

House Revises H.R. 6201 Coronavirus Emergency Bill

UPDATE: [President Trump Signs Families First Coronavirus Response Act Into Law](#)

On March 16, 2020, the [House of Representatives revised H.R. 6201](#), making several corrections to both the proposed Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act. The House's corrections to the Paid Sick Leave Act narrowed the conditions under which an employee can take sick leave. The new conditions are:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to an order as described in paragraph (1) or has been advised as described in paragraph (2).
5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.
6. The employee is 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.

The revised bill still does not clarify whether any emergency paid leave provided by employers prior to the enactment of H.R. 6201 would satisfy the bill's paid leave requirements and, in turn, qualify for the bill's tax credits.

Under the new version, the Department of Labor can promulgate rules that allow employers of health care providers and emergency responders to opt-out of the paid sick leave law. This means many health care providers and emergency responders may not be eligible for the two weeks of paid sick leave.

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Finally, the amended bill limits the amount an employee can earn while on paid sick leave. The bill's original sick leave pay calculations still apply (see below). However, the bill would now cap how much employees can earn per day while on sick leave. Employees who take sick leave due to conditions 1–3 listed above cannot receive more than \$511 per day (\$5,110 in total). Employees who take sick leave pay due to conditions 4–6 cannot receive more than \$200 per day (\$2,000 in total).

The revised House Bill also changed the FMLA Expansion Act to limit the reasons why employees can take Public Health Emergency Leave, as compared to the version of the bill that passed early Saturday morning. Under the revised bill, covered employees (i.e., those who have worked for 30 days for an employer with fewer than 500 employees), can take FMLA leave in the form of Public Health Emergency Leave only if they have a "qualifying need" to do so. Under the revised bill, the definition of what qualifying means is limited to an employee's need for leave to care for a minor child whose school or place of care is closed or unavailable due to the COVID-19 pandemic.

The revised House Bill made two other significant changes to the original legislation. First, it reduced the number of *unpaid* days that would begin the employee's leave from 14 (in the original legislation) to 10 (in the revised bill). Second, it limited the amount of money that employers would have to pay to employees as paid leave as Public Health Emergency Leave (an amount at least 2/3 of an employee's regular rate) to \$200/day and \$10,000 total, per employee.

As of this writing, the Senate is debating the revised House Bill, as well as considering other measures. In a speech on the Senate floor on March 17, 2020, Majority Leader Mitch McConnell said that, before the Senate votes on the House Bill, the Senate should consider "a broader package that includes more and broader small business relief."

If you have a question about how the emergency coronavirus bill impacts your business and your employees, please call your Reinhart attorney.

Please visit Reinhart's [Coronavirus Resource Center](#) for additional up-to-date information.

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