



## **FEDERAL COVID-19 RESPONSE: FEDERAL FAMILY MEDICAL LEAVE EXPANSION; PAID SICK LEAVE**

Yesterday, the President signed into law expanded protection under the Family Medical Leave Act as well as paid sick leave related to the COVID-19 pandemic. Below is a summary of these laws, which take effect no later than April 1.

### **EMERGENCY FAMILIES FIRST CORONAVIRUS RESPONSE ACT (H.R. 6201)**

#### **Emergency Paid Family and Medical Leave Expansion**

- Employers with fewer than 500 employees must provide 12 weeks of Family and Medical Leave Act (FMLA) leave for all employees who have been employed for 30 days for a “qualifying need related to a public health emergency.”
- A “qualifying need” means the employee is unable to work (or telework) due to a need for leave to care for a child whose school or place of care has been closed or childcare provider is unavailable due to a public health emergency.
- The first 10 days may be unpaid. Employees may use accrued leave (vacation, sick, PTO) during the 10 days but cannot be required to do so.
- After 10 days, employers must continue paid FMLA leave at a rate of no less than 2/3 of the employee’s regular rate of pay with a cap of \$200 per day and \$10,000 total.
- Employers of an employee who is a health care provider or emergency responder may elect to exclude such employees from this leave entitlement.
- The Secretary of Labor may issue regulations to exempt small businesses with fewer than 50 employees where the imposition of these requirements would threaten the viability of the business.

#### **Emergency Paid Sick Leave**

- Employers with fewer than 500 employees are required to provide full-time employees 2 weeks (80 hours) of paid sick leave for circumstances related to COVID-19, including self-quarantine (subject to a federal, state, or local quarantine or isolation order, or per the advice of a health care provider); obtaining a medical diagnosis or care for COVID-19; providing care for a family member who has been diagnosed or is in quarantine; or caring for a child whose school or day care has closed due to coronavirus.
- “Full pay” compensation up to 80 hours is capped at \$511 per day per employee and \$5,110 in the aggregate for personal sick leave and \$200 per day and \$2,000 in the aggregate.
- Part-time employees receive paid sick time for the number of hours equal to the average number of hours they work over a 2-week period.
- Employees shall be paid at their normal rate, except that they are paid at 2/3 their regular rate for providing caregiving to a family member or to care for a child whose school has closed or childcare provider is unavailable due to COVID-19.
- Employers with similar existing paid leave policies are required to provide workers with the emergency paid sick time. An employer cannot require a worker to use any other available paid leave before using the sick time
- The bill does not preempt existing state or local paid sick leave entitlements.
- Emergency paid leave does not carry over and expires on December 31, 2020.
- Employers who are health care providers or emergency responders are not required to comply.
- Government employers and union workers who are part of a ‘multi-employer’ agreement.
- An employer may not require employees to find a replacement employee to cover the hours during which the employee is using paid sick time, and may not discriminate against employees who take leave under this act.
- Paid sick time is available immediately, regardless of how long the employee has been employed.
- Employers are required to post a notice prepared or approved by the Secretary of Labor, which will be publicly available within 7 days of enactment of this Act.

In addition to family and sick leave, the COVID-19 pandemic has created numerous other issues and questions. Here are some guidelines to help navigate through this crisis.

## **GENERAL GUIDANCE FOR EMPLOYERS:**

- Employers should follow - on a daily basis - federal, state, and local guidance and regulations relating to business travel, limits on conferences, business events, and working from home requirements.
- Employers may require employees to practice precautions, such as regular hand-washing, sanitizing work stations, and social distancing.

- Employers may ask employees if they are experiencing symptoms, such as fever, coughing, chills, or shortness of breath, as well as whether they have had exposure to others with COVID-19 symptoms, or have traveled for business or personal travel in the last 14 days.
- Employers may require employees who are displaying symptoms, have traveled to affected areas, or were otherwise potentially exposed to stay home from work.
- Employers should establish a procedure for employees affected or exposed to COVID-19 or exhibiting symptoms to report that information. Similarly, employers should establish a process to notify employees who might have been exposed, to a confirmed case of COVID-19 in the workplace without disclosing personal health information. \*Follow guidance from health authorities in doing this\*

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