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**the COVID virus crisis:
what employers need to know**

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OVERVIEW:

- latest news
- general tips
- best practices for WFH
- FAQs from the workplace
- FLSA & OSHA
- Families First Act
- unemployment

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LATEST NEWS

- Senator McConnell released his proposed 3rd relief bill yesterday.
 - focuses on assisting small businesses and put money in some consumers' pockets.
- government ordered "shutdowns."
- Atlanta Mayor Keisha Lance Bottoms ordered essentially all public accommodations within the city limits be closed today. Restaurants can still provide takeout, delivery, and drive through.
- NC Governor Roy Cooper issued similar orders and expanded and loosened unemployment insurance benefits.
- developing, with over 24 states committing to some sort of statewide closure either this week or starting in the next few weeks.

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GENERAL TIPS

- don't panic, but adjust expectations
- stay informed
- start planning
- protect your employees
- clear frequent communication

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GENERAL TIPS

- expect cash flow to take a hit
- consider proactive credit line
- insurance coverage
- consider hour reductions
- reduce costs

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BEST PRACTICES FOR WFH

- set clear expectations
- goal = stay healthy AND productive
- this is not a staycation; productivity expectations still apply
- this is a temporary arrangement

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PREPARE

- test connectivity issues
- design (flexible) schedules
- plan for hiccups and interruptions
- manager tasks
- be realistic about childcare
- beware of burnout

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FAQS

- what if you learn an employee is sick?
- can we take employees' temperatures to confirm they are not sick?
- are we legally allowed to inquire about their potential exposure?
- can we require an employee to get tested?

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FAQS

- what if an employee objects to certain activities or work duties because of exposure fears?
- what should we do about clients, vendors, or other third parties in our workspace?
- what if we believe an employee's report of coronavirus exposure is false?

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THE FLSA IS COVID-IMMUNE

- exempt vs. non-exempt
- regular rate
- minimum wage
- accurate records of hours worked
- overtime
- state and local requirements

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TRYING TIMES CALL FOR FLEXIBILITY

- as non-exempt employees exceed 40 hours per week, pay 1.5 x regular rate
- hours may be reduced for non-exempt employees
- work outside job description = okay
- volunteer workers = not okay
- alternative arrangements, additional PTO = okay
- exempt employees must be paid weekly salary if they work, but deducting PTO is okay

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TELECOMMUTING AND WAGE LAWS

- may require or encourage WFH
- eeo laws
- don't change the rate of pay for WFH hours
- costs of tools and equipment may not reduce pay below FLSA-required pay
- reimbursements cannot be required if provided as an ada reasonable accommodation
- time-keeping mechanism
- find options for employees that cannot WFH

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OSHA

OSHA standards still apply...

- ppe and respirator standards
 - cdc: respirator required where recommended by healthcare professional, if employee has COVID-19, or if employee is a healthcare worker
- gdc to keep workplace free of hazards
- reporting requirements: 24 and 8 for work-related COVID-19

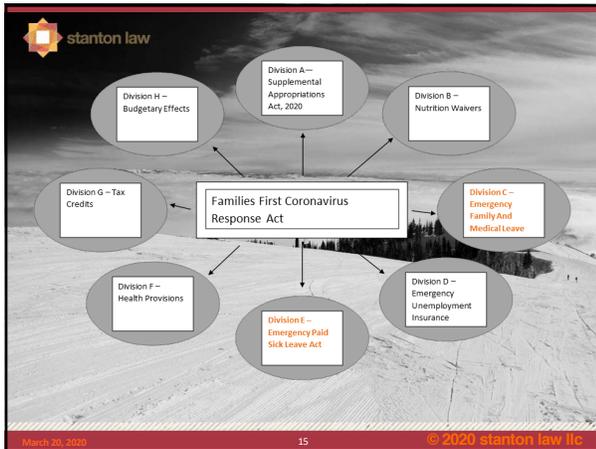
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THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

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FFCRA

1-499 employees?

Yes

Emergency Paid Sick Leave Act

Emergency Family and Medical Leave Expansion Act

- Applies to all employees
- Leave reason stated in EPSLA
- 80 hours paid leave
- Employed at least 30 days before leave starts
- Leave reason stated in EFMLEA
- 12 weeks' leave (first 10 days can be unpaid unless employee asks to apply accrued PTO, remainder at 2/3 regular rate)
- Job protection

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Reasons for Leave under the EPSLA

1. the employee is subject to a Federal, State, or Local quarantine or isolation order related to COVID-19;
2. the employee has been advised by a healthcare provider to self-quarantine because of COVID-19;
3. the employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
4. the employee is caring for an individual subject or advised to quarantine or isolation;
5. the employee is caring for a son or daughter whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 precautions; or
6. the employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Reasons for Leave under the ER FMLA Expansion

“a qualifying need related to a public health emergency.”

A “qualifying need” is limited to circumstances where the employee is unable to work or telework because they need to care for a minor son or daughter due to school or place of care being closed or the childcare provider is unavailable due to COVID-19.

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EMERGENCY PAID SICK LEAVE ACT

- 1 to 499 employees
- all employees are eligible
- psl if they cannot work for any of 6 reasons
- 1 – 3 relate to employee's health
- 4 – 6 (generally) relate to employee's care of another

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REASONS 1 – 3

1. employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
2. employee has been advised by a healthcare provider to self-quarantine because of COVID-19;
3. employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;

- employers must pay full regular rate for reasons 1-3
- capped at \$511 per day, a total of \$5,110 per employee

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REASONS 4 – 6

4. employee is caring for an individual subject or advised to quarantine or isolation;
5. **employee is caring for a son or daughter whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 precautions;** or
6. employee is experiencing substantially similar conditions as specified by hhs, in consultation with the labor and treasury

- employers must pay 2/3 regular rate for reasons 4 – 6
- capped at \$200 per day; total of \$2,000 per employee

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EMERGENCY PAID SICK LEAVE ACT

- full-time employees = 80 hours paid sick leave
- part-time employees or variable work schedule employees are entitled to the average number of hours they worked the last six months (two weeks' worth of leave)
- if a part-time employee has not worked for 6 months, use the average number of hours they expected to work upon hiring

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EPSLA POSSIBLE EXEMPTIONS

dol has authority to:

- exempt small businesses with fewer than 50 employees if it would jeopardize the business
 - only seems to apply to #5 – kid home from school
- exclude certain healthcare providers and emergency responders
- issue regulations "as necessary"

- generally, employees who are healthcare providers and emergency responders may be excluded from this paid leave at the employer's own election

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EPSLA – OTHER CONSIDERATIONS

- effective 15 days after president signs bill (4/2/20)
- ends December 31, 2020 with no carry-over
- employer must leave current sick leave options in place and will be in addition to this new federal mandate
- cannot require employee to use EPSLA leave over another paid leave and vice versa
- employers must post notice
- employees must follow "reasonable notice procedures"

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EMERGENCY FMLA

- expands existing FMLA
- now provides 12 weeks of job-protected PAID leave after the initial 10 days
- now applies to employers with 1 to 499 employees
- employees who worked for 30 days prior to leave and has a "qualifying need" are eligible.

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"QUALIFYING NEED"

- "qualifying need" is a situation in which the employee is unable to work or telework because they need to care for a minor son or daughter due to school or place of care being closed or the childcare provider is unavailable due to COVID-19
- not the 1250 hours over the last 12 months rule

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BREAKING IT DOWN

- first 10 days of Emergency FMLA may be unpaid
- employee may elect to use accrued PTO, vacation, or sick leave
- after first 10 days, employer must pay full-time employees 2/3 their regular rate for hours they would have worked
- for part-time employees, 2/3 their regular rate and calculate hours in the same manner as EPSLA

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EMERGENCY FMLA CONTINUED

- paid leave is capped at \$200 per day, \$10,000 total per employee
- job-protected leave similar to normal FMLA leave
- existing unpaid FMLA provisions remain in effect for non-COVID-19 related leave, if applicable

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EMERGENCY FMLA POSSIBLE EXEMPTIONS

dol has authority to:

- exempt small businesses with fewer than 50 employees if it would jeopardize the business;
- exclude certain healthcare providers and emergency responders

***employers with fewer than 50 employees in a 75-mile radius are exempt from civil damages for Emergency FMLA allegations

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OTHER CONSIDERATIONS

- also effective 4/2/20
- sunsets 12/31/20
- no new notice requirements for employer except for existing FMLA requirements
- employee must provide notice of leave if foreseeable, otherwise as soon as practicable

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HAND-IN-HAND (JUST WASH HANDS AFTER)

if an employer is covered by both EPSLA and the Emergency FMLA, then:

- at employee's request, must allow employee to use the first 80 hours of Emergency Paid Sick Leave for the initial 10 days of unpaid leave under the Emergency FMLA provision
- after the first 10 days, paid leave under Emergency FMLA kicks in (if for a qualifying need), and employee receives 2/3 their regular rate for the remaining 12 weeks of leave

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UNEMPLOYMENT

- the WARN act (and state analogs)
 - employers with 100+ employees
 - 60 days* notice
 - plant closings & mass layoffs of more than 6 mos.
 - emergency exceptions
- unemployment reporting
 - GA's 25-employee threshold

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UNEMPLOYMENT

- terminated employees may apply for unemployment insurance benefits
 - GADOL 800 for employee to apply
- Reduced hours/furloughs
 - employer must file partial claims on employees' behalf every pay period or risk liability for entire benefit

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FOR WHAT YOU REALLY CARE

can we fire?

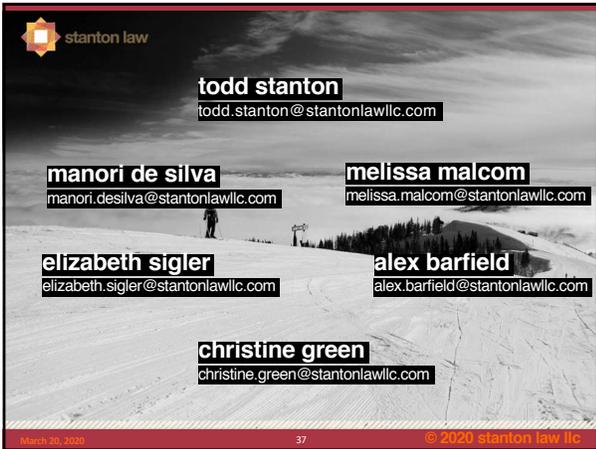
do I have to pay not to work?

can I furlough?

how much will this cost?

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