

Congress has enacted a new law concerning businesses under 500 employees on leave for the COVID-19 virus.

The Emergency Paid Sick Act triggers ten days paid leave, subject to certain limits, for the following:

- employees subject to federal, state, or local quarantine, or an isolation order related to COVID-19;
- employees advised by a healthcare provider to self-quarantine due to concerns related to COVID-19;
- employees experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- employees caring for an individual who is subject to an order as described in bullet 1 or has been advised as described in bullet 2;
- employees caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions;
- employees 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.

Meanwhile, the Emergency FMLA Expansion Act provides for up to 12 weeks of leave, the first 10 days unpaid, for employees “unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the childcare provider of such son or daughter is unavailable, due to”...“an emergency with respect to COVID-19 declared by a Federal, State, or local authority.” There are some caps on the wages the employee is entitled to receive, and other nuisances, that may render an employee ineligible.

Small Business Protection: Employers with fewer than 50 employees are eligible for an exemption from the requirements to provide leave to care for a child whose school is closed, or child care is unavailable in cases where the viability of the business is threatened. ([IRS.gov](https://www.irs.gov))

We are expecting clarifying regulations and FAQ in the future, but this is a big deal, and failure to comply has penalties similar to the Fair Labor Standards Act, with double damages, and attorneys’ fees. To the extent that small businesses survive this crisis, the plaintiff’s lawyers following the crisis may try to finish them off. Hopefully, there will be some relief to mitigate the effects of some of these provisions in the clarifying regulations when they are published.

Furthermore, here is a What You Should Know About the ADA, the Rehabilitation Act, and COVID-19, updated by the EEOC yesterday: [Click here for more information.](#)