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## Workplace Protections for Persons Living with HIV During the Coronavirus Pandemic (3/26/20)

The coronavirus pandemic has caused employers to modify workplace practices in ways we have never seen before. Employees are increasingly being advised or mandated to work at home to reduce the spread of the virus. Still other employees are required to report to work.

For persons living with disabilities such as HIV and AIDS, that put them at higher risk of developing complications associated with the coronavirus, reporting to work in-person or adjusting to a remote workplace can raise many concerns. However, disability rights laws and other employment protections remain in effect. Even if persons living with HIV have never utilized the benefits or relief such laws guarantee, they can choose to do so in light of the current pandemic. Below is a listing of laws that protect persons with HIV who are working during the coronavirus pandemic.

### Workplace Accommodations

Employees with HIV may request an accommodation to reduce their risk of exposure to the coronavirus. The [Americans with Disabilities Act](#) protects employees who work for employers with 15 or more employees and the [Fair Employment and Housing Act](#) protects employees who work for employers with 5 or more employees.

When an employee tells their employer that they are requesting an accommodation to reduce their risk of exposure because they have a chronic health condition, an employer must begin the interactive process to provide reasonable accommodations. An employee may be required to provide a letter from their doctor or other health related documentation however they are NOT required to disclose the underlying health condition. In other words, an employee does NOT have to disclose their HIV status even when they are seeking an accommodation. For more information on how to request a reasonable accommodation, refer [HERE](#).

Examples of accommodations that may be requested during the coronavirus pandemic include working from home, medical leave, or reducing/ eliminating contact with customers. Other accommodations may also be requested based on the specific circumstances of an employee. However, an employer is not required to provide accommodations that would cause an undue burden (high cost, allowing an employee to work at home when all work must be done on site, etc.).

### Paid and Unpaid Leave

Under the [California Family Rights Act](#), you may be able to take up to twelve weeks of job-protected leave as a result of an underlying health condition. In order to be covered, an employee must work for a covered employer (all public employers and some large private employers with 50 or more employees) and have worked for one or more year(s) prior to requesting leave.

Under the [Families First Coronavirus Response Act](#), when an employee is unable to work because of a government-mandated quarantine, they may be entitled to paid sick leave for up to two weeks. In order to be

covered, an employee must work for a covered employer (certain public employers and private employers with fewer than 500 employees) and must have been working for their employer for 30 days prior to becoming eligible for this relief.

Beyond options for leave, if a healthcare provider or a local health official certifies that an employee with an underlying health condition (such as HIV) should not work, the employee can apply for [State Disability Insurance \(SDI\)](#). If an employee is fired, this will not affect their eligibility.

### Workplace Safety

Under the [Occupational Safety and Health Act](#), employers are required to take feasible steps to eliminate or reduce hazards in the workplace which includes exposure to the coronavirus. Such steps may include changing workplace practices and if appropriate, providing personal protective equipment to employees.

### The AIDS Legal Service Project is here to help!

If you think you need legal advice specific to your situation or need legal intervention, please fill out the AIDS Legal Service Project online intake form [HERE](#). It will be reviewed to see if you qualify for free legal services through the AIDS Legal Services Project.

If you have any questions, you can also email [ALSPinfo@lacba.org](mailto:ALSPinfo@lacba.org) or call 213-833-6776.

Additional Helpful Information can be found here:

[https://www.eeoc.gov/eeoc/newsroom/wysk/wysk\\_ada\\_rehabilitaion\\_act\\_coronavirus.cfm](https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm)

<https://www.bettzedek.org/our-services/resources/>

(Good information and resources, in English and Spanish)

<https://www.hivlawandpolicy.org/resources/new-eeoc-publications-hivaids-and-employment-discrimination>

<https://askjan.org/disabilities/Human-Immunodeficiency-Virus-HIV.cfm>

<https://www.dol.gov/odep/topics/hivaids/EmploymentLivingwithHIVAIDS.pdf>

(Older guide but helpful general information and guidance for working PLWH)

**THE INFORMATION CONTAINED HERE WAS CURRENT AS OF 3/26/20. AS YOU KNOW, EVENTS ARE CHANGING RAPIDLY AND WE WILL DO OUR BEST TO UPDATE YOU AS IMPORTANT CHANGES DO OCCUR.**

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