

COVID-19 Legislative Update: New Paid Emergency Leave Requirements for Employers Begin on April 2, 2020.

On March 18, 2020, President Donald J. Trump signed into law the Families First Coronavirus Response Act (FFCRA). This new legislation provides a number of relief benefits in response to the COVID-19 public health emergency, including:

Making temporary additions to the Family and Medical Leave Act:

- Requiring emergency paid leave for employees affected by COVID 19,
- Providing free coronavirus testing,
- Expanding food security initiatives,
- Increasing Medicaid funding, and
- Supplementing state unemployment insurance programs.

The provisions affecting employers have a broad reach, applying to private employers with fewer than 500 employees and all public employers, no matter how many employees they have. Forthcoming regulations may allow small businesses with fewer than 50 employees to be excluded from these new paid emergency leave requirements.

While FFCRA does not apply to private employers with 500 or more employees, further COVID-19 legislation applying specifically to large private employers may be coming.

The FFCRA includes two major employer-related developments.

First, the *Emergency Family Medical Leave Expansion Act*.

The Act expands the coverage of FMLA to provide 12 weeks of paid job protected FMLA leave for employees who are unable to work due to care for a minor child if the child's school or daycare is closed due to COVID-19. Under this new legislation, the employee need only be on payroll for 30 calendar days to qualify for the new FMLA leave.

The first ten days of FMLA leave to care for a child can be unpaid, while the remaining ten weeks are paid at a rate equal to at least 2/3 of the employee's regular rate of pay, up to a maximum of \$200/day or \$10,000 total.

Second, the *Emergency Paid Sick Leave Act*.

The Act provides for paid sick leave to employees who are unable to work because of COVID-19. Employers are required to give the following paid sick leave:

- Two weeks of paid sick leave at the employee's regular rate of pay, capped at \$511/day or \$5,110 total for employees who are quarantined or seeking a diagnosis related to COVID-19.
- Two weeks of paid sick leave at a rate of at least 2/3 of the employee's regular rate, capped at \$200/day or \$2,000 total for employees:
 1. caring for a family member who is quarantined or seeking a diagnosis related to COVID-19; or
 2. caring for their child/children whose school or childcare facility is closed or unavailable due to COVID-19.