

FFCRA Signed Into Law

On March 18, 2020 the United States Senate passed and President Trump signed the [Families First Coronavirus Response Act \(FFCRA\)](#). This law is in response to the recent COVID-19 pandemic and addresses emergency paid leave and additional Family Medical Leave Act (FMLA) provisions for employers with 1 to 500 employees.

Here are two important provisions within the law which could have immediate ramifications for your organization:

Emergency Paid Sick Leave Act (EPSLA)

This Act provides two weeks of paid sick leave for the following reasons:

- Employee is subject to quarantine for COVID-19 (full pay)
- Employee is advised to self-quarantine due to concerns related to COVID-19 (full pay)
- Employee has symptoms related to COVID-19 and is seeking a diagnosis (full pay)
- Employee is caring for an individual subject to quarantine or advised to quarantine (2/3 pay)
- Employee is caring for a child if the school or place of care is closed due to COVID-19 precautions (2/3 pay)
- Employee is experiencing any other similar condition as defined by HHS or DOL (2/3 pay)

For an employee to be eligible for benefits, there is no minimum length of service requirement.

Full-time employees are entitled to 80 hours of pay and part-time employees are entitled to pay for the typical hours they work in a two-week period. Pay shall not exceed \$511/day and \$5,110 in aggregate for employee leave and \$200/day and \$2,000 in aggregate for caring for others.

Employees covered under a collective bargaining agreement are guaranteed this benefit as well.

Employers must provide EPSLA time in addition to any other paid time off that is already offered. Employers are prohibited from changing current leave policies by reducing the amount of leave ordinarily provided. In addition, employers are prohibited from requiring employees to take or exhaust employer-paid leave before taking EPSLA time.

Employers will be required to post a notice regarding the EPSLA. The Department of Labor will be providing a template notice in the near future.

This Act goes into effect April 2, 2020 and expires on December 31, 2020.

Employers of employees who are healthcare providers or emergency responders may elect to exclude those employees from this requirement. The Department of Labor may subsequently issue guidance excluding certain health care providers and emergency responders from employees that are eligible for this leave.

Emergency Family and Medical Leave Expansion Act (EFMLEA)

This Act expands the current federal Family and Medical Leave Act (FMLA) by expanding FMLA leave for “a qualifying need related to a public health emergency”.

The paid leave is solely for those employees that are unable to work or telework due to a need to care for a child under 18 due to closures of schools or care providers related to the COVID-19 health emergency.

- First two weeks of leave are unpaid, but employees can use available sick, PTO or EPSLA time
- Remaining ten weeks are paid at not less than 2/3 of the employee's usual pay
- Pay is not to exceed \$200/day or \$10,000 in aggregate
- Employee must be with the employer for at least 30 days

Small employers with 50 or less employees could receive an exemption from the Department of Labor if the imposition of this expanded FMLA would jeopardize the viability of the business.

Employers with less than 25 employees will not be required to restore employees that take this leave to their previous position if it has been eliminated due to economic considerations during the leave.

Employers of employees who are healthcare providers or emergency responders may elect to exclude those employees from this requirement. The Department of Labor may subsequently issue guidance excluding certain health care providers and emergency responders from employees that are eligible for this leave.

Tax Credits for EFMLEA and EPSLA

Tax credits will be available for most employers providing the required paid leave. Public employers will not be eligible for the tax credit. Employers should consult with their tax professional for details on these credits.