

Coronavirus and the Workplace Updated: New York State Legislation Offers Paid Leave For Some Affected Employees

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Federal and state legislation has now been passed to offer relief to some employees unable to work due to the 2019 novel coronavirus (COVID-19) pandemic. Yesterday we updated you on the Federal Families First Coronavirus Response Act (“FFCRA”), or H.R. 6201, which includes an emergency expansion of the Family Medical Leave Act (“FMLA”) and a new federal paid sick leave law providing paid leave to employees unable to work due to the 2019 novel coronavirus (COVID-19). Please see: [Coronavirus and the Workplace Updated: Trump Signs Families First Coronavirus Response Act](#)

New York State has also enacted its own emergency legislation to provide sick leave, family leave and disability benefits to certain employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19.

The available benefits depend upon the size of the employer.

Employers with 10 or fewer employees.

- Employers with 10 or fewer employees as of January 1, 2020 with a net income less than one million dollars in the previous tax year must provide employees with unpaid sick leave until the expiration of the order of quarantine or isolation. Employees are eligible for paid family leave benefits and short-term disability benefits pursuant to the act.
- Employers with 10 or fewer employees as of January 1, 2020 with a net income greater than one million dollars in the previous tax year must provide employees with five days of paid sick leave and, after that, give workers access to paid family leave and short-term disability benefits pursuant to the act.

Employers with 11-99 employees.

- Employers with 11-99 employees as of January 1, 2020 must provide employees with five days of paid sick leave and, after that, give workers access to paid family leave and short-term disability benefits pursuant to the act.

Employers with 100 or more employees.

- Employers with 100 or more employees as of January 1, 2020 must provide employees with fourteen days of paid sick leave and, after that, give workers access to paid family leave and short-term disability benefits pursuant to the act.

Eligible Employees.

- Employees eligible for paid sick or family leave must be subject to a mandatory or precautionary order or quarantine issued by the State, the Department of Health, a local board of health or any government entity authorized to issue such an order due to COVID-19. Family leave benefits are available for leave taken by an employee subject to a mandatory or precautionary order of quarantine or isolation or for leave to provide care for a dependent child subject to a mandatory or precautionary order of quarantine or isolation.

Concurrent Benefits.

- Employees eligible for disability and family leave benefits may receive those benefits concurrently on the first full day of an unpaid period. Weekly benefits are capped at \$840.70 for paid family leave and \$2,043.92 for disability benefits.

Availability of Benefits.

- Sick leave benefits and paid family leave and disability benefits are available immediately for eligible employees affected by COVID-19. However, if an employee is eligible for benefits under federal law, the benefits available under state law shall not be available unless it provides benefits in excess of federal law. Benefits shall then be the difference between those available under state law and those provided under federal law.

Understanding New Leave Laws.

The recently passed federal and state legislation provides a patchwork of benefits for employees. It is important for employers to understand how these new requirements may affect your business and your employees. If you have any questions regarding these important considerations or other employment matters, please contact Felicia Ennis, any of the undersigned, or your regular Warshaw Burstein attorney.

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