

What You Need to Know about the Families First Coronavirus Response Act (FFCRA)

In this Coronavirus era, new guidelines and rules are coming down daily—if not hourly—at the local, state and federal levels. On Wednesday, March 18 President Trump signed H.R. 6201 into law. The law, which applies to most employers with fewer than 500 employees, will take effect on April 1, 2020, and has been extended until September 30, 2021.

This act temporarily expands the federal Family and Medical Leave Act (FMLA) and creates federally-mandated paid sick leave.

Expansion of Family and Medical Leave Act (FMLA)

- **The new federal Family Medical Leave Act has been amended to allow up to 12 weeks of job protected leave** to be used by covered employees, who have been employed for at least 30 days, who are unable to work or telework due to the need to care for a child (under the age of 18 years of age) whose school or child care provider is closed, or unavailable for reasons related to Coronavirus. Coronavirus is a public health emergency.
- **The first 10 days of initial leave.** The employee could use the new paid sick leave (as explained below) or could choose to use any other already-accrued paid leave (e.g., sick, and/or vacation) to receive pay during that time.
- **The remainder of this leave may be partially paid by the employer at two-thirds of the employee's regular pay**, based on the number of hours the employee is normally scheduled to work. If an employee's schedule is varied, then the "normal hours" are based on the average of the hours worked during the last six months.

The pay is capped at \$200 per day or \$10,000 in the aggregate per employee.

There is no certification required.

The employee should provide notice of the need for this leave as soon as possible.

Paid Emergency Sick Time

Covered employers are required to provide employees (regardless of the length of employment) who cannot work or telework with emergency paid sick time of 80 hours for full-time employees and, for part-time employees, the average number of hours worked over a two-week period, if the employee is:

1. **Subject to a coronavirus quarantine or isolation order;**
2. **Has been advised by a healthcare provider to self-quarantine due to coronavirus concerns;**

- 3. Experiencing symptoms of coronavirus and is seeking a medical diagnosis;**
- 4. Seeking or awaiting results of a COVID-19 test or diagnosis;**
- 5. Obtaining a COVID-19 vaccine;**
- 6. Recovering from an injury, disability, illness, or condition related to the COVID-19 vaccine;**
- 7. Caring for an individual described in 1 or 2 above;**
- 8. Caring for a child whose school or place of care is closed, or the child care provider for the child is unavailable due to coronavirus precautions; or;**
- 9. Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Treasury and the Secretary of Labor.**

Employers may not require an employee to use other available paid time off before making payments required under this law.

Employees taking time off to care for themselves must be paid their full wages.

The rate of pay for employees who take time off to care for another may be reduced to two-thirds of the employee's regular rate of pay.

The paid sick time is capped at \$511 per day and \$5,110 in the aggregate for employees taking time off to care for themselves (reasons 1-3, listed above).

The paid sick time is capped at \$200 per day and \$2,000 in the aggregate for an employee who is taking time off to care for another (reasons 7 and 8, listed above).

Wages required to be paid under this provision will not be subject to the 6.2% social security payroll tax normally paid by employers.

There is no carryover of this leave to the next year. The leave ends on September 30, 2021.

California's paid sick leave laws, as well as any local sick leave ordinances, continue to apply and are not affected by this new law.

All other FMLA leave provisions continue to apply as before and are not affected by this new law.

Employees will not be discharged, disciplined, or otherwise discriminated against for taking paid sick leave under the FFCRA.