

FAMILIES FIRST CORONA VIRUS RESPONSE ACT
FINAL GUIDANCE – AS OF 11:00 AM CDT MARCH 23, 2020
– SUBJECT TO ADDITIONAL INTERPRETATION –

Emergency Family & Medical Leave Expansion Act (FMLA Expansion)

Applicability	Private and public employers with < 500 employees	
Eligible Employees	Full- and part-time employees after 30 days of hire	An employer of an employee who is a health care provider or an emergency responder may elect to exclude such employees from the law.
Reason for Leave	Because the employee is unable to work (or telework) due to the need for leave to care for the son or daughter under 18 years of age of such employee because 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.	For good cause, the Secretary of Labor is permitted to issue regulations that: 1. exclude certain health care providers and emergency responders from the definition of eligible employees AND 2. exempt businesses with fewer than 50 employees from the law if complying with the law would jeopardize the viability of the business as a going concern. However, as passed, the legislation currently permits an employer of an employee who is a health care provider or an emergency responder to elect to exclude such employee from the application of the provisions in the Act. Because the definition of a health care provider is very limited under the FMLA, be cautious exercising employer rights under this provision.
Length of Leave	12 weeks	
Pay During Leave	The first 10 days are unpaid, but employee can substitute accrued PTO. After 10 days, the leave is paid at two-thirds the employee's regular rate for the number of hours the employee would otherwise be normally scheduled to work. In no event shall such paid leave exceed \$200 per day and \$10,000 in the aggregate.	Businesses with <50 employees <i>may</i> be exempted by the DOL if imposition of requirements would jeopardize the viability of the business. The employer may not force the use of Paid Sick Leave during the first 10 days – it is up to the employees to make the decision.
Job Protection	Yes, must return to same or equivalent position.	Businesses with <25 employees <i>may</i> be exempted by the DOL from reinstating an employee if position is eliminated or if there is no equivalent position (then they go on a re-hire list for 1 year).
Effective Date	No later than 15 days after bill is signed – by April 2, 2020	
Duration	December 31, 2020	

FAMILIES FIRST CORONAVIRUS RESPONSE ACT
FINAL GUIDANCE – AS OF 11:00 AM CDT MARCH 19, 2020
 – SUBJECT TO ADDITIONAL INTERPRETATION –

Emergency Paid Sick Leave Act (New)

Applicability	Private and public employers with < 500 employees	
Eligible Employees	Full- and part-time employees immediately upon hire.	
Reason for Leave	<ol style="list-style-type: none"> 1. Federal, state, or local quarantine 2. Employee has been advised by a healthcare provider to self-quarantine due to COVID-19 3. The employee is experiencing symptoms of COVID-19 4. The employee is caring for “an individual” subject to an order described in subpart 1, above, or has been advised as described in subpart 2, above. 5. Care for a child if child’s school or place of care has been closed or the childcare provider is unavailable due to COVID-19 precautions. 6. The employee is experiencing any other substantially similar condition specified by the Health & Human Services. 	
Length of Leave	Two weeks (80 hours). The number of hours for part-time employees is determined by the number of hours worked, on average, over a two week period.	Carryover not permitted. Must allow the use of Emergency Sick Time before the use of existing PTO. NOTE: It is unclear at this time whether this in addition to paid sick time already offered by the employer. It appears as of now, however, that employers may make changes to their existing leave policies so long as those changes do not diminish any rights or benefits under those policies. This may allow employers to run existing leave concurrently with the leave granted under the new law.
Pay During Leave	100% of pay up to \$511 per day and \$5,110 in the aggregate for a use described in paragraph (1), (2), or (3), above (see Section 5102(a)); and \$200 per day and \$2,000 in the aggregate for a use described in paragraph (4), (5), or (6), above, (see Section 5102(a)).	
Job Protection	Yes	No retaliation either
Effective Date	No later than 15 days after bill is signed – by April 2, 2020	
Duration	Expires December 31, 2020	

Unemployment Insurance

- \$1 billion in emergency unemployment insurance relief to the states (\$500 million immediately, and \$500 million held in reserve to assist states with $\geq 10\%$ increase in unemployment).

Tax Credits

- A refundable tax credit equal to 100% of qualified paid sick leave wages required under the Emergency Paid Sick Leave Act each calendar quarter and under the Emergency Family and Medical Leave Expansion Act.