

Families First Coronavirus Response Act (FFCRA)

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 thru December 31, 2020 and there is no minimum period of employment required for employees to be eligible for FFCRA Emergency Sick Leave.

An employee is entitled to take leave related to COVID-19 under the FFCRA if the employee is unable to work, including unable to telework, because the employee:

1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 (100% of pay capped at \$511 per day and \$5,110 total);
2. Has been advised by a health care provider to self-quarantine related to COVID-19 (100% of pay capped at \$511 per day and \$5,110 total);
3. Is experiencing COVID-19 symptoms and is seeking a diagnosis (100% of pay capped at \$511 per day and \$5,110 total);
4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2). Pay is capped at \$200 per day and \$2,000 total;
5. Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons (pay is capped at \$200 per day and \$2,000 total); or
6. Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services (pay is capped at \$200 per day and \$2,000 total).

The FFCRA provides an exception for employees who are health care providers or emergency first responders. Specifically, employers can elect to exclude these individuals from the applicability of the Emergency Paid Sick Leave Act.

Under the FFCRA full-time employees are entitled to 80 hours (ten days) of paid leave for a qualifying reason. For part-time employees, the amount of leave is equal to the average number of hours the employee typically works over a two-week period.

An employee's entitlement to paid sick leave under the FFCRA is for a maximum for 80 hours (10 days). If a qualifying need remains, then an employee may be eligible for FFCRA Emergency Family Medical Leave.

Employers cannot require an employee to first use paid leave available under its existing policies before using leave pursuant to the FFCRA.

After the first workday (or portion of a workday) an employee receives paid leave under the FFCRA Act, employers are allowed to require employees to follow reasonable notice or call-in procedures in order to continue receiving paid leave under the FFCRA.

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the leave provisions of the FFCRA will be subject to penalties and enforcement by WHD.

Emergency Family Medical Leave Expansion Act

This FFCRA includes the Emergency Family and Medical Leave Expansion Act, which extends the coverage of the Family and Medical Leave Act ("FMLA"). As background, the FMLA provides eligible employees twelve (12) workweeks of unpaid leave in a 12-month period for one or more qualifying reasons. To address concerns raised by the coronavirus, the FFCRA modified the FMLA to provide for paid leave for a qualifying leave related to a public health emergency.

This policy will be in effect from April 2, 2020 thru December 31, 2020. The existing FMLA leave policy still applies to all other reasons for leave outside of this policy.

Employees who have been employed by Sabine County for at least 30 days will be entitled to the EFMLA. Therefore, the FMLA's usual requirements that an employee work for at least (12) months and for at least 1,250 hours during the preceding twelve (12) month does not apply to leave for a public health emergency.

Ten weeks of paid family leave is available to eligible employees with a minor child or children who is unable to work (or telework) due to a need to care for their child or children when the school or place of care has been closed, or the regular child care provider is unavailable due to a public health emergency.

Employees will have up to twelve (12) weeks of leave to use from April 2 thru December 31, 2020, for the purpose stated above. The time is included in, and not in addition, to the total FMLA leave entitlement of 12 weeks in a 12-month period. The County will use a "rolling" twelve (12) month period measured backward from the date an employee uses any FMLA leave.

The first ten (10) days of leave are unpaid, but the employee can use the ten (10) days of paid FFCRA sick leave during this time. After the first ten (10) days, leave will be paid at two-thirds of an employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work. Pay will not exceed \$200 per day and \$10,000 in total. Any unused portion of this pay will not carry-over to the next year. Employees can choose to use accrued vacation time for the 1/3 of unpaid leave.

If an employee's schedule fluctuates week to week and the employer is unable to determine with certainty the number of hours the employee would have worked had the employee not taken leave, the amount of leave available to these employees is based on:

1. The average number of hours that the employee was scheduled per day during the 6-month period immediately preceding the first day of the leave (including any hours for which the employee took leave); or
2. If the employee has not been employed for at least six (6) months, the employee's reasonable expectation at the time of hiring regarding the average number of hours per day the employee would normally work.

While on leave under this policy, the County shall continue to pay the employee's medical insurance premium at the same rate as if the employee had been actively at work. The employee shall be required to pay for dependent coverage, and for any other insurance coverage for which the employee would normally pay or the coverage will be discontinued. Payment for medical insurance that is the employee's

responsibility under this policy shall be made through regular payroll deduction while the employee is on paid leave. While on unpaid leave, the employee shall be required to pay for premiums due to the County under this policy.

All employees requesting FMLA leave must provide written notice, where possible, of the need for leave to their supervisor as soon as practicable. Verbal notice will otherwise be accepted until written notice can be provided. The supervisor will forward the request for leave to the Treasurer's Office. Upon receipt of the request for leave the Treasurer's Office will, within five (5) business days, complete and provide the employee with any Department of Labor required notices.

The written notice should include a brief statement as to the reason for leave, and if possible, the expected duration. The employee must also provide documentation from the school or childcare provider that confirms closure of the facility.

Extended FMLA leave used under the FFCRA needs to be documented on the employee's timesheet with the designation EFMLEA.

While on Emergency Family Medical Leave the County may require an employee to report periodically the employee's status and intent to return to work.

DEFINITIONS

For provisions under this policy "child" is defined as a biological, adopted, or foster child, a step-child, a legal ward, or a child of a person standing in loco parentis, who is:

1. Under 18 years of age; or
2. 18 years of age or older and incapable of self-care because of a mental or physical disability.

"Childcare provider" is defined as a provider who receives compensation for providing childcare services on a regular basis including:

1. A center-based childcare provider
2. A group home childcare provider
3. A family childcare provider (one individual who provides childcare services for fewer than 24 hours per day, as the sole caregiver, and in a private residence)
4. Other licensed provider of childcare services for compensation
5. A childcare provider that is 18 years of age or older who provides childcare services to children who are either the grandchild, great-grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, at the direction of the parent.

"School" means an elementary or secondary school.