

Boise Office

1101 W. River St., Ste. 110
P.O. Box 7985
Boise, Idaho 83707
Tel. (208) 629-7447

Challis Office

1301 E. Main Ave.
P.O. Box 36
Challis, Idaho 83226
Tel. (208) 879-4488

Twin Falls Office

236 River Vista Place
Suite 301
Twin Falls, Idaho 83301
Tel. (208) 969-9585

Fax (all offices)
(208) 629-7559



David P. Claiborne *

S. Bryce Farris

Patxi Larrocea-Phillips

Evan T. Roth

Daniel V. Steenson

Matthew A. Sturzen

Katie L. Vandenberg

Andrew J. Waldera **

James R. Bennetts (retired)

*Attorneys licensed in Idaho
* Also licensed in Washington
** Also licensed in Oregon*

Thursday, March 19, 2020

UPDATE ON FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Congress has been moving swiftly on multiple fronts to address a National Coronavirus (COVID-19) response. As an employer, you need to be keenly aware of legislation that will affect personnel and payroll operations. This is reflected in what is called the [*Families First Coronavirus Response Act*](#). The Act was signed in to law by President Trump on March 18, 2020. In order to keep you up-to-date, here is an overview of important aspects of this new law –

1. **Generally**, a person suffering from COVID-19, or needing to attend to a dependent or family member suffering from COVID-19, or a person needing to stay home because a child's school or day care has been closed due to a declared COVID-19 National Emergency, is entitled to stay home from work.
 - a. During this time, they must be allowed to use established employment benefits for continued pay, such as sick leave, Paid Time Off, or paid vacation, at the worker's discretion.
2. **Emergency Paid Sick Time Requirement** (effective until 12/31/2020). The following applies to any employer with fewer than 500 employees.
 - a. Paid sick time must be provided to an employee required to isolate, quarantine, seek or receive testing or care, or to care for a family member experiencing the foregoing, or to care for a child under the age of 18 unable to attend school or child care due to the COVID-19 health emergency.
 - b. Full-time employees get 80 hours additional paid sick time
 - c. Part-time employees additional paid sick time is the average hours worked over a 2-week period.
 - d. This paid leave begins on day 1 of the absence.
 - e. The additional paid sick time shall be in addition to any existing paid leave policies, accruals and requirements, and an employer may not change policies because of this paid sick leave requirement – the additional time is used first, and after that it is the employee's option whether to use standard sick leave or go without pay.
 - f. There is a cap on emergency paid sick time of –

- i. \$511 per day or \$5,110 in the aggregate if the time off is taken for the following reasons: (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; or (3) the employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
 - ii. \$200 per day, or \$2,000 in the aggregate if taken off for: (4) to care for an individual who is subject to a quarantine order; (5) to care for a child if the school or place of childcare has been closed; or (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.
3. **Family and Medical Leave** (effective until 12/31/2020). The following applies to any employer with fewer than 500 employees.
 - a. Leave may be taken because of COVID-19 exposure, quarantine, to care for a family member, because of exhibited symptoms, or to attend to children under age 18 unable to attend school or child care due to COVID-19.
 - b. No FMLA paid leave is required during the first 10 days of leave, but you must allow an employee to use any existing paid off benefits (such as vacation, sick leave, etc.) for that leave until they are exhausted.
 - c. After day 10, employers are required to pay employees for all leave taken under the FMLA at a rate of no less than two-thirds (2/3) of their regular rate of pay.
 - d. The paid FMLA leave at 2/3 regular pay is capped at \$200 per day or \$10,000 in the aggregate.
4. **Payroll Tax Relief**. Employers will be entitled to receive payroll tax credits for FMLA paid leave and for emergency sick pay if paid under the Act. The tax credit may be claimed quarterly as part of the quarterly payroll tax reporting. If the credit exceeds the tax due, the employer gets a refund. We advise you to seek advice from your accountant on this issue going forward.

We encourage all employers to review their employee handbooks and personnel manuals for compliance, and make changes as needed. There are also **notice requirement** that mandate that you advise your employees of these new benefits. A form of the required notice should be available from the U.S. Department of Labor by March 26, 2020.

Thank you,



David P. Claiborne