

**Families First Coronavirus Response Act
Effective April 2, 2020-December 31, 2020**

	Emergency Paid Sick Leave (ESPL)	Emergency Family and Medical Leave Expansion Act (EFMLA)
Applies to:	All employers with less than 500 employees* *The statute gives the DOL authority to exempt small businesses (fewer than 50 employees) if following the new requirements would “jeopardize the viability of the business as a going concern.” It is currently unclear if or how this potential exception will be applied.	
When is an employee eligible?	Upon hire	After working for the employer for 30 or more calendar days
Full-time employees must receive:	80 hours of ESPL paid by the employer (reimbursed by the federal government as a tax credit)	Up to 12 weeks of job-protected leave: <ul style="list-style-type: none"> • Ten days of unpaid leave • 10 weeks of paid leave paid by the employer at the rate specified below (reimbursed by the federal government as a tax credit)
Part-time employees must receive:	An amount of EPSL equivalent to the number of hours worked, on average, over a 2-week period	Same amount of leave as full-time employees (but see rate of pay calculations below)
Qualified uses:	<ol style="list-style-type: none"> 1) Subject to quarantine or isolation order 2) Advised to self-quarantine 3) Experiencing symptoms and seeking a medical diagnosis 4) Caring for an individual subject to quarantine or isolation or advised to self-quarantine 5) <u>Caring for a child if school or place of care has been closed</u> 6) Experiencing any other “substantially similar condition” (as specified by the Secretary of Health and Human Services) 	<p><u>Only to care for a child whose school or place of care has been closed due to COVID-19.</u></p> <p>(Employees taking time off for other COVID-19 related purposes, such as caring for a sick family member, may be eligible for ordinary unpaid FMLA leave.)</p>
Interaction with other paid time off:	<p>ESPL must be paid entirely separately from any other form of paid time off. No offsetting against other, existing forms of paid time off (such as CA-mandated paid sick leave).</p> <p>Employer must permit employees taking time off for qualified purposes to use ESPL first, before they are required to use other, existing forms of paid time off.</p>	<p>Employer <i>must permit</i>, but <i>cannot require</i>, employees to use available paid leave (sick time, vacation, PTO) during the first 10 (unpaid) days of EFMLA.</p> <p>If an employee is also eligible for ESPL, the employee <i>may</i> but <i>is not required to</i> use the ESPL during the initial 10-day EFMLA period.</p>
Rate of pay:	<p>For qualified uses #1-3: greater of employee’s <u>regular rate of pay</u> or the applicable federal, state, or local minimum wage.</p> <p>For qualified uses #4-6: 2/3 of the amount described above.</p>	After the initial 10-day waiting period, must be paid at <u>2/3 of the employee’s regular rate of pay</u> times the “number of hours the employee would otherwise be normally scheduled to work.” (Special rules apply for calculating the number of hours normally worked for employees whose regular hours fluctuate.)
Cap on pay (maximum):	<p>For qualified uses #1-3: \$511 per day, \$5,110 in the aggregate</p> <p>For qualified uses #4-6: \$200 per day, \$2,000 in the aggregate</p>	<p>\$200 per day \$10,000 in the aggregate</p>
Is leave payable upon termination?	No	