



Resources for Employees Impacted by COVID-19:

Sick Leave

This resource was prepared by non-partisan legislative staff to provide a list of resources for employees who are impacted by COVID-19 and are seeking information relating to sick leave. This information may not be comprehensive and should not be taken as an authoritative interpretation or legal advice. Note: Due to the recent enactment of federal legislation, there will likely be new administrative rules and interpretations issued soon. Also see: Senate Committee Services paper on Resources for Employees Impacted by COVID-19: Paid Family and Medical Leave (PFML).

Washington State Law - Employer Paid Sick Leave. [RCW 49.46.210](#).

Required Employer Provided Sick Leave. Every employer is required to provide each of its employees paid sick leave of at least one hour of paid sick leave for every 40 hours worked.

Authorized Uses for Sick Leave. An employee is authorized to use paid sick leave for the following reasons:

- An absence resulting from an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care;
- To allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care; and
- When the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason.

Notice. An employer may require employees to give reasonable notice of an absence from work, so long as such notice does not interfere with an employee's lawful use of paid sick leave.

Verification. For absences exceeding three days, an employer may require verification that an employee's use of paid sick leave is for an authorized purpose.

Carryover. Unused paid sick leave carries over to the following year, except that an employer is not required to allow an employee to carry over more than 40 hours.

"Family member" means any of the following: (a) a child, including a biological, adopted, or foster child, stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status; (b) a biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when

the employee was a minor child; (c) a spouse; (d) a registered domestic partner; (e) a grandparent; (f) a grandchild; or (g) a sibling.

Resources. Washington State Department of Labor and Industries:

- FAQ concerning COVID-19: <https://www.lni.wa.gov/agency/outreach/paid-sick-leave-and-coronavirus-covid-19-common-questions>.
- Workers' rights regarding paid sick leave: <https://www.lni.wa.gov/workers-rights/leave/paid-sick-leave/>.

Federal Law - Emergency Paid Sick Leave Act (EPSLA) under the Families First Coronavirus Response Act (Sections 5101, et seq.)

Effective April 2, 2020 until December 31, 2020.

<https://www.congress.gov/bill/116th-congress/house-bill/6201/text>

Applicability. Applies to employers with fewer than 500 employees, with the following employer exceptions:

- An employer of an employee who is a health care provider or an emergency responder may elect to exclude such an employee.
- U.S. Department of Labor can exclude:
 - Certain health care providers and emergency responders from the definition of eligible employee; and
 - Small businesses with fewer than 50 employees when the imposition of these provisions would jeopardize the ongoing viability of the business.

Coverage. Creates a new federal requirement to provide sick leave for employees unable to work for any of the following reasons related to COVID-19:

- Government quarantine or isolation order;
- A health care provider advised self-quarantine;
- Experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- Caring for someone advised or ordered to quarantine;
- Caring for a son or daughter whose school or place of care has closed, or whose childcare provider is unavailable, because of COVID-19 precautions; or
- Experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.

Eligibility and Leave. Employees are eligible immediately, with no restriction on how long the person was employed, as follows:

- Full-time employees: Are eligible for 80 hours of paid sick time.
- Part-time employees: Are eligible for paid sick time equal to the number of hours that the employee works, on average, over a 2-week period. Example: An employee who works an average of 15 hours/week may take 30 hours of sick time.
- Employers **may not** require employees to use other forms of paid leave before using EPSLA paid sick leave.

Rate of Pay. The employee's pay is capped at \$511/day and \$5,110/aggregate if the leave is taken because of:

- A government quarantine or isolation order;
- A health care provider advised self-quarantine; or
- The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

If the leave is taken for any other reason, the pay is capped at \$200/day and \$2,000/aggregate. See: amendment in Federal CARES Act, Section 3602 - [CARES Act](#).

Tax Credit. Employers are eligible for a refundable tax credit against payroll taxes for each calendar quarter for 100% of the qualified sick leave wages paid in that calendar quarter.

Retaliation. An employer may not take retaliatory actions against an employee who takes leave or files a complaint.

Additional Resources

National Resources

- President's COVID-19 Emergency Declaration - <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>
- FEMA COVID-19 Emergency Declaration Fact Sheet - <https://www.fema.gov/news-release/2020/03/13/covid-19-emergency-declaration>
- Selected Federal Legal Authorities Pertinent to Public Health Emergencies - <https://www.cdc.gov/php/docs/ph-emergencies.pdf>
- U.S. Department of Labor -
 - COVID-19 and the American Workplace - <https://www.dol.gov/agencies/whd/pandemic>
 - Employee Rights Poster - https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

Other State Resources

- Business & Workers | Washington State Coronavirus Response <https://coronavirus.wa.gov/business-workers>
- Governor Inslee Proclamations - <https://www.governor.wa.gov/office-governor/official-actions/proclamations>
- Washington State Coronavirus Response Page - <https://coronavirus.wa.gov/>
- Department of Health <https://www.doh.wa.gov/Emergencies/Coronavirus>

Local Government Resources

Municipal Research and Services Center (MRSC) - FAQs for Local Governments, including Personnel Issues: <http://mrsc.org/Home/Explore-Topics/Public-Safety/Emergency-Services/Public-Health-Emergencies/Coronavirus-COVID-19-FAQs.aspx#can-local-government-require-employees-to-tell-covid>.