

# The Families First Coronavirus Response Act

*Summary of leave provisions contained in Public Law No. 116-127*

Effective: April 2, 2020 through December 31, 2020

This act creates two new types of leave related to COVID-19, summarized below. Regulations are expected to be promulgated in the near future.

## **1) Emergency Family and Medical Leave Expansion Act (Section 3101 et seq.) – Public Health Emergency Leave**

Amends FMLA to add public health emergency leave; applies to public agencies with one or more employees.

Eligible Employee: Has been employed for at least 30 calendar days

Reasons for Leave: Eligible employees who are unable to work or telework are entitled to job-protected leave to care for the employee's child under the age of 18 if the child's school or place of care is closed or the childcare provider is unavailable due to a public health emergency with respect to COVID-19 declared by a federal, state, or local government.

Amount of Leave: 12 weeks

Compensation During Leave:

- May be unpaid for the first 10 days, during which time the employee may choose to substitute any accrued paid leave the employee may have (or paid leave under Section 2 below). The employer cannot require the employee to substitute paid leave.
- After the first 10 days, leave must be paid at 2/3 of the employee's regular pay, capped at \$200/day for a total of \$10,000.
- Employees with variable hours (to the extent that that the employer cannot determine what the employee's schedule would have been) are paid based on the average hours the employee was scheduled to work per day over the past 6 months, including leave taken during that time.

Special rules apply to health care providers and emergency responders.

## **2) Emergency Paid Sick Leave Act (Section 5101 et seq.)**

Eligible Employee: Same definition of employee as FLSA, no minimum length of service.

Reasons for Leave: Eligible employees are entitled to paid sick leave if the employee is unable to work or telework for any of the following reasons tied to COVID-19:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to a quarantine or isolation order related to COVID-19 or an individual that has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
5. The employee is caring for his or her son or daughter if the school or place of care has been closed or the childcare provider is unavailable due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Amount of Leave:

- Full time employees: 80 hours
- Part-time employees: a number of hours equal to the average number of hours the employee works over a 2-week period.

Compensation During Leave:

- Leave must be paid at the employee's regular rate of pay for reasons 1 - 3 above, capped at \$511/day and \$5,110 total.
- Leave for reasons 4 - 6 above may be paid at 2/3 the employee's regular rate of pay, capped at \$200/day and \$2,000 total.

The employer cannot require the employee to use other accrued paid leave before the employee uses this leave.

*[Note: Pursuant to Section 7003(e)(4) of the Act, the tax credits linked to this leave do not apply to county government employers.]*