



Paid Leave During the COVID-19 Pandemic and Beyond

Asking people to “stay home” when they are sick, without a promise of paid leave, especially when they are already living paycheck to paycheck, is a privilege many simply cannot afford. We must do better than forcing a decision between someone’s job and their health. Let’s make Nebraska the best place to work and raise a family—by ensuring that workers can maintain their commitment to their jobs while meeting the caregiving needs of their families. It is this kind of supportive work environment that will attract and keep workers in our state. The need is clear—we must prioritize access to both paid family and medical leave as well as paid sick and safe leave.

Congress passed the Families First Coronavirus Response Act (FFCRA), expanding emergency paid family and medical leave as well as emergency paid sick leave for certain COVID-19-related reasons through December 31, 2020. These provisions are vital in supporting our community during this crisis, yet far too many Nebraskans will not be eligible for these emergency leave provisions.

TEMPORARY PAID LEAVE PROVISIONS IN THE FFCRA

EMERGENCY PAID SICK LEAVE PROVISIONS

When an employee is unable to work or telework because they are:ⁱ

- Quarantined in accordance with a government order related to COVID-19;
- Self-quarantined due to advice from a health care provider related to COVID-19; or
- Personally experiencing COVID-19 symptoms and seeking a medical diagnosis.

FULL-TIME EMPLOYEES:

Full Pay*

for 2 Weeks (80 Hours)

PART-TIME EMPLOYEES:

Full Pay*

for Number of Hours
Worked in 2 Weeks

***Up to \$511 Per Day and \$5,110 Total**

When an employee is unable to work or telework because they are:ⁱⁱ

- Caring for someone quarantining in accordance with a government order or due to advice from a health care provider related to COVID-19;
- Experiencing any other substantially similar conditions specified by the Secretary of Health and Human Services; or
- Caring for a child whose school or child care provider is closed due to COVID-19.

FULL-TIME EMPLOYEES:

2/3 Pay*

for 2 Weeks (80 Hours)

PART-TIME EMPLOYEES:

2/3 Pay*

for Number of Hours
Worked in 2 Weeks

***Up to \$200 Per Day and \$2,000 Total**

EMERGENCY PAID FAMILY & MEDICAL LEAVE

When an employee, who has been employed for at least 30 days, and is unable to work or telework because:ⁱⁱⁱ

- They are caring for a child whose school or child care provider is closed due to COVID-19.

In addition to paid sick time provisions, up to 10 additional weeks (12 weeks total) of emergency paid family and medical leave at:

FULL-TIME EMPLOYEES:

2/3 Pay*

PART-TIME EMPLOYEES:

2/3 Pay*

***Up to \$200 Per Day and \$12,000 Total for the Full 12 Weeks**

This temporary category of Emergency Paid Family and Medical Leave is in addition to the **unpaid** leave and job protections provided under the existing federal Family & Medical Leave Act (FMLA).

EXISTING FMLA COVERS:^{iv}

- 12 weeks a year unpaid, job protected leave for the birth of a child or placement of a child through adoption or foster care, to care for spouse, child, or parent with a serious health condition, for a personal serious health condition or for needs arising from having a military family member on active duty; and
- 26 weeks a year unpaid, job protected leave to care for a family member who is a military service member with a serious injury or illness.

EXISTING FMLA PROVISIONS ONLY COVER EMPLOYEES WHO:

- Work for a private-sector employer with 50 or more employees (within a 75-mile radius), a public agency or a school; and
- Have been employed for at least one year, worked at least 1,250 hours during the 12-month period directly before taking leave.

WHERE THESE PAID LEAVE PROVISIONS FALL SHORT

- **Employees working for a private business with more than 500 employees** are excluded from the temporary paid leave provisions of FFCRA. Almost 421,000 Nebraskans are employed by large businesses that are not covered by the FFCRA.^v
- **Private businesses with less than 50 employees** may qualify for exemptions to provide paid leave for school and child care closings if the leave would jeopardize their business.^{vi} That means that just under 234,000 Nebraskans are at risk of losing access to leave under this exemption.^{vii}
- **Employers of health care providers or emergency responders** may opt out of providing paid leave under FFCRA. This has been defined so broadly to include any employee that works in a health care facility, including janitorial or cafeteria staff.
- While FFCRA protects workers from retaliation for using these new leave provisions, **businesses with less than 25 employees** do not have to restore workers to their same positions after using emergency paid family and medical leave if the position was eliminated due to financial constraints during such leave.^{viii}
- Paid family and medical leave only applies to those caring for a child, not one's own illness. For those needing paid leave for another reason, **ten sick days are not enough**. If someone is exposed to COVID-19, the CDC recommends self-quarantining for 14 days after the exposure as it can take up to two weeks from exposure to the onset of symptoms while the individual is still contagious.^{ix} When an individual begins showing symptoms, the CDC then advises they continue self-quarantining for at least 10 days after the symptoms began and three days after their fever has stopped.^x Due to the long incubation period and time of illness when an individual is still contagious, 80 hours of paid sick time is not sufficient for individuals to remain home until they are no longer contagious.
- **We should strive for paid sick leave policies that ensure full pay, regardless of reason for leave.** For those already living paycheck to paycheck, taking less than full pay for sick leave is likely not an option and may force them to continue working while caring for someone who is sick, increasing risk of contagion.

It's time to build a better system that works for Nebraska.

By enacting policy at the state and municipal levels, workers would have access to job-protected, paid sick, safe, and family and medical leave now and after federal provisions expire. Nebraskans need:

- **Paid sick and safe leave**—Allow employees to accrue paid time off to use for personal illness or injury, to care for a family member, or to access safety in situations of domestic violence.
- **Paid family and medical leave**—Create a state-administered program of paid family and medical leave insurance, much like short-term disability insurance, into which employers and/or employees pay premiums. When leave is needed by the employee, the insurance program pays out benefits for paid leave.

ⁱ "Families First Coronavirus Response Act: Employee Paid Leave Rights," U.S. Department of Labor. <https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

ⁱⁱ See endnote i.

ⁱⁱⁱ See endnote i.

^{iv} "The Family and Medical Leave Act," U.S. Department of Labor, Wage and Hour Division, (2012). <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs28.pdf>

^v "2017 SUSB Annual Data Tables by Establishment Industry: U.S. & states, totals," United States Census Bureau, (April 3, 2020). <https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html>

^{vi} See endnote i.

^{vii} "2017 SUSB Annual Data Tables by Establishment Industry: U.S. and states, NAICS sectors, small employment sizes less than 500," United States Census Bureau, (April 3, 2020). <https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html>

^{viii} "Families First Coronavirus Response Act: What Businesses Need to Know," U.S. Chamber of Commerce, (March 26, 2020). <https://www.uschamber.com/co/start/strategy/families-first-coronavirus-response-act-guide>

^{ix} "Coronavirus Disease 2019 Basics: Frequently Asked Questions," Centers for Disease Control and Prevention, (May 4, 2020). <https://www.cdc.gov/coronavirus/2019-ncov/faq.html>

^x "Steps to Help Prevent the Spread of COVID-19 if You are Sick," Centers for Disease Control and Prevention, (May 2, 2020). <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>