

Update on Executive Action in Trenton - April 14, 2020

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On Tuesday, April 14, 2020, Governor Phil Murphy signed the following ten COVID-19-related bills into law. All of the new laws take effect immediately and, as noted below, some apply retroactively.

- **A3901/S2334: Authorizing professional and occupational licensing boards to reactivate licensure of certain individuals during state of emergency or public health emergency.**
 - The law permits the Director of the Division of Consumer Affairs or any professional or occupational licensing boards to temporarily reactivate lapsed licenses, certificates of registration, or certifications on an expedited basis during the pendency of the COVID-19 health emergency.
 - The law seeks to remove the barriers to retired or inactive professionals joining New Jersey's COVID-19 response that led Governor Murphy to sign Executive Order 112 (relating to health care professionals) on April 1, 2020.
 - The new law is retroactive to April 1, 2020.
- **A3903/S2335: Allowing remote notarial acts during COVID-19 health emergency.**
 - Recognizing that the health emergency has made it difficult for attorneys and notaries public to perform notarial acts, and for judges and other public officials to take oaths, affirmations, and affidavits in person, the law authorizes these actions to be performed using remote technology for the remainder of the health emergency, under certain conditions.
 - The law expires upon Governor Murphy's rescission of Executive Order No. 103, which declared a state of emergency related to the COVID-19 pandemic.

- **A3904/S2337: Allowing use of virtual or remote instruction to meet minimum 180-day school year requirement under certain circumstances.**
- **S2333/A3910: Providing civil and criminal immunity to certain health care professionals and health care facilities during public health emergency and state of emergency; facilitating issuance of certain temporary licenses and certifications during public health emergency and state of emergency.**
 - The law provides that health care professionals and facilities involved in the treatment of COVID-19 patients shall not be liable for civil damages for injury or death alleged to have been sustained as a result of an act or omission of a health care professional during the pendency of the COVID-19 health emergency. This immunity is retroactive to March 9, 2020. However, the grant of immunity does not apply “ to acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct”
 - Additionally, health care facilities shall not be criminally or civilly liable for injury or death alleged to have been sustained due to an act or omission concerning the allocation of ventilators so long as the facility “ adopts and adheres to a scarce critical resource allocation policy that at a minimum incorporates the core principles identified by the Commissioner of Health”
 - Due to the lack of committee hearings, the Legislature included the following statement of intent in the body of the bill: “The enactment of this bill is to ensure that there are no impediments to providing medical treatment related to the COVID-19 emergency and that all medical personnel supporting the COVID-19 response are granted immunity. However, medical care rendered in the ordinary course of medical practice does not provide the granting of immunity. For example, procedures performed by licensed medical professionals in their ordinary course of business, including orthopedic procedures, OB/GYN services, and necessary cardiological procedures. It is not the Legislature’s intent to grant immunity for medical services, treatment and procedures that are unrelated to the COVID-19 emergency.”
 - The law takes effect immediately and is retroactive to March 9, 2020.
- **S2338/A3918: Clarifying filing and payment deadline for Corporation Business Tax and Gross Income Tax taxpayers, modifies duration of State Fiscal Years 2020 and 2021, requires certain updates and presentation for State Fiscal Years 2020 and 2021.**
 - As explained in the official statement: “This bill clarifies the time to file a gross income tax or corporation business tax return or make payments to July 15, 2020, adjusts the timing for the payment of interest and penalties and the assessment of tax, alters the duration of State Fiscal Years 2020 and 2021 without impacting municipalities that adopt the State’s fiscal year, requires the State Treasurer to provide certain updates on economic conditions, revenues, and spending plans, and requires the Governor to formulate and present a revised budget message for State Fiscal Year 2021.”
- **S2342/A3915: Authorizing nonprofit corporations to allow members to participate in meetings by means of remote communication, and allowing nonprofit corporations to hold meetings in part or solely by means of**

remote communication during state of emergency.

- The law gives nonprofit corporations greater flexibility in how they hold their meetings during a state of emergency.
- ***S2349/A3922: Changing the date of the 2020 primary election from June 2 to July 7.***
- ***S2353/A3938: Excluding from severance requirements under "Millville Dallas Airmotive Plant Job Loss Notification Act" mass layoffs resulting from coronavirus disease 2019 pandemic.***
 - The law amends the NJWARN Act to exclude from the definition of "mass layoff" any layoffs that occur due to a "national emergency." This change, which is retroactive to March 9, 2020, is intended to exclude layoffs made due to the COVID-19 health emergency.
 - The law also delays other changes to the NJWARN Act that were set to become effective July 19, 2020 until 90 days after Governor Murphy's rescission of Executive Order No. 103, which declared a state of emergency related to the COVID-19 pandemic.
- ***S2374/A3913: Concerning family leave benefits during epidemic-related emergencies.***
 - The Legislature's official statement to the new law explains: "This bill expands the Family Leave Act ("FLA") to include leave from employment so that an employee may provide care to a family member made necessary by an epidemic of a communicable disease, a known or suspected exposure to a communicable disease, or efforts to prevent spread of a communicable disease. The amendments to the FLA will allow employees forced to care for family members during the COVID-19 outbreak to take up to 12 weeks of family leave in a 24-month period without losing their jobs."
 - The law takes effect immediately and is retroactive to March 25, 2020.