

The Families First Coronavirus Response Act (FFCRA) Emergency Paid Leave Provisions (H.R. 6201)
Chart No. 5

Act	Application	Provisions	Use	Reimbursement
<p>Emergency Paid Sick Leave (EPSL) Act requires paid sick leave for the coronavirus pandemic starting April 1, 2020 through December 31, 2020.*</p> <p>* Pursuant to the Consolidated Appropriation Act (2021) even though the FFCRA paid leave benefits are no longer mandatory after December 31, 2020, employers may voluntarily continue to provide the paid leave benefit with the option of claiming the payroll tax credit until March 31, 2021.</p>	<p>The EPSL applies to:</p> <ul style="list-style-type: none"> Employers with fewer than 500 employees Federal, state and government employers, except that the Office of Management and Budget has authority to exclude for good cause certain federal Executive Branch employees. Employers of health care providers and emergency responders can opt out of the Act. The US Department of Labor (DOL) may exempt small businesses with less than 50 employees from providing leave to care for a child whose school is closed or whose child care provider is unavailable, when doing so would jeopardize the viability of the business as a going concern. DOL has issued regulations that exempt certain health care providers and emergency responders. 	<p><u>Paid Sick Leave</u></p> <ul style="list-style-type: none"> 80 hours of job protected paid sick leave for full time employees. Part-time employees are covered, with the number of hours they receive determined by their average hours worked in a two-week period. Leave is immediately available but cannot be carried over from one year to the next. For employers with existing paid leave policies, the Act’s paid sick time is in addition to any existing leave. An employer cannot require employees to use their existing accrued leave time before using this emergency leave. Employers also cannot require their employees to find a replacement worker if they need to take this emergency leave. 	<p>Employees are entitled to paid sick time when unable to work (or telework) for any of the following reasons:</p> <ul style="list-style-type: none"> Employee is subject to a government-mandated quarantine or isolation order related to COVID-19; Employee’s health provider orders self-isolation due to concerns related to COVID-19; Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis; Employee is caring for an individual subject to a quarantine/isolation order by the government or a health care provider; Employee is caring for a son or daughter whose school or place of care is closed, or whose child care provider is unavailable because of COVID-19; or Employee is experiencing any other “substantially similar condition” as specified by the Secretary of Health and Human Services, in consultation with the Secretary of Treasury and the Secretary of Labor. 	<ul style="list-style-type: none"> Employers pay their employees but will be reimbursed by the federal government for wages and the employer’s contribution to employee health insurance premiums during EPSL Expansion Act leave through a refundable tax credit that counts against their payroll tax. This reimbursement provision does not apply to governments.

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		<p><u>Wage Replacement</u></p> <ul style="list-style-type: none"> • Full wage replacement for self-care, with a maximum required benefit of \$511 a day (\$5110 total). • 2/3 wage replacement if employees are caring for another individual or a child whose school has closed or whose child care provider is unavailable, with a maximum required benefit of \$200 a day (\$2000 total). • Wages are defined as the employee's regular rate of pay, the federal minimum wage, or the state or local minimum wage where they are employed, whichever is greater. 		

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<p>Emergency Family and Medical Leave Expansion Act (FMLA Expansion Act) amends the federal Family and Medical Leave Act (FMLA) and provides up to 12 weeks of paid public health emergency leave from March 18, 2020 until Dec. 31, 2020.* The Act became effective on April 1, 2020 and can only be used to care for a child who lacks school or child care because of the pandemic.</p> <p>* Pursuant to the Consolidated Appropriation Act (2021) even though the FFCRA paid leave benefits are no longer mandatory after December 31, 2020, employers may voluntarily continue to provide the paid leave benefit with the option of claiming the payroll tax credit until March 31, 2021.</p>	<p>The FMLA Expansion Act applies to:</p> <ul style="list-style-type: none"> • Employers with 500 or more employees. • State and local government employees and certain federal government employees, except that the Office of Management and Budget has authority to exclude for good cause certain federal Executive Branch employees. • Employers of health care providers and emergency responders can opt out of the Act. • DOL may exempt small businesses with less than 50 employees from providing leave when doing so would jeopardize the viability of the business as a going concern. • DOL has issued regulations that exempt certain health care providers and emergency responders. 	<p>The FMLA Expansion Act provides leave for employees unable to work (or telework) who need to care for a son or daughter under 18 whose school or place of care is closed or whose child care provider is unavailable because of the public health emergency.</p> <ul style="list-style-type: none"> • Employees receive 2/3 of their wages after the first 10 days, with limits • The first 10 days of leave may be unpaid (although employees may be eligible for paid sick leave during this time). • Employees can use paid leave they previously accrued during this time. However, employers cannot require employees to use other accrued leave for public health emergencies. • After 10 days, employees must receive 2/3 of their regular wages for the remaining 10 weeks. • Employers are not required to pay more than \$200 a day and \$10,000 total. 	<p>Employees are entitled to use the FMLA Expansion Act with following conditions and protections:</p> <p>Work History</p> <ul style="list-style-type: none"> • Employees must be employed at least 30 days, but do not have to meet other FMLA eligibility requirements for this limited expansion for COVID-19 public health emergency leave. • Employees who had worked for their employer for at least 30 days in the prior two months, were laid off after March 1, 2020, and then re-hired, are also eligible. <p>Job Protection</p> <ul style="list-style-type: none"> • Job protection is guaranteed for employees who work for an employer with 25 or more employees— meaning that they cannot lose their jobs by taking this leave. • If an employer has less than 25 employees, and the position does not exist after the leave because of the public health emergency, the 	<ul style="list-style-type: none"> • Employers pay their employees but will be reimbursed by the federal government for wages and the employer’s contribution to employee health insurance premiums during FMLA Expansion Act leave through a refundable tax credit that counts against their payroll tax. • This reimbursement provision does not apply to governments.

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			<p>employer must take reasonable efforts to restore the employee to a position equivalent to that held by the employee when the leave commenced, with equivalent employment benefits, pay, and other terms and conditions of employment.</p>	