



### **Families First Law Provides for Paid Leave**

The Families First Coronavirus Response Act ([H.R. 6201](#)) was passed by the Senate (March 18) after some modifications by the House (March 16) and signed into law on March 18, 2020. Here are the highlights for SNA members:

#### **Does it impact me?**

Probably. It applies to all employers with 500 or fewer employees. However, for businesses with fewer than 50 employees, the Labor Department can exclude that business if it is deemed that providing the leave could put the company out of business. It is still too early to describe how to utilize the exemption process.

#### **Which employees does this act apply to?**

There are two distinct categories: (1) leave under the paid sick leave act (“sick leave”); and (2) leave under and an amendment to the Family and Medical Leave Act (“family leave”).

#### **Sick Leave**

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 is 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 who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
5. The employee is caring for a son or daughter of the employee if the school or place of care of the son or daughter has been closed, or their child care 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 Secretary of Labor.

Sick leave applies to all employers even if they just started working.

#### **Family Leave**

- The employee is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.

Family leave applies to employees who have been employed for 30 or more days who are unable to work. It applies to both full-time and part-time employees.

**What is the practical difference between the childcare qualification under “sick leave” vs. “family leave?”**

Good question. The ability to “telework” looks like a technical distinction, and the FMLA does not have the 2020 expiration. It seems like employees will otherwise evaluate what is more generous for their situation. Can you take both? Don’t know - let us know if you know!

**My employee fits one of these categories, what does that mean?**

This is effective within 15 days from the date of enactment (3/18/2020), so we will watch for the official effective date.

To determine your obligation, first determine if it is *sick leave* or *family leave*:

*Sick Leave*

Full-time employees are eligible for up to 80 hours of paid *sick leave*. Part-time employees are entitled to the average number of hours they work over a two-week period. If this varies, this can be calculated using the average worked over the last six-month period.

The amount of the entitlement depends on the reason. Employees are entitled to regular compensation. Employees must receive full pay up to \$511 per day and \$5,111 in total for reasons 1 through 3 above (basically, the individual is sick). Employees must receive \$200 per day up to \$2,000 in aggregate for reasons 4 through 6 above.

Paid Sick Leave is in addition to any other paid leave the employee is entitled to receive.

You cannot discriminate against an employee who takes sick leave. Sick leave expires on 12/31/2020.

*Family Leave*

Unlike sick leave, the first ten days are unpaid. An employee can take vacation, PTO, or other paid leave instead.

After ten days, the employer shall pay for 2/3rd of the employee's regular rate of pay multiplied by the number of hours the employee would otherwise be scheduled to work capped at \$200/per day and \$10,000 in total. Employees are eligible for this benefit for up to 12 weeks in a one-year period.

Part-time employees would be calculated by the hours normally scheduled to work. If that varies, it is calculated as "a number equal to the average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type."

Employees are entitled to return to their position after their leave. There are some limited exceptions for employers with 25 or less employees.

### **Okay, so how do I pay for this?**

Supposedly, you get 100% back (including health insurance premiums paid). First, through tax credits on your payroll taxes. If you paid out more than your tax credits, you are supposedly going to receive a refund. This is supposed to happen within three months. We will be waiting on how we log and report this.

### **Are you 100% sure with the above?**

No. This is our best shot within 24 hours. We'll keep updating.

### **I'm still confused. Can someone else try to explain this?**

Sorry. Try here:

The bill: <https://www.congress.gov/bill/116th-congress/house-bill/6201/text/eh>

Decent articles:

<https://www.nytimes.com/2020/03/19/upshot/coronavirus-paid-leave-guide.html>

<https://www.hrdive.com/news/trump-signs-emergency-coronavirus-bill-expanding-fmla-and-paid-sick-leave/574446/>