

WHAT EMPLOYERS NEED TO KNOW ABOUT THE NEW “FAMILIES FIRST CORONAVIRUS RESPONSE ACT (H.R. 6201)”

The newly signed Families First Coronavirus Response Act, signed into law on March 18, 2020 has, among other things, new requirements for *almost all* U.S. employers, with extraordinarily few exceptions. Employers need to be aware of their new obligations under the law, which goes into effect “no later than 15 days from enactment,” or April 2, 2020, under the Family and Medical Leave Act, and the new Emergency Paid Sick Leave Act.

Revisions to the Family and Medical Leave Act (FMLA):

The revisions apply to almost all U.S. employers of 500 or fewer employees¹ except, employers of less than 50 employees “when the imposition of such requirements would jeopardize the viability of the business as a going concern.” Additionally, “certain health care providers and emergency responders” may also be excluded.

An eligible employee is qualified for leave if s/he has worked 30 or more days for the employer, and requires time off from work to care for the employee’s child under the age of 18, if the child’s school is closed or a caregiver² is closed or unavailable, because the federal, state or local government declared a public health emergency due to the COVID-19, between the Act’s effective date and December 31, 2020.

Leave required under this new section of the FMLA is unpaid for the initial ten (10) days.³ Thereafter, an employer is required to pay not less than two-thirds (2/3) the employee’s regular rate of pay; however, at no time is an employer required to pay more than \$200 per day, or a total of \$10,000.00.

Unchanged are the requirements that employers must provide leave for a period of up to twelve (12) weeks, the anti-retaliation/discrimination provisions within the FMLA, and job protections, such as reinstatement.

The new Emergency Paid Sick Leave Act:

This new Act requires that all employers of 500 or fewer employees pay up to eighty (80) hours of paid sick leave to full-employees,⁴ up to a maximum of \$511.00 per day and \$5,110.00 in total for the following COVID-19 related events, when an employee is:

1. subject to quarantine by federal, state or local government;
2. advised by a health care professional to self quarantine;
3. experiencing symptoms of COVID-19;

¹ Not limited to a single worksite.

² A provider who receives compensation for providing child care services on a regular basis.

³ Employers may pay employees during the first 10 days, but have no obligation to do so.

⁴ Or a comparable number of hours over a two week period for part-time employees

and up to a maximum of \$200 per day and \$10,000.00 in total for the following COVID-19 related events, when an employee is:

4. caring for someone subject to a federal, state or local government quarantine;
5. caring for someone who has been advised by a health care professional to self quarantine;
6. caring for a son/daughter of such employee if the school or day care has closed, or caregiver is unavailable; and
7. 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.

Like the FMLA revisions, the new Paid Sick Leave offers job protections; however, if the employer has fewer than 25 employees, the position no longer exists due to an employer's changed operations due to COVID-19 itself or related economic conditions, then the employer is not required to restore the employee to his/her former position.

We can help you navigate through this crisis. Give Karen a call at 484-734-0378.