

December 28, 2020

## Congress Declines to Extend Paid Sick and Emergency Family Leave but Incentivizes Employers To Continue Voluntarily Providing Leaves

In a much-anticipated move on Sunday, December 27, 2020 President Donald Trump signed a new COVID-19 relief bill that the United States Congress passed last week. Employers inquired whether this new bill would extend the provisions of the Families First Coronavirus Relief Act (FFCRA), which are set to expire on December 31, 2020. As we previously reported [here](#), the FFCRA requires employers to provide COVID-19-related paid sick leave and emergency family leave. Those questions have finally been answered—the new bill does not extend these requirements. However, it does provide tax incentives to employers that voluntarily continue to provide COVID-19-related paid sick leave and emergency family leave.

Effective April 1, 2020, the FFCRA applies to employers with fewer than 500 employees. Among many other provisions, the FFCRA provides up to 80 hours of paid sick leave and 10 additional weeks of paid emergency family leave for employees (or their families) who are impacted by COVID-19-related circumstances. Both the paid sick leave and the paid emergency family leave are subject to monetary caps on the amount an employee may receive. The FFCRA also permits employers to take a 100 percent tax credit for payments made under the FFCRA's paid sick and family leave provisions if they meet certain qualifications.

The new bill *does not extend* the FFCRA's mandate to provide paid sick leave and/or emergency family leave. However, employers may voluntarily provide paid sick leave or emergency family leave under the FFCRA and take the tax credit associated with the leave. To be eligible for the tax credit beyond December 31, 2020, employers must provide leave to employees in compliance with the provisions of the FFCRA. The FFCRA includes specific requirements for permissible reasons for leave and requires supporting documentation in order to qualify for the employer tax credit. The tax credit, even in this limited and extended circumstance, expires on March 31, 2021.

The bottom line is that employers are no longer required to provide FFCRA leave to employees, but if covered employers voluntarily decide to provide this leave, they will be eligible for the FFCRA tax credit through March 31, 2021.

If you need assistance navigating these laws, please contact us.

---

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our [COVID-19 Resource Center](#).

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

## Authors



**Daniel L. Schwartz**  
**Partner**

Stamford, CT | (203) 977-7536

New York, NY | (212) 297-5800

[dlschwartz@daypitney.com](mailto:dlschwartz@daypitney.com)



**Francine Esposito**  
**Partner**

Parsippany, NJ | (973) 966-8275

[fesposito@daypitney.com](mailto:fesposito@daypitney.com)



**Glenn W. Dowd**  
**Partner**

Hartford, CT | (860) 275-0570

[gwdowd@daypitney.com](mailto:gwdowd@daypitney.com)



**Heather Weine Brochin**  
**Partner**

Parsippany, NJ | (973) 966-8199  
New York, NY | (212)-297-5800  
hbrochin@daypitney.com



**Rachel A. Gonzalez**  
**Partner**

Parsippany, NJ | (973) 966-8201  
New York, NY | (212) 297-5800  
rgonzalez@daypitney.com



**Theresa A. Kelly**  
**Partner**

Parsippany, NJ | (973) 966-8168  
tkelly@daypitney.com