

California Suspends 60-Day WARN Act Notice Period Due to COVID-19

California Employment Law Update Blog on March 18, 2020

This morning, California Gov. Gavin Newsom issued an [Executive Order](#) that allows a California employer that is conducting layoffs due to the COVID-19 pandemic to use the newly-created “unforeseen business circumstances” exception to the state’s WARN Act requirements.

More specifically, the order indicates that:

- Mass layoffs, relocations or closures fall under the newly-created “unforeseen business circumstances” exception to the law, **but California employers must still provide notice under the WARN Act requirement as soon as practicable (even if less than 60 days).**
- The content of the notice must include all of the information already required by the California WARN Act and, further, that the mass layoff, relocation or termination/closure is caused by COVID-19-related “business circumstances that were not reasonably foreseeable as of the time that notice would have been required.”
- The notice must state that “If you have lost your job or been laid off temporarily, you may be eligible for Unemployment Insurance (UI). More information on UI and other resources available for workers is available at labor.ca.gov/coronavirus2019.”

The governor’s order has been issued as a result of the large number of employers that have had to close rapidly without providing their employees advance notice as otherwise required by California because of the need to prevent or mitigate the spread of COVID-19. Please note, based on a 2017 California court of appeal opinion, California WARN notice is required even in the case of temporary mass layoffs (e.g., mass layoffs that span a period of under 6 months). [See *International Bhd. of Boilermakers, et al. v. NASSCO Holdings Inc.*, 17 Cal. App. 5th 1105 \(2017\).](#)

Finally, by March 23, 2020 the state’s Labor and Workforce Development will provide guidance to the public as to how the Order will be implemented.

Proskauer's cross-disciplinary, cross-jurisdictional Coronavirus Response Team is focused on supporting and addressing client concerns. [Visit our Coronavirus Resource Center](#) for guidance.

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