custody or parenting time Order or Agreement with



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them at all times while transporting children (or traveling to or from an exchange) to show to any law enforcement officer who may inquire as to why that party is not at home.

I am sensitive to the fact that these times bring much uncertainty for all of us, especially those of us (myself included) in a co-parenting situation. However, please remember our children are going through this time of uncertainty as well—they are all forced home from school and are undoubtedly affected by what is going on in the world around them. It is generally best practice to keep things as “normal” as possible for kids and families. I encourage you to have discussions with your child(ren)’s other parent and discuss concerns related to the COVID-19 pandemic and try to work together with your child(ren)’s other parent to come up with safety and hygiene plans to reduce the risk of exposure of both households.

If you and your child(ren)’s other parent agree, you are always free to deviate from your custody order. Some parents might agree that it is best for a child to “stay put” to limit exposure. In those cases, I would recommend trying to utilize video chat or telephone technology to maintain connection between the parent and the child(ren). If you and your child’s other parent do not agree to deviate from the current court order, the order remains enforceable unless modified by a court.

As always, if you have any questions, please call us to discuss your particular situation. You can call the office at (989) 875-0163, email me at Kathryn@BolingerLaw.com, or current clients can message us on the MyCase Portal. I am doing my best to make myself available for video conferences as well.

While our office is currently closed to the public, please know Bolinger Law is still here for you. Stay safe.

Sincerely,



BOLINGER LAW
Kathryn L. Bolinger
Attorney at Law



MICHIGAN COURTS NEWS RELEASE

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FOR IMMEDIATE RELEASE
March 16, 2020

Statement from the Michigan Supreme Court on Matters Concerning Children:

With schools closed and courthouses limiting operations to reduce exposure to COVID-19, parents who live apart might be confused about changing family situations and their court orders.

Things to Remember

The Supreme Court wants to remind parents that all court orders for a child's custody, parenting time and support are still in force. Only a new court order can change that. Parents should continue to follow their court order.

If future government decisions restrict travel or, if a child's safety is an issue, parents should work together to keep the child's access to both parents as close to the normal arrangement as possible. Remember that children might also be nervous about current events and need reassurance from parents. If it is necessary to share parental responsibilities in ways different than the court order provides, parents should cooperate with each other to further the child's best interests. If parents are not able to agree between themselves how to do this, their court order continues to control what they should do.

Online Services

Child support payment processing is expected to continue. However, if a person changes jobs or a court order changes, there may be a delay in updating automatic payment withholding from a paycheck. If a parent has child support obligations and money is not automatically withheld from his or her pay, the parent should be sure to make the payment through the [State Disbursement Unit](#). Parents can also make payments through [PayNearMe](#) at CVS Pharmacy, 7-Eleven, Family Dollar, and Casey's General Store.

Parents are encouraged to sign up for MiChildSupport to see their child support case online. To sign up, click [here](#).

-MSC-



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

EXECUTIVE ORDER

No. 2020-21

Temporary requirement to suspend activities that are not necessary to sustain or protect life

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. Older adults and those with chronic health conditions are at particular risk, and there is an increased risk of rapid spread of COVID-19 among persons in close proximity to one another. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401-.421, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31-.33.

The Emergency Management Act vests the governor with broad powers and duties to “cop[e] with dangers to this state or the people of this state presented by a disaster or emergency,” which the governor may implement through “executive orders, proclamations, and directives having the force and effect of law.” MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945, provides that, after declaring a state of emergency, “the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control.” MCL 10.31(1).

To suppress the spread of COVID-19, to prevent the state’s health care system from being overwhelmed, to allow time for the production of critical test kits, ventilators, and personal protective equipment, and to avoid needless deaths, it is reasonable and necessary to direct residents to remain at home or in their place of residence to the maximum extent feasible.

This order takes effect on March 24, 2020 at 12:01 am, and continues through April 13, 2020 at 11:59 pm.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. This order must be construed broadly to prohibit in-person work that is not necessary to sustain or protect life.
2. Subject to the exceptions in section 7, all individuals currently living within the State of Michigan are ordered to stay at home or at their place of residence. Subject to the same exceptions, all public and private gatherings of any number of people occurring among persons not part of a single household are prohibited.
3. All individuals who leave their home or place of residence must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention, including remaining at least six feet from people from outside the individual's household to the extent feasible under the circumstances.
4. No person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are necessary to sustain or protect life or to conduct minimum basic operations.

(a) For purposes of this order, workers who are necessary to sustain or protect life are defined as "critical infrastructure workers," as described in sections 8 and 9.

(b) For purposes of this order, workers who are necessary to conduct minimum basic operations are those whose in-person presence is strictly 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 employee benefits), or facilitate the ability of other workers to work remotely.

Businesses and operations must determine which of their workers are necessary to conduct minimum basic operations and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Such designations, however, may be made orally until March 31, 2020 at 11:59 pm.

5. Businesses and operations that employ critical infrastructure workers may continue in-person operations, subject to the following conditions:

(a) Consistent with sections 8 and 9, businesses and operations must determine which of their workers are critical infrastructure workers and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Such designations, however, may be made orally until March 31, 2020 at 11:59 pm. Businesses and operations need not designate:

- (1) Workers in health care and public health.
 - (2) Workers who perform necessary government activities, as described in section 6.
 - (3) Workers and volunteers described in section 9(d).
- (b) In-person activities that are not necessary to sustain or protect life must be suspended until normal operations resume.
- (c) Businesses and operations maintaining in-person activities must adopt social distancing practices and other mitigation measures to protect workers and patrons. Those practices and measures include, but are not limited to:
- (1) Restricting the number of workers present on premises to no more than is strictly necessary to perform the business's or operation's critical infrastructure functions.
 - (2) Promoting remote work to the fullest extent possible.
 - (3) Keeping workers and patrons who are on premises at least six feet from one another to the maximum extent possible, including for customers who are standing in line.
 - (4) Increasing standards of facility cleaning and disinfection to limit worker and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.
 - (5) Adopting policies to prevent workers from entering the premises if they display respiratory symptoms or have had contact with a person who is known or suspected to have COVID-19.
 - (6) Any other social distancing practices and mitigation measures recommended by the Centers for Disease Control.
6. All in-person government activities at whatever level (state, county, or local) that are not necessary to sustain or protect life, or to supporting those businesses and operations that are necessary to sustain or protect life, are suspended.
- (a) For purposes of this order, necessary government activities include activities performed by critical infrastructure workers, including workers in law enforcement, public safety, and first responders.
 - (b) Such activities also include, but are not limited to, public transit, trash pick-up and disposal, activities necessary to manage and oversee elections, operations necessary to enable transactions that support the work of a business's or operation's critical infrastructure workers, and the maintenance of safe and sanitary public parks so as to allow for outdoor recreation.

- (c) For purposes of this order, necessary government activities include minimum basic operations, as described in section 4(b). Workers performing such activities need not be designated.
- (d) Any in-person government activities must be performed consistently with the social distancing practices and other mitigation measures to protect workers and patrons described in section 5(c).

7. **Exceptions.**

- (a) Individuals may leave their home or place of residence, and travel as necessary:
 - (1) To engage in outdoor activity, including walking, hiking, running, cycling, or any other recreational activity consistent with remaining at least six feet from people from outside the individual's household.
 - (2) To perform their jobs as critical infrastructure workers after being so designated by their employers. (Critical infrastructure workers who need not be designated under section 5(a) may leave their home for work without a designation.)
 - (3) To conduct minimum basic operations, as described in section 4(b), after being designated to perform such work by their employers.
 - (4) To perform necessary government activities, as described in section 6.
 - (5) To perform tasks that are necessary to their health and safety, or to the health and safety of their family or household members (including pets). Individuals may, for example, leave the home or place of residence to secure medication or to seek medical or dental care that is necessary to address a medical emergency or to preserve the health and safety of a household or family member (including procedures that, in accordance with a duly implemented nonessential procedures postponement plan, have not been postponed).
 - (6) To obtain necessary services or supplies for themselves, their family or household members, and their vehicles. *Individuals must secure such services or supplies via delivery to the maximum extent possible.* As needed, however, individuals may leave the home or place of residence to purchase groceries, take-out food, gasoline, needed medical supplies, and any other products necessary to maintain the safety, sanitation, and basic operation of their residences.
 - (7) To care for a family member or a family member's pet in another household.

- (8) To care for minors, dependents, the elderly, persons with disabilities, or other vulnerable persons.
- (9) To visit an individual under the care of a health care facility, residential care facility, or congregate care facility, to the extent otherwise permitted.
- (10) To attend legal proceedings or hearings for essential or emergency purposes as ordered by a court.
- (11) To work or volunteer for businesses or operations (including both and religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.

(b) Individuals may also travel:

- (1) To return to a home or place of residence from outside this state.
- (2) To leave this state for a home or residence elsewhere.
- (3) To travel between two residences in this state.
- (4) As required by law enforcement or a court order, including the transportation of children pursuant to a custody agreement.

8. For purposes of this order, critical infrastructure workers are those workers described by the Director of the U.S. Cybersecurity and Infrastructure Security Agency in his guidance of March 19, 2020 on the COVID-19 response (available [here](#)). Such workers include some workers in each of the following sectors:

- (a) Health care and public health.
- (b) Law enforcement, public safety, and first responders.
- (c) Food and agriculture.
- (d) Energy.
- (e) Water and wastewater.
- (f) Transportation and logistics.
- (g) Public works.
- (h) Communications and information technology, including news media.
- (i) Other community-based government operations and essential functions.

- (j) Critical manufacturing.
- (k) Hazardous materials.
- (l) Financial services.
- (m) Chemical supply chains and safety.
- (n) Defense industrial base.

9. For purposes of this order, critical infrastructure workers also include:

- (a) Child care workers (including workers at disaster relief child care centers), but only to the extent necessary to serve the children or dependents of critical infrastructure workers as defined in this order. This category includes individuals (whether licensed or not) who have arranged to care for the children or dependents of critical infrastructure workers.
- (b) Workers at designated suppliers and distribution centers, as described below.
 - (1) A business or operation that employs critical infrastructure workers may designate suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate the work of its critical infrastructure workers.
 - (2) Such suppliers, distribution centers, or service providers may designate workers as critical infrastructure workers *only* to the extent those workers are necessary to enable, support, or facilitate the work of the original operation's or business's critical infrastructure workers.
 - (3) Designated suppliers, distribution centers, and service providers may in turn designate additional suppliers, distribution centers, and service providers whose continued operation is necessary to enable, support, or facilitate the work of their critical infrastructure workers.
 - (4) Such additional suppliers, distribution centers, and service providers may designate workers as critical infrastructure workers *only* to the extent that those workers are necessary to enable, support, or facilitate the work of the critical infrastructure workers at the supplier, distribution center, or service provider that has designated them.
 - (5) Businesses, operations, suppliers, distribution centers, and service providers must make all designations in writing to the entities they are designating, whether by electronic message, public website, or other appropriate means. Such designations may be made orally until March 31, 2020 at 11:59 pm.

- (6) **Businesses, operations, suppliers, distribution centers, and service providers that abuse their designation authority shall be subject to sanctions to the fullest extent of the law.**
 - (c) **Workers in the insurance industry, but only to the extent that their work cannot be done by telephone or remotely.**
 - (d) **Workers and volunteers for businesses or operations (including both and religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.**
 - (e) **Workers who perform critical labor union functions, including those who administer health and welfare funds and those who monitor the well-being and safety of union members who are critical infrastructure workers, provided that any administration or monitoring should be done by telephone or remotely where possible.**
10. **Nothing in this order should be taken to supersede another executive order or directive that is in effect, except to the extent this order imposes more stringent limitations on in-person work, activities, and interactions. Consistent with prior guidance, a place of religious worship, when used for religious worship, is not subject to penalty under section 14.**
 11. **Nothing in this order should be taken to interfere with or infringe on the powers of the legislative and judicial branches to perform their constitutional duties or exercise their authority.**
 12. **This order takes effect on March 24, 2020 at 12:01 am, and continues through April 13, 2020 at 11:59 pm.**
 13. **The governor will evaluate the continuing need for this order prior to its expiration. In determining whether to maintain, intensify, or relax its restrictions, she will consider, among other things, (1) data on COVID-19 infections and the disease's rate of spread; (2) whether sufficient medical personnel, hospital beds, and ventilators exist to meet anticipated medical need; (3) the availability of personal protective equipment for the health-care workforce; (4) the state's capacity to test for COVID-19 cases and isolate infected people; and (5) economic conditions in the state.**
 14. **Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.**

Given under my hand and the Great Seal of the State of Michigan.



Date: March 23, 2020

Time: 10:39 am

GRETCHEN WHITMER
GOVERNOR

By the Governor:

SECRETARY OF STATE