

March 31, 2020

**GOVERNOR SIGNS EXECUTIVE ORDER:  
EXTENDS DEADLINES FOR DISCIPLINARY ACTIONS**

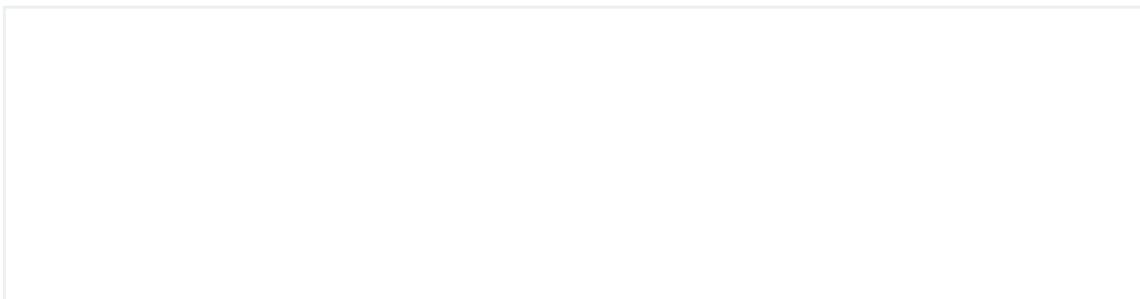
Yesterday, March 30, 2020, Governor Gavin Newsom signed [Executive Order N-40-20](#), which deals with a myriad of subjects impacting both public and private sectors, necessitated by the COVID-19 pandemic. There are two significant aspects of the Executive Order that are of particular interest to our public safety clients: (1) The order extends by 60 days the deadline in Government Code §3304(d) for completing investigations of alleged misconduct by public safety officers covered by the Public Safety Officers' Procedural Bill of Rights Act ("POBR"); and (2) The order extends by 60 days the deadline for serving a notice of adverse action under Government Code §19635, which specifically applies to state employees.

At present, §3304(d) provides a one-year statute of limitations for bringing a disciplinary action (or denying a promotion on grounds other than merit) against any public safety officer covered by POBR. The one-year period for recommending discipline begins from the agency's discovery of the alleged misconduct by a person authorized to initiate an investigation. As a result of the Executive Order, that deadline is extended to one year and 60 days. Keep in mind, the numerous exceptions to this deadline remain unchanged.

The Executive Order also extends by 60 days the existing three-year deadline for bringing an adverse action against a state employee for violations of any civil service law. Under §19635, the statute runs from the date the act of misconduct was committed, except for acts of fraud, embezzlement and falsification of records where the statute runs from the time of discovery of the fraud, embezzlement and falsification.

The Executive Order left the time deadlines unchanged in the Firefighter Procedural Bill of Rights Act.

Our office has had an opportunity to fully consider the legal implications of the Executive Order and its potential applicability will vary between cases. Any client that has questions regarding the Executive Order and the analysis of our firm, is encouraged to contact us.



EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA

EXECUTIVE ORDER N-40-20

**WHEREAS** on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

**WHEREAS** on March 19, 2020 I issued a statewide Order directing all residents to heed current state public health directives to stay home except as needed to maintain continuity of operations of critical infrastructure sectors during the COVID-19 response; and

**WHEREAS** the COVID-19 pandemic and the necessary physical distancing measures implemented have affected governmental agencies, private businesses, and California residents alike, with associated impacts on adherence to certain statutory deadlines; and

**WHEREAS** certain businesses have been unable to operate, or are otherwise significantly impacted, as a result of COVID-19 and require administrative relief; and

**WHEREAS** certain corporations are unable to conduct in-person shareholder meetings due to physical distancing requirements; and

**WHEREAS** the State is conducting or may conduct critical emergency activities of fatigued and existing law restricts the Fair's access to the Fair and Exposition Fund; and

**WHEREAS** the Women, Infants, and Children (WIC) Program is designed to ensure program participants access to necessary nutrition and COVID-19 related scarcity has caused challenges in program participants' access to this nutrition; and

**WHEREAS** existing law requires the Division of Juvenile Justice and the Board of Juvenile Hearings within the California Department of Corrections and Rehabilitation to be reestablished under the California Health and Human Services Agency as the Department of Youth and Community Restoration, and requires the transfer to be completed by July 1, 2020; and

**WHEREAS** the Division of Juvenile Justice, the California Health and Human Services Agency, and the California Department of Corrections and Rehabilitation have taken numerous steps over many months to initiate the transfer, but the threat of COVID-19 has newly forced Division of Juvenile Justice to redirect available resources to preventing COVID-19 from entering the juvenile facilities and to protecting and serving the youth residing in and the staff working in these facilities, and has forced California Health and Human Services Agency to redirect resources from assisting Division of Juvenile Justice with the transfer to addressing the broader COVID-19 emergency; and

**WHEREAS** under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.



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