

## FAMILIES FIRST COVID-19 LEGISLATION – SUMMARY OF PAID LEAVE LAWS

	Emergency Sick Leave	Family (Childcare) Leave
<b>Source of law?</b>	New legislation	Amended FMLA to add leave for “Qualifying Need Related to Public Health Emergency”
<b>Effective date; retroactivity?</b>	April 2; no retroactivity	April 2; no retroactivity
<b>What positions are eligible?</b>	Any employee other than a healthcare worker or emergency responder	Any employee other than a healthcare worker or emergency responder
<b>What size of employers do laws apply to?</b>	<b>Fewer than 500 employees</b> * The DOL can issue regulations exempting employers of less than 50 employees (hopefully before 4/2)	<b>Fewer than 500 employees</b> * This law amends the normal FMLA threshold of 50+ to this specific type of leave (§101(4)(A)(i)) * The DOL can issue regulations exempting employers of less than 50 employees (hopefully before 4/2)
<b>Any waiting period?</b>	No	Must be employed for 30 calendar days
<b>What is provided?</b>	Paid leave	Unpaid leave of 10 days, followed by paid leave at 2/3 wages
<b>How much paid leave?</b>	<b>FT - 80 hours</b> (capped at \$511/day) *However, leave for situations 3, 4 or 5 below is at 2/3 rate of pay and capped at \$200/day <b>PT</b> – the number of hours worked in an average 2-week period	<b>10 days unpaid leave followed by paid leave at 2/3 wages</b> (capped at \$200/day), for up to a total of 12 weeks
<b>Can employers require use of PTO in advance?</b>	No	Can allow it during the 10-days unpaid leave (cannot require it)
<b>For what situations?</b>	If employee cannot work or telework due to: <ol style="list-style-type: none"> <li>1. Employee’s own infection/ symptoms</li> <li>2. Employee’s quarantine by health officials/CDC or recommended by doctor</li> <li>3. Caring for an “individual” in either 1 or 2</li> <li>4. Caring for a son or daughter whose school closed or caregiver is unavailable</li> <li>5. For other substantially similar public health condition</li> </ol>	If employee cannot work or telework due to: <ol style="list-style-type: none"> <li>1. child’s (under 18) school closing or caregiver unavailable</li> </ol>

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<b><i>Must employee give notice?</i></b>	As much as possible if foreseeable; once on leave employer can require employee to give continued notice	Reasonable notice if foreseeable
<b><i>Certification requirements?</i></b>	Not yet (DOL could issue regulations)	Presumably standard FMLA certification applies; however, due to crisis situation providers may not be able to complete
<b><i>Is job restoration required?</i></b>	Not expressly, as in the FMLA. However, employers may not discriminate, terminate or demote employee for using paid sick leave or filing a complaint	The normal FMLA-job-restoration requirements apply; however, employers of fewer than 25 employees do not have to restore if the job no longer exists
<b><i>Any pay-out or carryover?</i></b>	No	No