



FAMILIES FIRST CORONAVIRUS RESPONSE ACT

SIGNED MARCH 18, 2020

CHANGES TO PAID SICK LEAVE & FAMILY MEDICAL LEAVE ACT (FLMA)

There are two provisions providing paid leave to employees forced to miss work because of the COVID-19 outbreak: an emergency expansion of the Family Medical Leave Act (FMLA), which amends and expands FMLA until December 31st, 2020, and a new federal paid sick leave law that also lasts until December 31st, 2020. Affected employers must be prepared to implement the Act's leave programs on or before **April 2, 2020**.



EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT

Expanded Coverage and Eligibility

- o FMLA coverage changed from only covering employers with 50 or more employees to instead covering those employers with **fewer than 500 employees**.
- o Lowers eligibility requirement – Any individual employed by the employer for at least 30 days (before the first day of leave) may take up to **12 weeks of job-protected leave** for a COVID-19 coronavirus-designated reason.
- o Includes language allowing the Secretary of Labor to exclude healthcare providers and emergency responders from the definition of employees who are allowed to take such leave, and to exempt small businesses with fewer than 50 employees if the required leave would jeopardize the viability of their business.

Reasons for Emergency Leave

- o Employee, who is unable to work or telework, to care for the employee's child (under 18 years of age) if the child's school or place of care is closed or the childcare provider is unavailable due to COVID-19.
- o This is now the **only** qualifying need for Emergency FMLA.

Paid Leave

- o The first 10 days (rather than 14 days) of Emergency FMLA may be unpaid. During this 10-day period, an employee may elect to substitute any accrued paid leave (like vacation or sick leave) to cover some or all of the 10-day unpaid period.
- o After the 10-day period, the employer generally must pay full-time employees **at two-thirds the employee's regular rate** for the number of hours the employee would otherwise be normally scheduled. The new Act now limits this pay entitlement to \$200 per day and \$10,000 in the aggregate per employee.

Calculating Pay for Non-Full Time Employees

- o Employees who work a part-time or irregular schedule are entitled to be paid based on the average number of hours the employee worked for the six months prior to taking Emergency FMLA. Employees who have worked for less than six months prior to leave are entitled to the employee's reasonable expectation at hiring of the average number of hours the employee would normally be scheduled to work.

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Job Restoration

o Does NOT require employers with fewer than 25 employees to return an employee to their same position of employment after taking leave if:

- o the position no longer exists due to economic conditions or operational changes caused by the COVID-19 emergency,
- o the employer makes reasonable efforts to restore the employee to an equivalent position (benefits, pay, and other terms), and
- o the employer makes reasonable efforts to contact the employee if such equivalent positions become available within one year from the earlier of the date when the qualifying need concludes or 12 weeks after the date on which the employee's leave commences.



EMERGENCY PAID SICK LEAVE ACT

Reasons for Paid Sick Leave

This Act allows an eligible employee to take paid sick leave because the employee is:

1. Subject to a federal, state or local quarantine or isolation order related to COVID-19;
2. Advised by a health care provider to self-quarantine due to COVID-19 concerns;
3. Experiencing COVID-19 symptoms and seeking medical diagnosis;
4. Caring for an individual (not limited to family members) subject to a federal, state or local quarantine or isolation order or advised by a health care provider to self-quarantine due to COVID-19 concerns;
5. Caring for the employee's child if the child's school or place of care is closed or the child's care provider is unavailable due to public health emergency; or
6. Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

An exception exists for the employers of health care providers and/or emergency responders, as such employers may elect to exclude such employees from the above requirements.

Eligibility

o This provision requires employers with **fewer than 500 employees** to provide full-time employees (regardless of the employee's duration of employment prior to leave) with **80 hours of paid sick leave at the employee's regular rate** (or two-thirds the employee's regular rate to care for qualifying reasons 4, 5, or 6 listed above). Includes an exception for employers who are healthcare providers or emergency responders at their election.

Cap on Paid Sick Leave Wages

o Paid sick leave wages are limited to \$511 per day up to \$5,110 total per employee for their own use and to \$200 per day up to \$2,000 total to care for others and any other substantially similar condition.

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Carryover and Interaction with Other Paid Leave

o This paid sick leave will not carry over to the following year and may be in addition to any paid sick leave currently provided by employers.

Calculating Rate of Pay

o Employees who work a part-time or irregular schedule are entitled to be paid based on the average number of hours the employee worked for the six months prior to taking paid sick leave. Employees who have worked for less than six months prior to leave are entitled to the average number of hours the employee would normally be scheduled to work over a two-week period. A business employing fewer than 500 employees is required, at the request of the employee, to pay a full-time employee for 80 hours of mandated emergency paid sick leave instead of the initial 10 days of unpaid leave permitted by the Emergency Family and Medical Leave Expansion Act (as previously summarized).



TAX CREDITS FOR PAID SICK AND PAID FAMILY AND MEDICAL LEAVE

o Employers are entitled to a refundable tax credit equal to 100% of the qualified sick leave wages paid by employers for each calendar quarter in adherence with the Emergency Paid Sick Leave Act. The qualified sick leave wages are capped at \$511 per day (\$200 per day if the leave is for caring for a family member or child) for up to 10 days per employee in each calendar quarter.

o Employers are entitled to a refundable tax credit equal to 100% of the qualified family leave wages paid by employers for each calendar quarter in accordance with the Emergency Family and Medical Leave Expansion Act. The qualified family leave wages are capped at \$200 per day for each individual up to \$10,000 total per calendar quarter. Only those employers who are required to offer Emergency FMLA and Emergency Paid Sick Leave may receive these credits.



COVERAGE FOR TESTING FOR COVID-19

o This section requires private health plans (including insured, self-insured, and grandfathered) to provide coverage for COVID-19 diagnostic testing and related services to employees and their covered dependents, without cost sharing (like deductibles, copayments and coinsurance) from enactment of the Act through the end of the national emergency period.

o Covered services and related cost waivers apply to diagnostic testing, healthcare provider services (in-person and telehealth), and facility costs (physician office, urgent care center and emergency room) to the extent the costs are related to evaluating the need for, or furnishing, COVID-19 diagnosis and treatment. In addition to coverage and cost waiver provisions, plans shall not require prior authorization or similar medical management requirements as a precondition of COVID-19 testing or services.

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Violence Free Minnesota (formerly MCBW) is an association of over 90 programs that provide critical core public safety and crime victim services in all 87 counties.

*360 Communities/Lewis House, Dakota, Carver, Goodhue, Hennepin, Ramsey
 Advocacy Center of Winona, Winona
 Advocates for Family Peace, Itasca, Northern St. Louis
 Advocates for Human Rights, International
 *Alexandra House, Anoka
 *American Indian Community Housing Org., St. Louis, Koochiching, Lake, Cook, Itasca
 *Anna Marie's Alliance, Sherburne, Benton, Stearns, Mille Lacs, Wright
 *Asian Women United of MN, Hennepin, Ramsey
 Battered Women's Justice Project, National
 Becker County Attorney's Office, Becker
 Bluff Country Family Resources, Fillmore, Houston
 Bois Forte Victim Services, Nett Lake, Koochiching, St. Louis
 Breaking Free, Ramsey
 *Casa de Esperanza, Hennepin, Ramsey
 City of St. Paul Attorney's Office, Ramsey
 *Committee Against Domestic Abuse, Brown, Nicollet, Blue Earth, LeSueur, Sibley, Waseca, Watonwan, Faribault
 Community Health Service, Polk, Norman, Clay, Pennington
 Community University Health Care Center, Hennepin
 Comunidades Latinas Unidas En Servicios (CLUES), Hennepin, Ramsey
 *Cornerstone Advocacy Services, Hennepin
 Crime Victim Resource Center – Mayo Clinic, Mower
 Crisis Resource Center of Steele Co., Steele
 Division of Indian Work, Hennepin
 Domestic Abuse Intervention Programs, St. Louis
 Domestic Abuse Project, Hennepin
 East Side Neighborhood Services, Anoka, Dakota, Hennepin, Ramsey
 *Equay Wiigamig, Red Lake Reservation, Beltrami
 Family Safety Network of Cass County, Cass, Clearwater, Hubbard
 Freeborn County Crime Victim Crisis Center, Freeborn
 Friends Against Abuse, Koochiching, Lake of the Woods
 Gender Violence Institute, Statewide
 Global Rights for Women, International
 Hands of Hope Resource Center, Morrison, Todd
 Hmong American Partnership, Ramsey
 Healing Opportunity Provided Equally (HOPE), Aitkin, Crow Wing
 Hope Center, Rice
 *Hope Coalition, Goodhue, Wabasha
 Indigenous Women's Life Net, Ramsey, Hennepin
 Isaiah's Domestic Violence Task Force, Statewide
 Karen Organization of Minnesota, Statewide
 *Lakes Crisis & Resource Center, Becker & surrounding area
 Le Sueur County Victim Witness Program, LeSueur
 Mahnomon County Victim Services Office, Mahnomon
 Minnesota Coalition for the Homeless, Statewide
 Martin County Victim Services, Martin
 Men and Masculine Folk Network, Statewide
 *Mid-Minnesota Women's Center, Cass, Crow Wing, Morrison, Todd, Wadena
 Minnesota Elder Justice Center, Statewide

Minnesota Indian Women's Resource Center, Hennepin
 McLeod Alliance for Victims of Domestic Violence, McLeod
 *Missions, Inc./Home Free, Hennepin
 New Horizons Crisis Center, Lincoln, Lyon, Murray, Redwood
 North Shore Horizons, Lake
 Nobles County Victim Services, Nobles
 Norman County Victim Services, Norman
 *Northwoods Battered Women's Shelter, Beltrami, Cass
 Oasis of Love Crisis Intervention, Hennepin
 OutFront Minnesota, Statewide
 Pearl Crisis Center, Mille Lacs
 Phumulani, Anoka, Hennepin, Ramsey, Washington
 Pillsbury United Communities, Hennepin
 Praxis International, National
 Rape & Abuse Crisis Center of Fargo-Moorhead, Clay, Wilkin
 *Refuge Network – A Program of Family Pathways, Chisago, Isanti, Kanabec
 Rivers of Hope, Wright, Sherburne
 *Safe Avenues, Kandiyohi, Swift, Chippewa, Lac Qui Parle, Renville, Meeker, McLeod
 *Safe Haven Shelter & Resource Center, St. Louis, Carlton, Aitkin, Itasca, Lake, Cook, Koochiching
 SEWA-AIFW (Asian Indian Family Wellness), Hennepin, Ramsey
 Sexual Violence Center, Hennepin, Carver, Scott
 *Sojourner Project, Hennepin, Carver, Dakota, Ramsey
 Someplace Safe, Big Stone, Grant, Pope, Stevens, Douglas, Traverse, Wilkin, Otter Tail, Wadena
 Southern Minnesota Regional Legal Services, Southern Minnesota
 Southern Valley Alliance for Battered Women, Carver, Scott
 Southwest Crisis Center, Noble, Pipestone, Rock, Cottonwood, Jackson
 St. Paul and Ramsey County Intervention Project, Ramsey
 Standpoint, Statewide
 Stevens County Victim Witness, Stevens
 The No. 1 Ladies Advocacy Agency, Beltrami
 ThinkSelf, Statewide
 Transforming Generations, Ramsey, Hennepin, Washington, Dakota
 *Tubman, Anoka, Dakota, Hennepin, Ramsey, Washington
 *Violence Intervention Project, Red Lake, Pennington, Marshall, Kittson, Roseau
 Violence Prevention Center, Cook
 White Earth DOVE Program, White Earth Reservation, Mahnomon, Becker, Clearwater
 Winona County Attorney's Office, Winona
 WISE, Statewide
 *Women of Nations, Anoka, Dakota, Hennepin, Ramsey, Washington
 *Women's Advocates, Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington
 Women's Rural Advocacy Programs, Lincoln, Lyon, Yellow Medicine, Redwood
 *Women's Shelter & Support Center, Dodge, Fillmore, Olmsted & surrounding counties
 Yellow Medicine County Victim Services, Yellow Medicine

*Emergency Shelter Program

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Contact Katie Kramer at 651.646.6177 x127 or kkramer@vfmn.org to discuss how you can make Minnesota safer for all.
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