



Family First Coronavirus Response Act (H.R. 6201)

Congress has passed and President Trump has signed the “Family First Coronavirus Response Act” (H.R. 6201). The bill becomes effective in 15 days from the date it was signed, which was March 18th. There are two primary employment provisions included in this legislation that address an emergency family and medical leave act expansion and emergency paid sick leave. Both of these provisions will remain in effect until December 31, 2020.

- **Emergency Family and Medical Leave Expansion** - The law includes an emergency family and medical leave expansion that will apply to any employee who has been employed for at least 30 calendar days. The employee must be unable to work or telework due to a need for leave to care for a child under 18 of the employee if the school or place of care is closed or the childcare provider is unavailable due to a public health emergency.

The bill would apply to private employers with fewer than 500 employees. Public employers need to comply irrespective of workforce size. The Secretary of Labor would have the authority to exclude certain health care providers and emergency responders from coverage as well as exempting private employers with fewer than 50 employees if the viability of the business would be jeopardized.

The first 10 days of leave may consist of unpaid leave although the employee could substitute any accrued leave for the unpaid portion. Employers could not require that employees use accrued leave. Employers would need to provide paid leave for the subsequent 10 weeks of leave that is capped at \$200/day and \$10,000 total. Employers would need to make reasonable efforts to restore employees to their same or an equivalent position. If these efforts fail, the employer needs to make reasonable efforts to contact the employee if an equivalent position becomes available during the next year.

- **Emergency Paid Sick Leave** – The law also would require employers to provide full-time employees with 80 hours of paid sick time and part-time employees with paid sick leave on a pro-rated basis for the following reasons:
 - To self-isolate because the employee or a family member has been diagnosed with coronavirus or is experiencing symptoms of coronavirus and needs to obtain medical diagnosis or care.

- Paid sick leave also is available to care for the child if the school or place of care has been closed.

The paid sick leave would be available immediately no matter how long the employee has worked for the employer. The employees' emergency paid sick leave related to the employees' condition is calculated based on the employees' regular rate but is limited to \$511/day and \$5,110 total. Where the emergency sick time is for employees' to be caregivers, it is based on 2/3 of the regular rate, but is limited to \$200/day and \$2,000 total.

Employers with existing paid leave policies would need to make the emergency paid sick leave available **in addition** to their own policy's paid leave. Employers cannot require employees to use other paid leave provided by the employer before using the sick time provided by this law. Employers cannot require employees as a condition of providing paid sick time that they find a replacement to cover their hours.

The Department of Labor will provide a model notice for use by employers advising employees of the emergency family and medical leave and emergency paid sick leave and employers would have to post it in a conspicuous place.

Employers **except** for public employers would get a payroll tax credit to cover the wages paid to employees under the sick leave and family medical leave programs.

The law also directs the Secretary of Labor to promulgate emergency temporary standards to protect health care workers under OSHA and expand which hospitals and other medical facilities are subject to such standards.

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