

# The Legal Strategist

S. BARRETT P.C.

[WWW.SBARRETLAW.COM](http://WWW.SBARRETLAW.COM)

SECOND QUARTER 2020

TEXAS ESOTERIC FACTS

Telecommuting and work-from-home arrangements are increasing exponentially during the novel coronavirus (COVID-19) pandemic as a way of protecting employees and customers from exposure. In addition, telecommuting arrangements help attract and retain employees, create a professional atmosphere supportive of employees reaching their full potential, and meet the needs of a 24-hour global marketplace.

The Feature Topic is a cursory review. If you would like more information on this, or any other topic previously covered in my newsletter, which can be viewed on [The Legal Strategist](#) tab of my web site, please contact my office at 713.526.1883.

Scott Barrett

FEATURE TOPIC:

**TELECOMMUTING ESSENTIAL CONSIDERATIONS**

- Jesse James refused to rob a bank in McKinney, Texas because he liked the chili served there.
- The Dallas Cowboys haven't played football in Dallas since 1971.

With the advent of sophisticated workplace information technology that allows employees to connect to a company's computer network from their homes with little more than a laptop and an internet hookup, telecommuting or teleworking has become a common phenomenon across various industries. Moreover, telecommuting and work-from-home arrangements are increasing exponentially during the novel coronavirus (COVID-19) pandemic as a way of protecting employees and customers from exposure.

Before implementing a telecommuting environment, employers should assess the following factors:

- Can the employer adequately supervise the employee remotely?
- Do the employee's duties require access to equipment or tools that are not available outside the workplace?
- Is face-to-face interaction and coordination of work with other employees needed?
- Is in-person interaction with outside colleagues, clients, or customers necessary?
- Does the employee need immediate access to documents or other information located only at work?
- Are coworkers with similar roles and responsibilities allowed to telecommute?
- Has the employee in question teleworked during core business hours in the past "without any attendance issues or decline in work product"?
- Does an accurate, up-to-date job description list in-person presence as an essential function?

If an employer decides to offer telecommuting arrangements, it should prepare and disseminate a telecommuting policy and/or guidelines to ensure consistency amongst employees who participate in such arrangements. Every employee authorized to participate in a telecommuting arrangement should also sign a telecommuting agreement. A model telecommuting policy should:

- Describe the process for requesting a telecommuting arrangement, including identifying the relevant decision makers.
- Clearly state the company's expectations (substantive and ministerial) for telecommuters (e.g., the telecommuter must perform all duties of his or her current role in a manner satisfactory to his or her manager; be available during the company's regular hours (and define those hours); keep their home workspace in a clean, professional, and safe condition; comply with the company's timekeeping, overtime, and paid time off policies and procedures; record all time worked in the manner directed by the company; etc.).
- Detail what telecommuting expenses will be reimbursed and how (most typical are telephone charges, internet service, and office supplies)
- The number of hours the employee is expected to work at the alternative workplace and the specific hours the employee will keep.
- Establish clear performance objectives. Action plans with specific timetables are particularly useful in this regard.
- Track productivity by achievement of predefined goals. Track productivity by achievement of predefined goals rather than with software showing when employees are logged in or off the network, which may foster distrust by teleworkers.
- Information security, such as:
  - All devices used for company business by the teleworker are data encrypted.
  - Require teleworkers to use a secure connection while remotely accessing company data.
  - Reiterate instructions around confidentiality.
  - Prohibit teleworkers from working over public Wi-Fi (or, at a minimum, from sending or accessing sensitive information over public Wi-Fi).
  - Have employees save data on a central file database rather than locally on their laptops.
- At the start of any teleworker arrangement, itemize all company equipment issued to the teleworker and ensure that all such equipment is promptly returned upon the conclusion of the arrangement and/or the employee's separation from the company.

If you would like more information on this or any other topic relating to telecommuting, please contact [Scott Barrett](#) to set up a consultation.