

President Signs Emergency Paid Sick or Family Leave Legislation

BY: Curtis E. Tatum, Esq. | 03/19/20 | American Payroll Association



On March 18, President Trump signed **H.R. 6201**, the Families First Coronavirus Response Act, which includes several payroll-related provisions.

Emergency Paid Sick Leave

Effective April 2 through December 31, 2020, private employers with fewer than 500 employees and all government employers must provide two weeks of paid sick leave to their employees (including part-time employees). The leave must be provided in instances where an employee:

1. Is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. Is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. Is caring for an individual who is subject to a quarantine order or has been advised to self-quarantine.
5. Is caring for a son or daughter and the child's school or place of care has been closed, or the child care provider is unavailable due to COVID-19 precautions.
6. Is experiencing any other substantially similar condition.

Paid sick leave is to be calculated based on the greater amount of the employee's regular rate of pay or the applicable minimum wage rate. There is a two-tiered pay rate:

- If the employee's sick leave is for reasons 1, 2, or 3 above, the pay is calculated based on the full amount the employee would have been paid (capped at \$511 per day).
- If the leave is for items 4, 5, or 6 above, the pay rate is two-thirds of the full pay amount (capped at \$200 per day).

Self-employed individuals are also eligible for paid sick leave, but the payment will be made through a tax credit.

Emergency Family and Medical Leave

Effective April 2 through December 31, 2020, the legislation expands the reasons for which Family and Medical Leave Act (FMLA) leave may be taken to include where an employee is unable to work (or telework) due to a need to leave to care for a son or daughter under 18 years of age, and the child's school or place of care has been closed or a child care provider is unavailable due to a public health emergency.

Eligible employees may take up to 12 weeks of this emergency leave, with the first two weeks being unpaid (employees may substitute vacation leave, personal leave, or sick leave for the unpaid leave), and the remaining 10 weeks being paid at a rate of at least two-thirds of the employee's regular rate of pay (not to exceed \$200 per day). Covered employers are those with fewer than 500 employees.

Tax Credits for Businesses

To help employers with the costs associated with providing paid sick leave and paid family and medical leave, the legislation provides businesses with a payroll tax credit for providing the required leave. Federal, state, and local government employers are not eligible for the tax credits.

DOL to Hold Virtual Town Hall

The U.S. Department of Labor's Wage and Hour Division (WHD) will administer and enforce the paid sick leave. This includes developing and implementing regulations and guidance. The WHD is hosting a paid leave virtual town hall on Friday, March 20 at 10 a.m. ET. The WHD invites employers to participate and provide their views.

- Click here to join the webinar: <https://dolwhd.cosocloud.com/whdcommteam>
- Dial this number for audio access: 888-791-5525; participant passcode: 6860607

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