

President Trump Signs Federal Families First Coronavirus Response Act

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President Donald Trump has signed the federal Families First Coronavirus Response Act that will require employers to provide paid sick leave and expand the scope of the Family and Medical Leave Act during the COVID-19 pandemic. The act goes into effect April 2.

The act, which was revised from an [earlier version from the U.S. House of Representatives](#), provides the following:

Emergency Paid Sick Leave

Private employers with fewer than 500 employees, and government employers with one or more employees, are required to provide paid sick leave to employees who are unable to work in the following circumstances:

- The employee is subject to a quarantine or isolation order by a federal, state or local government related to COVID-19
- The employee has been advised by a health care provider to self-quarantine because of COVID-19
- The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis
- The employee is caring for an individual who is subject to an order as described above or has been advised to self-quarantine by a health care provider because of COVID-19
- The employee is caring for a son or daughter whose school or place of child care is closed, or child care provider is unavailable, due to COVID-19 precautions
- The employee is experiencing substantially similar conditions as specified by the secretary of the Department of Health and Human Services, in consultation with the secretaries of the U.S. Department of Labor and the U.S. Department of the Treasury

The act excludes employees who are health care providers or emergency responders. It also gives authority to the secretary of the federal Department of Labor to issue regulations exempting small businesses with fewer than 50 employees from the paid sick leave requirements if they jeopardize the future viability of a business.

The paid sick leave requirements are:

- Full-time employees: 80 hours.
- Part-time employees: The number of hours equal to the number of hours that such employee works on average, over a two week period.

Paid sick time is not subject to carry over from one year to the next. An employer may not require as a condition of providing paid sick leave that the employee search for or find a replacement to cover the employee's work hours. The paid sick leave is available to employees for immediate use regardless of the length of time the employee has been employed. An employer may not require the employee to use other paid leave before using the paid sick leave provided under the bill. No certification or documentation may be required as a condition of paid sick leave.

The U.S. Secretary of Labor will issue a notice that employers must post in the workplace. The model notice will be issued within seven days after the act is enacted.

The act limits the requirement of paid leave to \$511 per day (\$5110 in the aggregate) for leave that is taken for the reasons identified in numbers 1 through 3 above, and \$200 per day (\$2000 in the aggregate) where leave is taken for reasons 4 through 6 above. Furthermore, paid sick leave for reasons 1 through 3 above must be paid at the employee's regular rate of pay, while leave for reasons 4 through 6 above must be paid at two-thirds the employee's regular rate of pay.

The act will sunset on December 31. The act treats the failure to provide paid leave as a minimum wage violation under the Fair Labor Standards Act. The act also includes anti-retaliation provisions.

Emergency Family and Medical Leave Act

An employee who has worked for at least 30 days and who works for an employer with fewer than 500 employees (without regard to the 50-employee threshold under the Family and Medical Leave Act) is eligible for 12 weeks of job-protected, paid leave due the need to care for a minor child whose school or place of child care has been closed or is unavailable due to a public health emergency. **The new act removes the expansion of FMLA for illnesses related to COVID-19.**

The first 10 days of FMLA are without pay, although an employee can choose - but not be required - to use paid time off benefits. After the first 10 days, the employer is required to provide paid leave at two-thirds the employee's regular rate, for the number of hours the employee would otherwise be scheduled to work. The act limits the amount of paid leave to no more than \$200 per day and \$10,000 in the aggregate.

The act provides that employers with fewer than 25 employees do not have to reinstate an employee if the employee's position no longer exists due to operation changes resulting from a public health emergency. Further, the act provides that employers may exclude health care providers or emergency responders from the emergency FMLA provisions.

Like paid sick leave, the act sunsets on December 31.

Tax Relief

The bill also provides for refundable payroll tax credits for employers that are required to offer paid emergency FMLA or paid sick leave. These tax credits only apply to employers covered under the bill.

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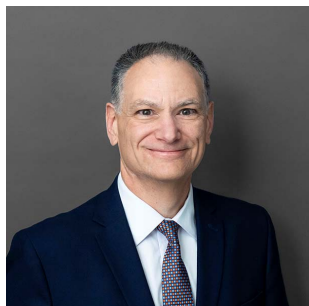


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