

**Summary of Voluntary Paid Leave Provisions Under the Families First COVID-19 Response Act  
as changed by the American Rescue Plan Act**

**Effective April 1, 2021 to September 30, 2021**

**Introduction**

Employers can choose to provide both Emergency Paid Sick Leave and Expanded Family and Medical Leave, or provide only one type of leave. The tax credits are only available to employers who provide the leave provisions without discriminating in favor of highly compensated employees, full-time employees, or based on employee tenure.

**A. Emergency Paid Sick Leave Benefit**

1. Full-time employees may receive up to two weeks (80 hours) of paid sick leave benefits to be used for COVID-19-related absences. Part-time employees receive a pro-rated paid sick leave benefit based on the number of hours worked on average over a two-week period. The full benefit is available for immediate use.
2. Employees cannot be required to exhaust other forms of paid leave before using the FFCRA paid leave.
3. The benefit is available if a covered employee cannot work (in person or remotely) for any of the following reasons:
  - a. The employee is subject to a federal, state, or local COVID-19 quarantine or isolation order;
  - b. The employee is advised by a health care provider to self-quarantine for COVID-19 concerns;
  - c. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
  - d. The employee is being vaccinated for COVID-19 or is recovering from side effects related to vaccination;
  - e. The employee is seeking or awaiting the results of a COVID-19 test or diagnosis, or the employer has requested a test or diagnosis.
  - f. The employee is caring for an individual who is under a COVID-19 quarantine or isolation order or has been advised by a health care provider to self-quarantine;
  - g. The employee is caring for a child whose school or child care provider has been closed or is unavailable because of COVID-19; or
  - h. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.
4. The law requires that covered employees be paid sick leave as follows:
  - a. For reasons 3(a) to (e) above, pay is at the employee's regular rate, up to \$511 per day and/or \$5,110 in the aggregate.

- b. For reasons under 3(f), (g), or (h) above, pay is two-thirds the employee's regular rate of pay, up to \$200 per day and/or \$2,000 in the aggregate.
  - c. If the employee does not have a set schedule of hours, paid sick leave is based on the average number of hours the employee was scheduled per day over the six-month period prior to use of the leave.
- 5. Paid sick leave for purposes specified in the law ends upon termination of the qualifying event. It does not carry over year to year and unused leave is not paid out.

**B. Temporary Expansion of Family & Medical Leave**

- 1. A "qualifying need" includes the same reasons permitted for Paid Sick Leave as outlined in section A.3 above.
- 2. Pay for the temporary FMLA leave is as follows:
  - a. Employees are paid two-thirds of their regular rate of pay, up to \$200 per day and \$12,000 in the aggregate.
- 3. Employees are entitled to reinstatement to the same or equivalent position once the leave ends.
- 4. The total annual FMLA leave entitlement for any qualifying reason remains at 12 weeks per calendar year.

**Caveat**

The Secretary of Labor will issue implementation regulations. This summary is subject to change depending on the substance of those regulations.