

H.R. 6201 – Families First Coronavirus Response Act

Prepared 03/17/2010 – This has not yet been signed into law. It has passed the House but remains with the Senate at the time this was prepared.

Introduced in the House: 03/11/2020

You can follow the bill status at: <https://www.congress.gov/bill/116th-congress/house-bill/6201>.

Brief overview of some of the provisions (note the bill is 110 pages long, so these are just highlights of the bill as it is currently). There are additional measures built into the bill which are not captured here. The overview is simply to raise awareness of some of the pending changes that this bill, if passed, will have regarding FMLA; requiring employers to provide paid sick leave; and establish requirements for providing coronavirus diagnostic testing at no cost. Additional information that is not contained in this overview include WIC, Commodity Assistance, Tax Credits for paid sick and paid family and medical leave, and budgetary effects; as well as impact to other federal programs.

Note: The bill as presented provides the Department of Labor to issue regulations to exclude certain health-care providers and emergency responders from paid leave benefits.

Emergency Family and Medical Leave Expansion Act:

- Begins on the date the Act becomes effective.
- Ends: December 31, 2020.
- Eligible employee: An employee who has been employed for at least **30 calendar days** by the employer;
- Employer definition: Any employer with fewer than 500 employees and government entities for each working day during each of 20 or more calendar workweeks in the current *or preceding* calendar year;

Benefits provided:

- May take up to 12 weeks of **paid**, job protected leave if the employee is:
 - (1) Complying with a requirement or recommendation to quarantine due to coronavirus exposure or symptoms, and cannot work from home;
 - (2) Is caring for an at-risk family member who is quarantining;
 - (3) Is caring for the employee's child if the child's school or place of care has been closed due to public health emergency. **However**, the first 14 days of the leave may be unpaid.

Employees may choose to use any accrued paid time off, including vacation and sick leave, to cover the initial 14-day period, **but employers may not require them to do so.**

After the first 14 day period, the employer **must pay full-time employees not less than 2/3 of the employee's regular rate for the number of hours the employee would otherwise normally be scheduled.**

For salaried employees, employers must pay 2/3 of the base salary for the weeks remaining after the initial 14 day period.

Part-time employees: granted time off that is equivalent to their scheduled or normal work hours in a 2-week period. If out for their own health, they have to be paid at least their normal wage or the federal/state minimum wage, whichever is greater. If caring for a family member, they must be paid at 2/3 of their regular earnings.

Employers with similar existing paid leave policies would be required to provide workers with the emergency paid sick time. Employers would not be able to require a worker to use any other available paid leave before using the emergency paid sick time.

Calculating for irregular schedules: pay is to be based upon the average number of hours the employee worked for the 6 months prior to taking paid sick leave.

Paid sick time provided by this Act will not carry over from 1 year to the next. It also will cease beginning with the employee's next scheduled work shift immediately following the termination of the need for paid sick time (i.e. crisis over).

Required notice: If the bill passes, employers must post a notice informing employees of their rights to emergency paid sick leave. The official notice will be prepared by the Secretary of Labor and will include the requirements of the Act.

Family member definition expanded to include:

Parent: Includes biological, foster, or adoptive parent of the employee; step-parent; parent-in-law; a parent of a domestic partner of the employee; a legal guardian or other person who stood in loco parentis to an employee as a child.

Family member: A covered family member includes: parent; spouse; son or daughter under 18 years of age; an individual who is a pregnant woman; senior citizen; individual with a disability, or has access or functional needs and who is:

- (1) A son or daughter of the employee;
- (2) Next of kin of the employee, or a person for whom the employee is next of kin; or
- (3) Grandparent or grandchild of the employee.

The usual no retaliation, discrimination rules apply: No disciplining or discharging an employee who takes the leave in accordance with the Act; or who has filed any complaint or testified about violations to the Act.

Health Insurance/Testing

***Reminder this Bill has not yet been signed into law. It's currently with the Senate. However, depending upon the final version that may be enacted these are elements that will impact health insurance coverage pertaining to COVID-19.**

- Will require that coverage does not impose any cost sharing (including deductibles, co-pays, co-insurance) requirements or prior authorization or other medical management requirements for certain items or other medical management requirements. (diagnostic testing for COVID-19 and any related supplies/testing appears to be the intent. However, there are provisions within the bill that pertain to hospital observation services; home services; ER services.

There are additional areas impacting unemployment; employer tax credits and additional areas including Tri-Care and Medicare.