

Labor & Employment Alert

DOL Guidance on Paid Sick Leave Act and FMLA Expansion Act

The U.S. Department of Labor has released informal guidance for employers on the Families First Coronavirus Response Act (FFCRA). Formal regulations are expected within the next week. Here are the important points from the informal guidance:

POSTERS

- The DOL has published the model notice that each FFCRA-covered employer must post in the workplace. Employers may post it electronically or mail it to employees. The notice for private employers is [available here](#). In addition, there is a helpful FAQ specific to posting requirements, which is [available here](#). Note that the posters do not acknowledge employers' ability to elect to exclude health care providers and emergency responders from receiving certain benefits, which is something employers should consider in their communications to employees.

EFFECTIVE DATE

- The DOL announced that both the paid sick leave and FMLA expansion take effect April 1, not the April 2 date suggested by the statute and opined by law firms nationwide. The FFCRA states it is effective "not later than 15 days after" its enactment. The President signed the law on March 18, and the fifteenth day after is April 2. The law will remain in effect between April 1 and December 31 of this year, and it is not retroactive.

FREQUENTLY ASKED QUESTIONS

- The DOL has issued a series of FAQs about the FFCRA. The FAQs are [available here](#). Among other things, these FAQs provide guidance on counting employees for purposes of the 500-employee threshold applicable to private employers, the small business exemption which may be available to employers with fewer than 50 employees, and calculating pay due to employees under the laws. The FAQs also clarify the interaction between paid sick leave and expanded FMLA leave—specifically, that an employee who takes leave to care for a child whose school or place of care is closed, or whose child care provider is unavailable, may be entitled to both paid sick leave and expanded FMLA leave.

ENFORCEMENT

- The DOL will not bring an enforcement action against an employer for violating the FFCRA until after April 17, 2020, provided the employer made reasonable, good faith efforts to comply with the law.