

Families First Coronavirus Response Act

20 Mar 2020

On March 18, 2020, the 118th Congress of the United States signed into law the Families First Coronavirus Response Act, which will go into effect on April 2, 2020. The primary details of this newly enacted law are as follows:

EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT (SECTION 3101)

- Applies to employers with fewer than 500 employees, but more than 25.
- An “eligible employee” is an employee with at least 30 calendar days of employment with current employer.
- A “qualifying need” is the inability of an employee to work (or telework) due to the need to care for a son or daughter under the age of 18, if school or care provider has closed due to COVID-19.
 - First 10 days are unpaid, but the employee can elect to use accumulated sick/annual leave or the employee may use emergency sick leave – see below.
- Amount to be paid is calculated at not less than 2/3 of the employee’s regular rate of pay. If hourly, the number of hours is based upon an average of the prior six months or normal schedule.
 - Paid leave not to exceed \$200/day with no more than \$10,000 in the aggregate.
 - Paid leave expires after 12 weeks.
 - Employee to be restored to same or equivalent position upon return.
- **100% of the emergency leave and paid sick leave may be reimbursed via payroll tax credits; Subject to future Treasury Regulations.**
- Law sunsets on December 31, 2020.
- Health care providers and emergency responders and their respective employers may be generally excluded.
- Employers with fewer than 50 employees may be excluded if this would jeopardize the viability of the business as a ongoing concern.
 - The Secretary of Labor is tasked with issuing regulations defining criteria for exclusions.

EMERGENCY PAID SICK LEAVE ACT (SECTION 5101)

- Applies to employers with fewer than 500 employees, but more than 25.
- Full-time employees: 80 hours of emergency sick leave.
- Part-time employees: Number of hours the employee works, on average, during a two-week period is amount of emergency sick leave.
 - For immediate use regardless of date of hire.
 - Employer cannot require employee to use other sick leave the employer may provide prior to use of emergency sick leave.

Requested emergency paid sick leave must be for one of the following:

- (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 health care provider to self-quarantine due to concerns related to COVID–19.
- (3) The employee is experiencing symptoms of COVID–19 and seeking a medical diagnosis. (Paid leave based upon regular compensation not to exceed \$511/day with \$5110 in the aggregate for absences due to (1), (2), or (3) above.)

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(4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).

(5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.

(6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services

- Paid leave based upon 2/3 regular compensation not to exceed \$200/day with \$2000 in the aggregate for absences due to (4), (5), or (6) above.
- Employee to be restored to same or equivalent position upon return.
- **100% of the emergency leave and paid sick leave may be reimbursed via payroll tax credits; Subject to future Treasury Regulations.**
- Emergency sick leave sunsets on December 31, 2020 with no carryover of unused leave and no payout upon resignation of employee.

This summary of the Families First Coronavirus Response Act is not intended as legal advice. Please contact the author, [Nancy Ortmeyer Kuhn, Esq.](#), or a member of Jackson & Campbell's [Employment Law Practice Group](#) if you need specific guidance.

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TAGGED: Families First Coronavirus Response Act, EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT, eligible employee, qualifying need, COVID-19, emergency leave, paid sick leave, Full-time employees, Part-time employees, quarantine, symptoms of COVID-19