



Summary of H.R. 6201
The Families First Coronavirus Response Act

On March 18, the President signed into law H.R. 6201, the Families First Coronavirus Response Act. This was the corrected version of the bill passed by the House and Senate earlier this week. The House enacted the first version of the bill on March 14.

The corrected version makes several changes to the employee leave provisions compared to the original version, including:

- Narrowing the availability of the new family and medical leave to the employee's need to care for a minor child whose school or child care facility has been closed, or whose care giver is unavailable, due to COVID-19;
- Allowing employers to exempt health care providers and emergency responders from all of the bill's leave provisions, subject to regulations from the Secretary of Labor; and
- Capping the amount employers must pay employees under each category of paid leave.

The revised bill also eliminates some of the supplemental federal funding included in the original bill.

The revised bill's acts include:

- **The Emergency Paid Sick Leave Act.** This act requires private employers with fewer than 500 employees to provide "for immediate use" two weeks of paid sick time to any employee who is under isolation due to, or seeking diagnosis for, COVID-19; is caring for a family member under isolation due to COVID-19; or is caring for a minor child whose school is closed or whose care giver is unavailable due to COVID-19. This act sunsets on December 31, 2020, and this leave does not carry over to next year.
- **The Emergency Family And Medical Leave Expansion Act.** This act requires employers with fewer than 500 employees to provide 10 days of unpaid leave, and thereafter 10 weeks of paid leave, to an eligible employee caring for a minor child whose school is closed or whose care giver is unavailable due to COVID-19. This act sunsets on December 31, 2020.
- **Tax Credits For Paid Sick And Paid Family And Medical Leave.** The bill provides tax credits for employers and self-employed individuals who pay leave under the Emergency Paid Sick Leave Act or Emergency Family And Medical Leave Act.
- **COVID-19 Diagnostic Testing.** The bill mandates COVID-19 diagnostic testing for patients and spells out conditions when that testing is free of charge.
- **Federal Spending.** The bill appropriates supplemental funding for federal food aid and health benefit programs.



The Emergency Paid Sick Leave Act

- This act directs that private employers with fewer than 500 employees “shall provide to each employee . . . paid sick time” where the employee needs leave because the employee:
 1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
 2. Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
 3. Is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
 4. Is caring for an individual in categories 1 through 2;
 5. Is caring for a son or daughter whose school or place of care has been closed, or whose child care provider is unavailable, due to COVID-19; or
 6. Is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with Treasury and Labor.
- Employers are required to pay leave:
 - At the employee’s regular rate of pay, capped at \$511 per day and \$5110 total, for leave in categories 1, 2, and 3; and
 - At 2/3 the employee’s regular rate of pay, capped at \$200 per day and \$2000 total, for leave in categories 4, 5, and 6.
- Full-time employees are entitled to 80 hours of paid sick time, and part-time employees are entitled to an amount equal to the average number of hours they work over a two week period.
- An employer must allow an employee to use the new paid sick leave for any purpose identified in the act before using other paid leave provided by the employer.
- The act requires employers to post a notice of its requirements, and provides the Secretary of Labor 7 days to promulgate a model notice.
- The act also authorizes the Secretary of Labor to promulgate regulations (i) to exclude health care providers and emergency responders and (ii) to exempt employers with fewer than 50 employees.
- An employer who violates the act by failing to provide the paid sick leave or by retaliating against an employee who uses it faces enforcement and penalties under the Fair Labor Standards Act.
- The act sunsets on December 31, 2020, and paid sick leave created by the act does not carry over from one year to the next.



I. The Emergency Family And Medical Leave Expansion Act

- This act requires private employers with fewer than 500 employees to provide 10 days of unpaid leave, and thereafter ten weeks of paid leave, to an employee who takes leave due to “a qualifying need related to a public health emergency.”
- A “qualifying need related to a public health emergency” exists where:
 - A federal, state, or local authority has declared an emergency with respect to COVID-19; and
 - The employee has a need for leave to care for a minor son or daughter whose school or place of care has been closed or whose child care provider is unavailable.
- Once triggered, paid leave must be at 2/3 the employee’s regular rate of pay, capped at \$200 per day and \$10,000 total.
- An employee is eligible for this benefit if the employee has been employed by the employer for at least 30 calendar days at the time of the leave.
- The act authorizes the Secretary of Labor to promulgate regulations (i) to exclude health care providers and emergency responders and (ii) to exempt employers with fewer than 50 employees.
- The act sunsets on December 31, 2020.

II. Tax Credits For Paid Sick And Paid Family And Medical Leave

- The bill provides refundable payroll tax credits for employers who pay for the new sick leave or family and medical leave created by the act.
- The bill also provides refundable self-employment tax credits for self-employed people who are unable to work in amounts comparable to the sick pay they would receive as emergency paid sick leave if they were employees.

III. Other Provisions

- Second Coronavirus Preparedness And Response Supplemental Appropriations Act
 - Provides supplemental funding to federal food aid programs and federal health care programs
- Health Provisions Act
 - Requires private insurance and government health programs to cover COVID-19 diagnostic testing with no cost sharing (i.e., deductibles, co-pays, or co-insurance) for the enrollee; and
 - Grants immunity from federal and state liability to manufacturers, distributors, and health care providers who make available or use certain personal respiratory protective devices to treat COVID-19.