



Emergency FMLA Expansion Act and Emergency Paid Sick Leave Act

The Families First Coronavirus Response Act (effective April 1, 2020) amends the Family Medical Leave Act (FMLA) and creates a new Emergency Paid Sick Leave Act. This chart summarizes their key provisions and differences.

	COVID FMLA	COVID Paid Sick Leave	
		(Self)	(Others)
Effective Dates	April 1, 2020, through December 31, 2020	April 1, 2020, through December 31, 2020	
Eligible Employees	Employed for at least 30 days by covered employer	Available immediately	
Covered Employers	Private employers who employ fewer than 500 employees (with some small business exceptions)	Private employers who employ fewer than 500 employees (with some small business exceptions)	
Qualifying Reasons for Leave	Unable to work (or telework) due to a need to care for an employee’s child under 18 years of age if the child’s school or place of care has been closed or the child care provider is unavailable due to the COVID-19 public health emergency	Unable to work (or telework) and: <ol style="list-style-type: none"> 1. is subject to federal, state or local quarantine or isolation order related to COVID-19; 2. is advised by a health care provider to self-quarantine due to concerns related to COVID-19; or 3. is experiencing COVID-19 symptoms and seeking a medical diagnosis 	Unable to work (or telework) and: <ol style="list-style-type: none"> 1. is caring for an individual subject to (1) or (2) in (Self); 2. is caring for an employee’s child whose school or place of care has been closed or whose child care provider is unavailable due to COVID-19; or 3. is experiencing any other “substantially similar condition” as defined by the secretary of health and human services in consultation with the secretaries of treasury and labor
Amount of Leave	Up to 12 weeks within a 12-month period	- Full-time employees = 80 hours - Part-time employees = a prorated amount based on the average number of hours worked over a two-week period	

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	COVID FMLA	COVID Paid Sick Leave	
		(Self)	(Others)
Paid or Unpaid	<ul style="list-style-type: none"> First 10 days are unpaid (unless the employee otherwise receives Emergency Paid Sick Leave or elects to substitute any accrued leave) Remainder (up to 10 weeks) is payable at two-thirds (2/3) the employee's regular rate of pay 	Paid , at the greater of: <ul style="list-style-type: none"> the employee's regular rate of pay; the applicable federal minimum wage; or the applicable state or local minimum wage 	Two-thirds (2/3) paid, at the greater of: <ul style="list-style-type: none"> the employee's regular rate of pay; the applicable federal minimum wage; or the applicable state or local minimum wage
Caps on Required Paid Leave	\$200/day (\$10,000 in aggregate)	\$511/day (\$5,110 aggregate)	\$200/day (\$2,000 aggregate)
Other Relevant Provisions	Employees must provide the employer with notice of their need for leave "as is practicable"	<ul style="list-style-type: none"> Employers may not require employees to use other paid leave before the employee uses the Emergency Paid Sick Leave Employers must post a notice of these requirements (model notice should be available by March 25) 	

Please note that FFCRA regulations are expected in April 2020.

If you have any questions regarding the matters discussed in this memorandum, please contact the attorneys listed below or your regular Skadden contact.

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