



House Passes Emergency Coronavirus Bill Including Paid Sick Time And Family Leave

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On March 14, the U.S. House of Representatives passed a sweeping bill that provides for emergency measures that directly impose upon employers both paid family leave and new paid sick leave obligations. Should these provisions be adopted by the Senate, this bill ([H.R. 6201](#)) will obligate even small employers to provide paid leave and paid sick time.

Expanded Coverage

For the paid family leave provisions, the House bill amends the Family and Medical Leave Act. However, the House bill applies more broadly to all employers with fewer than 500 employees and to all employees who have worked at least 30 days for the employer.

The bill also contains a broader definition of who is eligible for leave. Among the changes is a far broader definition of a parent which includes foster parents, parents-in-law, legal guardians and those who stood in loco parentis. The definition of “family member” is further expanded to include adult children, next of kin and grandparents who are:

- Pregnant women
- Senior citizens

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The bill provides that, in order to be eligible for leave, an employee must have a qualifying need related to a public health emergency when necessary to care for a “family member” who needs to comply with a recommendation or order of a public health official.

Paid FMLA

While the first 14 days of such leave may be unpaid, the bill allows employees to elect to take any accrued vacation leave, personal leave, or medical or sick leave during this first unpaid 14-day period. After the 14-day period, the employer must pay not less than two-thirds the employee’s regular rate of pay for their normally scheduled hours, looking back over a period six months.

Reinstatement Rights

For those taking this emergency family leave, there are reinstatement rights that have few exceptions and a contact obligation that extends for up to one year.

Emergency Paid Sick Leave

H.R. 6201 also contains separate provisions that require an additional tranche of paid sick leave applicable to a medical emergency. This leave is available to employees to:

1. Self-isolate due to the employee’s diagnosis with coronavirus
2. Obtain a medical diagnosis or care after experiencing symptoms of coronavirus
3. Comply with an order or recommendation of a public official or health care provider to not be on the job because of:
 - exposure to coronavirus
 - symptoms of coronavirus
4. Care for or assist a family member who:
 - is self-isolating due to coronavirus diagnosis
 - is experiencing symptoms and needs to obtain medical care or diagnosis
5. Care for a child whose school or place of childcare has been closed due to coronavirus

Employers are required to provide up to 80 hours of paid sick leave for these purposes for full-time employees and for part-time employees an amount equal to the number of hours the employee works on average over a two-week period. This emergency paid sick leave is in addition to the sick leave an employer already provides, and an employer may not change its pre-existing sick leave policies to avoid this obligation.

The Department of Labor (DOL) is to create a notice in seven days that all employers will be required to be posted. Violations of the paid sick leave obligations are to be treated as violations of the Fair Labor Standards Act. The DOL is also to provide regulations to possibly exempt certain small employers whose viability may be threatened by the provisions.

Some of the financial burden on employers may be offset by a tax credit.

The bill was written very quickly and did not go through the typical committee process. There are provisions that appear to be somewhat contradictory. The Secretary of Treasury already has announced that technical amendments will be made to the House bill before the Senate takes up the bill.

We will be providing updates as the legislation progresses.

Learn More

We held a webinar March 12 for employers preparing for COVID-19. Watch on demand: [COVID-19 – Taking Care of Your Business and Employees](#)