



Labor and Employment Law Practice Group
GOODSILL ALERT

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**AS OF APRIL 1st BUSINESSES WITH LESS THAN 500 EMPLOYEES MUST COMPLY
WITH NEW FAMILIES FIRST CORONAVIRUS RESPONSE ACT**



The COVID-19 pandemic is an extraordinary challenge for all employers, particularly small businesses already trying to make ends meet. Stay-at-home orders issued by several states, including Hawaii, intended to stop the rapid spread of the disease, have forced non-essential businesses to shut down, and many workers have been laid off or suffered reductions in their work hours and wages. To alleviate many Americans' concerns in these uncertain times, on March 11, 2020, the House introduced the Families First Coronavirus Response Act (FFCRA), which passed quickly through Congress and was signed by President Trump on March 18, 2020.

In part, the FFCRA is intended to provide assistance to certain employees who are impacted by COVID-19. Under the FFCRA, eligible individuals who work for an employer with less than 500 employees may be entitled to paid sick leave and paid family leave for qualifying reasons.

Emergency paid sick leave is available to employees who are unable to work or telework due to a need for leave because the employee:

- (1) Is subject to a quarantine or isolation order;
- (2) Has been advised by a health care provider to self-quarantine due to coronavirus concerns;
- (3) Is experiencing symptoms of coronavirus and seeking a medical diagnosis;
- (4) Is caring for an individual who is subject to a quarantine or isolation order or has been advised by a health care provider to self-quarantine due to coronavirus concerns;
- (5) Is caring for a child if their school or day care is closed, or child care is unavailable due to coronavirus precautions; or
- (6) Is experiencing "any other substantially similar condition specified by" the Secretary of Health and Human Services in consultation with the Secretaries of the Treasury and Labor.

Full-time employees are eligible for up to 80 hours of paid sick leave, whereas part-time employees may receive leave based upon the average number of hours worked over a two-week period.

Paid family leave is required for employees who were employed for at least 30 days if the employee is unable to work due to a need for leave to care for their child because the child's school or day care is closed or unavailable due to a public health emergency. The FFCRA provides 12 weeks of protected leave with the same job protection required under the Family and

Medical Leave Act except as to employers with fewer than 25 employees. Further, businesses with fewer than 50 employees may be exempt from paid leave requirements if providing this leave would jeopardize the viability of the business as an ongoing concern.

Although the FFCRA will impact small businesses, the Act includes tax credits intended to offset the costs associated with these paid leave provisions. The credits are hoped to be available immediately to employers, but developments on this issue are expected soon.

The FFCRA goes into effect on April 1, 2020, and ends on December 31, 2020. Employers will be required to post a notice at the workplace available through the U.S. Department of Labor at: https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf.

These are unprecedented times with the situation changing daily. Employers should consult with counsel to ensure they are complying with FFCRA and other legally mandated requirements. Goodsill attorneys are available to assist with questions or concerns you may have to get your company through these difficult times.



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