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| PilieroMazza Client Alert  |

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| CLIENT ALERTCOVID-19 Emergency Sick and Family Leave:What Employers Need to Know March 19, 2020 |

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| The United States Senate just rubber stamped the House version of emergency measures to help employees and families in response to the COVID-19 pandemic during this National Emergency. The law includes provisions you have likely been following closely. President Trump is expected to sign the bill this evening and it is expected to go into effect on April 2. **Below, we’ve broken down what employers need to know now to prepare their business for sick and family leave in the era of COVID-19.****1.     Emergency Sick Leave:**What does the sick leave entail?: Eighty hours of sick leave to be provided for full-time employees through the end of the year for a qualifying need. Part-time employees are eligible for an estimated number of typical hours for a part-time employee working a two-week period.Who is a Qualifying Employer? Employers with fewer than 500 employees.  Who are Eligible Employees? Employees who have a qualifying need which includes:* complying with a physician directive that they have COVID-19 or may threaten exposure to others;
* caring for a family member who has been infected or may threaten exposure to others; or
* caring for a child whose school or daycare is closed due to COVID-19 precautions.

The above qualifying needs only apply where the employee cannot otherwise perform their job while complying with the physician’s directive or caring for a family member or child.How much do we pay?  Employers are required to pay employees their normal wages or the minimum wage at the federal/state/local level, whichever is the higher.  Sick-leave pay is capped at $511 per day ($5,110 in total) per employee for the employee’s own health-related absence and $200 per day ($2,000 in total) for caring for a family member or child.Interaction with Current PTO Policy: Emergency sick leave must be provided in addition to any sick leave already provided by the employer.**2.     Emergency Family Leave:**This part of the law expands the Family and Medical Leave Act (FMLA) for employees who need to take longer term leave through the end of the year because of closed schools or daycare. It does not extend benefits for those not working because of site closures or other reasons not already covered by FMLA.Who is a Qualifying Employer? Any employer, even those with fewer than the current FMLA threshold of 50 employees. The Secretary of Labor can exempt employers with fewer than 50 employees if complying with the law would threaten the viability of the business. It is unclear how this exemption would be granted or how lenient the Department of Labor (DOL) will be. The bill appears to exclude employers with fewer than 50 employees in a 75-mile radius from civil FMLA damages in an employee-initiated lawsuit. Employers with fewer than 25 employees are exempt from reinstating the employee if the employee’s position no longer exists following the leave due to operational changes caused by the public health emergency.Who are Eligible Employees? Employees must be employed by the employer for at least 30 days and have a minor child whose school or daycare is closed. Certain healthcare workers are excluded from coverage.How much do we pay? The first 10 days do not need to be paid. The employee choses whether to use other paid leave or take unpaid leave. The following 10 weeks must be paid at 2/3 of the employee’s rate of pay. Family-leave pay is capped at $200 per day, $10,000 in total.**3.     How Are Businesses Going to Pay for This?**Employers who provide the above leave will be eligible to receive a 100% payroll tax credit for these costs. Employers may deduct up to $200 per day for employees who are taking care of others.  Because this comes from the social security contribution, any amounts in excess of the social security liability will be paid for directly by the Treasury.  The tax credit for family leave is up to $200 per day, not to exceed $10,000.  For the self-employed, these credits will be applied against the self-employment tax. **4.     What Can Employers Do Now?**Examine your current policies to determine what type of policy updates you should consider and how you will communicate these changes to your workforce. Short-term amendments to your FMLA and paid-time off policies will need to be considered. Employers should also be examining the potential financial impact of the law and whether any anticipated workforce changes could be problematic once this law passes. The law mandates DOL produce a notice posting and additional guidelines within seven days. We will continue to monitor developments and information as it becomes available. If you have questions regarding family and sick leave, please contact a member of [PilieroMazza](https://pilieromazza.us5.list-manage.com/track/click?u=3137381f0d20c6d9665e6633f&id=daa185d064&e=8d21367f97)’s [Labor & Employment Group](https://pilieromazza.us5.list-manage.com/track/click?u=3137381f0d20c6d9665e6633f&id=baabbfaf5e&e=8d21367f97). We also invite you to visit the firm’s “[COVID-19 Client Resource Center](https://pilieromazza.us5.list-manage.com/track/click?u=3137381f0d20c6d9665e6633f&id=98fa078680&e=8d21367f97)” to access resources that will help employers navigate the COVID-19 pandemic.[Nichole Atallah](https://pilieromazza.us5.list-manage.com/track/click?u=3137381f0d20c6d9665e6633f&id=22eff9a43b&e=8d21367f97), the co-author of this Client Alert, is a member of the Firm’s COVID-19 Client Response Team and the Chair of the Firm’s Labor & Employment Group. Her co-author, [Sarah Nash](https://pilieromazza.us5.list-manage.com/track/click?u=3137381f0d20c6d9665e6633f&id=ffc9be7d76&e=8d21367f97), is an Associate in the Labor & Employment Group. |

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