

NEW LEAVE LAWS REGARDING COVID-19 ABSENCES

TITLE OF NEW LAW	ELIGIBLE EMPLOYEE	QUALIFYING LEAVE	AMOUNT OF LEAVE	AMOUNT OF PAY
<p>OFLA EXPANSION</p> <p>Effective from 3/18/2020 until 9/13/2020</p>	<p>No change in OFLA eligibility requirements, i.e. employee must be:</p> <ul style="list-style-type: none"> • Employed by a covered employer (25 or more employees) • Employed at least 180 days before the leave; and • Worked an average of at least 25 hours per week during the previous 180 days. 	<p>“Sick child” leave now includes an absence to <u>care for an employee’s child whose school or place of care has been closed</u> in conjunction with a statewide public health emergency declared by a public health official.</p> <p>For the purposes of sick child leave under OFLA, “child” means a biological, adopted, foster or stepchild, the child of an employee's same-gender domestic partner or a child with whom the employee is or was in a relationship of in loco parentis. The child must be:</p> <p>(a) Under the age of 18; or</p> <p>(b) An adult dependent child substantially limited by a physical or mental impairment.</p>	<p>Up to 12 weeks of unused OFLA entitlement for the year.</p> <p>For eligible employee, this leave runs concurrently with leave under Emergency FMLA Expansion (p. 2 below) and Emergency Paid Sick Leave (see p. 3 below).</p>	<p>Unpaid, but employee can use accrued paid leave or 2 weeks of Emergency Paid Sick Leave after April 2nd (see p. 3 below).</p>

TITLE OF NEW LAW	ELIGIBLE EMPLOYEE	QUALIFYING LEAVE	AMOUNT OF LEAVE	AMOUNT OF PAY
<p>EMERGENCY FMLA EXPANSION ACT</p> <p>Effective from 4/1/2020 until 12/31/2020</p> <p>Applies to all public employers, and to private employers with less than 500 employees.</p> <p>A notice to employees must be posted in a conspicuous place; Dept. of Labor has provided a model notice. See: https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf</p>	<p>Must be employed for at least 30 days</p> <p>An employer may exclude healthcare providers and emergency responders.</p> <p>See Dept. of Labor Q&A at https://www.dol.gov/agencies/whd/pandemic/ffcra-questions for:</p> <ul style="list-style-type: none"> • Definition of excludable “healthcare provider” (#56) • Definition of excludable first responder (#57) • Criteria for small business exemption (#58) 	<p>Adds to qualifying leaves under FMLA, an employee who is unable to work (or telework) due to a need to care for a son or daughter under age 18 if:</p> <ul style="list-style-type: none"> • the child’s school or place of care has been closed, or • the childcare provider is unavailable due to a public health emergency. <p>“<u>Son or daughter</u>” means: A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:</p> <ul style="list-style-type: none"> • under age 18, <i>or</i> • 18 or older and incapable of selfcare due to a mental or physical disability. 	<p>Up to 12 weeks of existing FMLA entitlement. For an eligible employee, leave is concurrent with Emergency Paid Sick Leave (see p. 3 below).</p> <p>Employer must reinstate employee to same position unless:</p> <ul style="list-style-type: none"> • Employer has fewer than 25 employees; • Employee’s position no longer exists due to economic conditions caused by the public health emergency; <u>and</u> • Employer makes a reasonable effort to restore employee to an equivalent position. Includes contacting employee for up to a year if an equivalent position becomes available. 	<p><u>First 10 workdays:</u> Unpaid unless employee uses accrued paid leave, or Emergency Paid Sick Leave (see p. 3)</p> <p><u>After 10 workdays, through the remainder of employee’s FMLA entitlement for this purpose only:</u> Employee receives pay at 2/3 of regular rate of pay.</p> <p>Pay the hours of absence each day based on:</p> <ul style="list-style-type: none"> • The hours that the employee otherwise would have normally been scheduled to work, <i>including overtime</i>, or • If normal hours are uncertain, use: <ul style="list-style-type: none"> -- the average number of hours the employee was scheduled to work per day over the previous 6 months, or -- if employed less than 6 months, the employee’s reasonable expectation of average work hours per day when hired. <p>Pay is capped at \$200 per day and \$10,000 total.</p>

TITLE OF NEW LAW	ELIGIBLE EMPLOYEE	QUALIFYING LEAVE	AMOUNT OF LEAVE	AMOUNT OF PAY
<p>EMERGENCY PAID SICK LEAVE ACT</p> <p>Effective from 4/1/2020 until 12/31/2020</p> <p>Applies to public employers, and to private employers with less than 500 employees.</p> <p>A notice to employees must be posted in a conspicuous place; Dept. of Labor has provided a model notice. See: https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf</p>	<p>All employees subject to the Fair Labor Standards Act (FLSA) covered employees, beginning on the first day of employment</p> <p>NOTE: Most employees in the U.S. are covered by FLSA requirements.</p> <p>An employer may exclude healthcare providers and emergency responders.</p> <p>“<u>Healthcare provider</u>” is defined under FMLA. See: https://webapps.dol.gov/elaws/whd/fmla/3.aspx?Glossary_Word=PROVIDER</p>	<p>If employee is unable to work or telework because the employee:</p> <ol style="list-style-type: none"> 1. Is subject to a <u>quarantine or isolation order</u> by a federal, state or local authority related to COVID-19; 2. Has been <u>advised by a healthcare provider</u> to self-quarantine due to concerns related to COVID-19; 3. Is <u>experiencing symptoms of COVID-19</u> and <u>seeking medical diagnosis</u>; 4. Is <u>caring for an individual</u> who is subject to reasons #1 or #2 above; 5. Is <u>caring for their son or daughter</u> whose school or place of care has been closed or the childcare provider is unavailable, due to COVID-19 precautions; or 6. Experiences a <u>substantially similar condition</u> specified by Secretary of Health and Human Services. <p>“<u>Son or daughter</u>” means: A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:</p> <ul style="list-style-type: none"> • under age 18, <u>or</u> • 18 or older and incapable of selfcare due to a mental or physical disability. 	<p><u>A full-time employee</u> may use up to 80 hours of paid leave (including normally scheduled overtime).</p> <p><u>A part-time employee</u> may take paid leave up to the average number of hours he/she would <u>normally work</u> in a 2-week period.</p> <p>If the hours a part-time employee would normally work is uncertain, use:</p> <ul style="list-style-type: none"> • Average number of hours employee was scheduled per day for the previous 6 months, or • If employed less than 6 months, employee’s reasonable expectation of average work hours per day at the time of hiring. <p>Unused hours do not carry over to 2021.</p>	<p>For reasons <u>1, 2, or 3</u> under “Qualifying Leave” column:</p> <ul style="list-style-type: none"> • The regular rate of pay (or minimum wage if higher) • Capped at \$511 per day and \$5110 total. <p>For reasons <u>4, 5 or 6</u>:</p> <ul style="list-style-type: none"> • Employee receives 2/3 the regular rate of pay • Capped at \$200 per day and \$2000 total. NOTE: Higher total cap applies for reason 5 under Emergency FMLA Expansion Act (see p. 2 above). <p>For calculating the number of hours to be paid, see “Amount of Leave” column.</p>