

Law and Policy Group | GRIST

# States, cities tackle COVID-19 paid leave

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# 1

## Introduction

To alleviate some of the economic strain on employees unable to work due to COVID-19, some state and local authorities have implemented new paid leave requirements. Other jurisdictions modified existing leave laws or benefit programs to accommodate employees' needs during the pandemic. This GRIST provides brief summaries of the new state and local paid leave benefits, as well as guidance addressing how current paid leave benefits apply during the COVID-19 pandemic.

### **Pandemic puts spotlight on paid leave**

State and local activity on paid leave issues will continue to evolve. The federal emergency paid sick and family leave requirements under the [Families First Coronavirus Response Act \(FFCRA\)](#) do not preempt any state or local paid leave mandates. Employers need to watch for guidance from state and local authorities on coordinating the new federal paid leave rights with state and local mandates.

Many states are also taking steps to extend unemployment insurance benefits to workers who are on COVID-19-related unpaid leave, layoff, working reduced hours or otherwise unable to work while caring for a child whose school or child care is closed due to the pandemic. Some states are also expanding job protections for employees on unpaid leave. A discussion of these state initiatives in response to the pandemic is beyond the scope of this GRIST.

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# Emergency paid leave benefits

## Arizona

The state's industrial commission updated its COVID-19 and earned paid sick time [FAQs](#) on April 7. Under Arizona's Earned Paid Sick Time law (Ariz. Rev. Stat. §§ [23-371](#) to 23-381), employers with 15 or more employees in the state must provide up to 40 hours of earned paid sick time per year, and smaller employers have to provide up to 24 hours. One of the allowed uses of earned, paid sick time is for a public health emergency, including one that closes the school or care facility for an employee's child.

The updated FAQs note that the state governor declared a [public health emergency](#) related to COVID-19 on March 11. The governor has also issued an [executive order](#) to help health officials and administrators combat the spread of the virus and to reduce the financial burdens on Arizonans by lowering associated healthcare costs.

Due to the public health emergency and the [closure](#) of all public schools, employees can use accrued, earned paid sick time to care for a child whose school has closed. Earned, paid sick time must also be available if:

- A public official has closed an employee's place of business due to the public health emergency.
- An employee or a family member contracts or needs to be tested for the virus.
- An employee or a family member is quarantined after exposure to COVID-19 — regardless of whether the employee or family member has actually contracted the virus — and a healthcare provider or public health official has determined that the employee's or family member's presence in the community may jeopardize the health of others.

The FAQs also contain information about emergency paid leave available through the FFCRA.

## California

Employees unable to work due to COVID-19 may be able to use employer-provided paid sick leave (PSL) or qualify for benefits under the state disability insurance (SDI) or paid family leave (PFL) programs. Both SDI and PFL benefits are approximately 60% to 70% of wages (depending on income) and range from \$50 to \$1,300 a week:

- **PSL.** [COVID-19 FAQs](#) from the Department of Industrial Relations confirm that employees can use available paid sick leave for their own or a family member's need to seek diagnosis, care or treatment of an existing health condition; obtain preventive care; or deal with issues related to domestic violence, sexual assault or stalking. The [paid sick leave law](#) requires that employers let employees use up to 24 hours of paid sick leave (accrued at a rate of one hour of leave for every 30 hours worked) each year. According to the FAQs, preventive care may include self-quarantine after actual or potential exposure to COVID-19 or travel to a high-risk area. The paid sick leave law does not apply if an employee's child's school or child care has closed due to COVID-19. In that case, up to 40 hours of unpaid leave for child-related purposes may be available under [California law](#), and an employee can concurrently use accrued, paid sick leave as preventive care. Employers cannot require an employee to use paid sick leave but can require the employee to use other paid leave — like vacation or paid time off (PTO) — before taking unpaid leave.
- **SDI.** [Executive Order No. 25-20](#) authorizes the Employment Development Department (EDD) to waive the seven-day waiting period normally required before an employee can claim SDI benefits for disabilities related to COVID-19. SDI provides up to 52 weeks of partially paid leave for an eligible employee's own disability. The EDD has [confirmed](#) that employees unable to work because of exposure to — or a diagnosis of — COVID-19 (certified by a medical professional) can file a claim for disability benefits.
- **PFL.** The state's PFL program provides up to six weeks of paid leave to care for a seriously ill family member, among other reasons. Employees do not have any waiting period for PFL, which increases to eight weeks for claims beginning on or after July 1. The EDD has [confirmed](#) that PFL benefits are available to eligible employees unable to work because they have to care for an ill or quarantined family member due to COVID-19 (if certified by a medical professional).

### Supplemental paid sick leave

On Sept. 9, 2020, Gov. Gavin Newsom signed into law [AB 1867](#), which codifies [Executive Order No. 51-20](#) that provides supplemental paid sick leave (SPSL) for food-sector workers and adds similar COVID-19 paid leave for other California workers. SPSL for food-sector workers took effect April 16, 2020, and applies to employers with 500 or more food-sector workers nationwide. Food-sector workers work in food and agriculture industries, including packaging, delivery and retail.

The new SPSL applies to nontelecommuting California workers of private companies with 500 or more US employees, as well as healthcare providers and emergency responders working for all sizes of public and private employers that elected to exclude those workers from emergency paid sick leave under the FFCRA. The new SPSL must be available to workers by Sept. 19.

The new SPSL law expires on Dec. 31, 2020, or the end of any extension of FFCRA emergency paid sick leave, whichever is later. However, the full amount of SPSL must be available to any worker taking COVID-19 SPSL at the time of the law's expiration. The state created [FAQs](#) and a [chart](#) comparing paid leave laws covering California workers affected by COVID-19, including paid family leave, paid sick leave, FFCRA emergency paid sick leave, SPSL, and FFCRA emergency paid family and medical leave.

**Amount of SPSL.** In all cases, leave must be available for the worker's immediate use on oral or written request. Full-time employees and workers averaging 40 hours per week are entitled to 80 hours of SPSL. Other workers are entitled to the number of work hours normally scheduled over a two-week period. Variable workers are entitled to 14 times the daily hours worked averaged over a six-month period before the leave or, if employed fewer than six months, the entire period of employment. For variable-hour workers (other than food-sector workers) employed fewer than 14 days, the SPSL entitlement equals the total number of hours worked before the leave. Active firefighters scheduled to work more than 80 hours in the two weeks before leave are entitled to an equivalent amount of SPSL.

**Permitted uses.** Workers are entitled to SPSL if unable to work because they are:

- Subject to a COVID-19 quarantine or isolation order
- Advised by a healthcare provider to self-quarantine or self-isolate
- Prohibited from working due to health concerns about potential virus transmission

**Rate of pay.** SPSL is paid at the highest of the employee's regular rate of pay, the state minimum wage or the local minimum wage, and is capped at \$511 per day and \$5,110 in the aggregate. Healthcare workers and emergency responders are paid equal to their regular rate if scheduled to work the hours for which leave is taken.

**Notice and recordkeeping requirements.** Employers must post a notice of SPSL rights in a conspicuous location in the workplace. The [Department of Industrial Relations](#) provides posters in English and Spanish for food-sector and other workers. If workers do not frequent a workplace, the employer can e-deliver the SPSL notice. As required for the state's paid sick leave law, employers must provide workers written notice about the SPSL amount available for use. This notice can appear on an itemized wage statement or in a separate document provided with the payment of wages. Employers must maintain records documenting an employee's hours worked and SPSL days accrued and used for three years.

**Leave coordination and offsets.** SPSL is in addition to any paid sick leave an employee is entitled to under the state's [paid sick leave law](#). An employer cannot require an employee to use other leave, vacation or PTO before or instead of SPSL. However, employers can offset state-mandated SPSL hours with any supplemental paid leave benefits already provided — if allowed for the same reasons and at an equal or better rate of pay. This includes paid leave provided under Executive Order No. 51-20 for food-sector workers, or SPSL provided under a federal or local law. If an employer provided workers other than food-sector workers SPSL between March 4 and Sept. 9, 2020, for the COVID-19 reasons recognized under AB 1867, but at a rate less than what is required, the employer can retroactively provide supplemental pay to the newly covered workers to satisfy the compensation requirements and then offset those hours against the state-mandated requirements.

**Enforcement and penalties.** The enforcement and penalty provisions of the state's paid sick leave law apply to the SPSL requirements of AB 1867. Among other rights and remedies, the law prohibits retaliation against workers for exercising their SPSL rights, and employers can face stiff penalties for unlawfully withholding SPSL days.

## Long Beach

On May 19, the Long Beach City Council approved an emergency ordinance (No. 20-0017) — later adopted as a regular ordinance on June 9 — requiring all private employers with more than 500 employees nationwide to provide paid sick leave for workers impacted by COVID-19, including those needing to care for a child because child care is unavailable. The ordinance is intended to cover employers not subject to the FFCRA, with special rules for collective bargaining agreements. It is effective immediately and remains in effect until the city council decides — based on reports from the city manager every 90 days — that it is no longer needed.

The ordinance adds new Chapter 8.110 to the municipal code for COVID-19 paid supplemental sick leave (PSSL). Under the ordinance, full-time employees are eligible for up to 80 hours of paid sick leave, and part-time employees are eligible for their average number of hours worked over a two-week period. Employer cannot require eligible employees to exhaust other sick or accrued leave before using PSSL. Unused PSSL does not have to be paid out at separation or when the ordinance sunsets.

**Permitted uses.** PSSL is available to any employee working within the city of Long Beach who is unable to work the following reasons:

- The employee is subject to quarantine or isolation by federal, state or local order due to COVID-19 or is caring for someone who is quarantined or isolated due to COVID-19.
- The employee is advised by a healthcare provider to self-quarantine due to COVID-19 or is caring for someone who is so advised by a healthcare provider.
- The employee experiences symptoms of COVID-19 and is seeking medical diagnosis.
- The employee is caring for a minor child because the child's school, day care or child care has closed or is unavailable because of COVID-19, and the employee is unable to secure a reasonable alternative caregiver.

The leave is available for employees who cannot work or telework, and employers can exclude emergency responders and healthcare providers.

**Rate of pay.** Leave is paid at the regular rate of pay up to \$511 per day and \$5,110 in the aggregate. If the leave relates to care for another, it can be paid at two-thirds the regular rate up to \$200 per day and \$2,000 in the aggregate.



**Exemptions and offsets.** Employers with a paid leave or PTO policy that provides at least 160 hours of paid leave annually are exempt. Other covered employers can offset the ordinance requirement for every hour of COVID-19-related paid leave — not including accrued paid leave — already provided on or after March 4.

**Miscellaneous provisions.** Retaliation is prohibited. Employers have limited rights to request documentation and can require reasonable notice only for leave that is foreseeable. The ordinance is enforceable by private action, and damages — including punitive — can be awarded.

## Los Angeles

The Los Angeles City Council initially approved an ordinance requiring employers with employees working in the city to provide COVID-19 supplemental paid sick leave (SPSL) to those employed from Feb. 3 through March 4. The mayor later issued an emergency order on April 7 superseding the ordinance. On April 11 and May 26, the Office of Wage Standards issued rules implementing the mayor's order. The superseding order follows the general framework of the original ordinance but provides additional exemptions for certain employers.

The SPSL rights and remedies are in addition to and independent of any other rights, remedies and procedures available under any other law, except the federal FFCRA. The order is effective until two weeks after the local COVID-19 emergency period expires.

**Covered employers.** The emergency ordinance applies to employers with 500 or more employees in Los Angeles or 2,000 or more employees nationwide. The order exempts:

- Employers that closed or stopped operations for at least 14 days after March 4 due to a city official's COVID-19 emergency order or provided at least 14 days' paid or unpaid leave (including furloughs)
- Employers with policy providing at least 160 hours of paid leave annually, excluding paid holidays or bereavement leave
- Employers of healthcare providers, first responders and global parcel delivery services
- Government agencies
- Certain new businesses

**Amount of SPSL.** The city's long-standing sick leave rules require an employer to provide employees at least 48 hours of paid sick leave or one hour for every 30 hours worked. The SPSL is separate and apart from any regular paid sick leave that the employer might have provided or continues to provide, such as the regular accrued paid sick leave required by law. With SPSL, a full-time employee (working at least 40 hours per week or classified as full-time) can receive 80 hours of supplemental leave, while part-time workers receive SPSL equal to their average hours in a two-week period. SPSL is paid at an

employee's average two-week pay between Feb. 3 and March 4. In all cases, leave pay is capped at \$511 per day or \$5,110 aggregate per employee. An employer can offset the SPSL requirement with paid leave (excluding accrued leave) provided for similar reasons on or after March 4.

**Permitted uses.** The SSPL is available on request from an employee who:

- Cannot work or telework and have been infected with COVID-19
- Is required or recommended to isolate or self-quarantine to prevent the spread of COVID-19
- Is at least 65 years old or suffer from a health condition like heart disease, asthma, lung disease, diabetes, kidney disease or a weakened immune system
- Needs to care for a family member who is not sick but in isolation or self-quarantine due to a public health official's or healthcare provider's requirement or recommendation
- Needs to provide care for a family member whose other care arrangements have temporarily ceased operations due to the public health emergency

An employer may not require a doctor's note or other documentation for the use of SPSL.

## Los Angeles County

On April 28, the Los Angeles County Board of Supervisors enacted an interim urgency ordinance, immediately requiring employers with 500 or more employees nationwide to provide supplemental paid sick leave (SPSL) until Dec. 31 (or later if extended). The ordinance does not apply to federal, state, or local government agencies or employers subject to the federal FFCRA emergency paid leave provisions or the SPSL required by the California Executive Order No. 51-20.

Under the ordinance, a full-time employee (working at least 40 hours per week or classified as full-time) can receive 80 hours of SPSL, while part-time workers can receive SPSL equal to their two-week average between Jan. 1 and April 28. Leave pay is capped at \$511 per day or \$5,110 in aggregate per employee. Covered employers can exclude emergency responder and healthcare provider employees.

Leave must be available on written request from employees who cannot work or telework because they:

- Belong to a vulnerable population
- Have a family member subject to a federal, state, or local quarantine or isolation order, including a shelter-in-place order
- Have a family member subject to a self-quarantine at the recommendation of a healthcare provider
- Have COVID-19 symptoms needing a medical diagnosis

- Have to care for a child whose school or care facility has closed due to the public health emergency
- Must isolate or self-quarantine as required by a public health official or healthcare provider to prevent the spread of COVID-19
- Are subject to a federal, state, or local quarantine or isolation order related to COVID-19 (e.g., is at least 65 years old or has a health condition like heart disease, asthma, lung disease, diabetes, kidney disease or a weakened immune system)
- Need to care for a family member who is subject to a federal, state, or local quarantine or isolation order related to COVID-19 or have been advised by a healthcare provider to self-quarantine related to COVID-19
- Need to care for a family member whose senior care provider or whose school or child care provider ceases operations in response to a public health or other public official's recommendation

The SPSL is in addition to any paid sick leave available employees under the state's paid sick leave law, and a covered employer cannot require use of any other employer-provided paid or unpaid leave, PTO or vacation time before, or in lieu of, SPSL. However, an employer's SPSL obligation can be offset by any leave the employer voluntarily provides employees — above and beyond regular sick or personal leave — on or after March 31 for any reason described in the ordinance that is paid at an equal or greater amount than required by the ordinance.

Retaliation and discrimination against an employee for asserting rights under the ordinance is prohibited. The SPSL can be expressly waived by a collective bargaining agreement, as long as the waiver is explicitly set forth in clear and unambiguous terms.

## Oakland

Approved May 12, Oakland's emergency supplemental paid sick leave (SPSL) ordinance (No. 20-0345) requires employers to provide 80 hours of coronavirus-related paid sick leave. The new requirement took effect immediately and will remain in effect until Dec. 31, unless extended by a city council resolution. The ordinance contains anti-retaliation and anti-discrimination provisions enforced by the Department of Workplace and Employment Standards.

The city has published a notice of employee rights under the emergency ordinance in multiple languages that employers must post in the workplace, distribute electronically, or place on a web-based or app-based platform that is calculated to reach all employees. The notice must be provided in all languages spoken by more than 10% of the employees. The city has also published a series of FAQs about SPSL for Oakland employees.

**Amount of paid leave.** The SPSL is available to any employee who has provided at least two hours of service within the city of Oakland since Feb. 3 for an employer of any size. Full-time employees

receive 80 hours of paid leave, and other employees receive paid leave equivalent to their highest two-week average hours worked between Feb. 3 and March 4. Leave is paid at the employee's regular rate of pay up to \$511 per day and \$5,110 in the aggregate.

**Permissible uses.** Employers must grant the emergency paid leave to any employee who cannot work or telework for one of these reasons:

- The employee needs to care for a family member who has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19.
- The employee is at least 65 years old and has a specified health condition or a heightened risk of serious illness or death if exposed to COVID-19.
- The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
- A healthcare provider has advised the employee to self-quarantine due to concerns related to COVID-19.
- The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
- The employee is caring for an individual subject to quarantine or isolation under a government order or a healthcare provider's advice.
- The employee is caring for a son or daughter whose school or place of care has closed or is unavailable due to COVID-19 precautions.
- The employee is experiencing any other substantially similar condition specified by federal agencies.

Employees can take leave in one-hour increments and intermittently, and an employer has limited rights to request documentation supporting the need for leave.

**Coordination with other paid sick leave.** An employee can use the emergency paid sick leave before any other leave provided by an employer or required by Oakland's nonemergency paid sick leave ordinance ([Mun. Code § 5.92.030](#)). An employer cannot require an employee to use any other leave before taking the emergency paid sick leave. However, an employer can credit any emergency paid sick leave hours taken under the federal FFCRA against hours available under the local SPSL ordinance, as long as the leave was paid at the employee's regular rate of pay.

**Exemptions.** Employers with fewer than 50 employees between Feb. 3 and March 4 (excluding certain franchisees) are exempt from the ordinance. Employers of healthcare providers or emergency responders can elect to exempt those employees from the emergency ordinance requirements, similar to what the FFCRA allows. Employers are exempt from the ordinance if:

- Between Feb. 3 and May 12, they provided immediate access to paid personal leave (including PTO, sick leave or vacation) on terms at least as generous as the emergency ordinance requires. This exemption applies only if the paid personal leave was in addition to any paid leave the employer had to provide under a collective bargaining agreement, policy or contract.
- After Feb. 3, they allowed employees to accrue at least 160 hours of paid personal leave, with at least 80 hours of leave available immediately after May 12 — even if the employee had fewer than 80 hours of accrued leave available before that date. For this exemption to apply, the paid personal leave must be available for the same reasons allowed in the emergency ordinance.

**Payout of accrued paid sick leave required.** Oakland’s nonemergency paid sick leave ordinance requires employers to provide one hour of paid sick leave for every 30 hours worked up to a maximum of 72 leave hours per year. Until now, employers did not have to pay out accrued but unused nonemergency sick leave upon separation. However, the new ordinance appears to change this by requiring employers with at least 50 employees to compensate employees for all accrued but unused paid nonemergency sick leave immediately upon separation. No similar requirement entitles separating employees to payout of unused emergency paid sick leave.

## Sacramento

Supplemental paid sick leave (SPSL) is included in the Sacramento Worker Protection, Health and Safety Act (Ordinance No. 2020-0026), effective July 15 through Dec. 31, 2020. Employers with 500 or more employees nationwide must provide 80 hours of SPSL to full-time employees working within the city. For all other employees working within the city, the amount of SPSL is based on the number of hours worked, on average, over a two-week period. Emergency responders and healthcare providers can be excluded.

**Permissible use.** An employee can use the leave if unable to work or telework for any of these reasons:

- The employee is subject to quarantine or isolation by federal, state or local order or is caring for a family member who is quarantined or isolated.
- A healthcare provider has advised the employee to self-quarantine due to COVID-19, or the employee is caring for a family member who has been advised to quarantine.
- The employee is older than age 65 or considered vulnerable due to a compromised immune system.
- The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.
- The employer or a specific work location ceases operation temporarily due to a public health order or public official’s recommendation.
- The employee is caring for a minor child because a school or daycare is closed due to COVID-19.

**Rate of pay.** Rate of pay during SPSL is similar to what the federal FFCRA's emergency paid sick leave requirements for smaller employers. Employees using the leave for themselves receive their regular rate of pay up to \$511 per day and \$5,110 in the aggregate. When using leave to care for a family member, employees receive two-thirds of their regular rate up to \$200 per day and \$2,000 in the aggregate. Employers do not have to pay out unused SPSL on termination. For continuing employees, unused SPSL expires when the ordinance sunsets on Dec. 31.

**Other leave.** SPSL under the Sacramento ordinance is in addition to any other paid sick leave, PTO or vacation available to an employee. An employer may not require an employee to use other accrued paid sick leave, PTO or vacation time before using SPSL. However, employer-provided emergency paid sick leave for COVID-19 reasons provided since March 19 can count against SPSL requirements. In addition, supplemental paid leave for food sector workers under California [Executive Order No. 51-20](#) can offset Sacramento's SPSL.

## Sacramento County

Sacramento County passed the Workers Protection, Health, and Safety Act of 2020 ([Ordinance No. 1593](#)), providing COVID-19 paid leave to workers in [unincorporated areas](#) of the county. The ordinance is nearly identical to the one passed in July by the [Sacramento City Council](#). Beginning Oct. 16 and extending through Dec. 31, 2020, employers with 500 or more employees nationwide must provide full-time employees in the county with 80 hours of supplemental paid sick leave. Other county employees are entitled to the average hours worked over two weeks (calculated using the time worked in the six months before Oct. 1, 2020). The circumstances in which employees are entitled to SPSL, and the rate of pay during leave, are identical to the Sacramento City ordinance. Emergency responders and healthcare providers can be excluded from the provision of SPSL. In addition, just like the city ordinance, the required SPSL can be offset with emergency COVID-19 leave provided since March 19 and SPSL provided in compliance with California [Executive Order No. 51-20](#), but employers cannot require an employee to use other accrued paid sick leave, PTO or vacation before or instead of SPSL.

## San Francisco

[Guidance](#) from San Francisco's Office of Labor Standards Enforcement (OLSE) temporarily expands leave rights and waives documentation requirements under the city's paid sick leave ordinance (PSLO). Employers also are encouraged to provide five additional days of paid sick leave — partly funded through the [Office of Economic and Workforce Development](#) — beyond current workplace policies.

### New paid sick leave rights

The PSLO requires employers to provide at least one hour of paid sick leave for every 30 hours worked to all employees working in the city. Employees may use accrued paid sick leave when they or a family member are ill, injured, receiving medical care (including preventive care) or treatment,

seeking a diagnosis, or unable to work for other medical reasons. The new guidance requires covered employers to let employees use accrued sick leave to take time off work for any of these additional reasons:

- The employee has to isolate or quarantine at the recommendation of a public health official or healthcare provider.
- The employee falls within the definition of a “vulnerable population” under [guidelines](#) issued by the San Francisco Department of Public Health. This category includes anyone aged 60 or older or with certain health conditions, such as diabetes; a weakened immune system; or heart, lung or kidney disease.
- The employee’s business or a work location temporarily ceases operations in response to a public health or other public official’s recommendation.
- The employee needs to care for a family member who is not sick but in isolation or quarantine at a public health official’s or a healthcare provider’s requirement or recommendation.
- The employee needs to care for a family member whose school, child or senior care provider, or work has temporarily ceased operations in response to a public health or other public official’s recommendation.

Employers may not require a doctor’s note or other documentation for paid sick leave. These changes are effective only for the duration of the city’s [novel coronavirus disease local health emergency](#).

### **Additional paid sick leave incentive program**

The Workers and Families First Program [announced](#) by the mayor offers incentives for businesses to provide an additional five days of sick leave pay to employees. All San Francisco businesses are eligible, with up to 20% of funds reserved for small businesses with 50 or fewer employees. As of April 5, the program had exhausted its funding, but businesses can sign up for a [waiting list](#).

The city will contribute up to one week (40 hours) at \$15.59 per hour (the San Francisco minimum wage), or \$623 a week, per employee toward paid sick leave. The employer must pay the difference between the minimum wage and an employee’s full hourly wage.

The program is available only if an employee has exhausted available sick leave and is ineligible for or has exhausted federal or state supplemental sick leave, and the employer agrees to extend sick leave beyond current benefits.

### **New emergency paid sick leave**

Effective April 17, an [emergency ordinance](#) requires private employers with 500 or more employees to provide paid sick leave during the COVID-19 local [public health emergency](#). The enacted Public Health Emergency Leave Ordinance (PHELO), amended from the original passed by the Board of

Supervisors, provides emergency paid sick leave similar to the FFCRA's provisions, but for employees of larger employers not covered by the federal law.

Under the ordinance, a full-time employee (as of Feb. 25) receives 80 hours of emergency paid sick leave, and a part-timer (as of Feb. 25) receives paid leave equal to the average number of hours worked in a two-week period over the six months ending Feb. 25. The leave must be paid in the same manner as leave under the city's PSLO (Admin. Code § 12W.3(h)). Leave may be used if the employee:

- Belongs to a vulnerable population
- Is or has a family member is subject to a federal, state, or local quarantine or isolation order, including a shelter-in-place order
- Is or has a family member is subject to a self-quarantine at the recommendation of a healthcare provider
- Has COVID-19 symptoms needing a medical diagnosis
- Has to care for a child whose school or care facility has closed due to the public health emergency

The leave is in addition to any PTO that the employer provided on or before April 17. An employer may not change any PTO policies on or after April 17, except to provide additional paid leave. However, an employer may reduce the PHELO-required leave by any paid leave hours (except previously accrued hours) taken on or after Feb. 25 for the same purposes. Unused leave does not have to be paid out at termination of employment, but retaliation for using the leave is prohibited.

Employers must provide the official poster (available on the OLSE website) in a manner calculated to reach all employees. FAQs about the PHELO are also available on the OLSE website.

## **San Jose**

A San Jose emergency ordinance requires certain private employers to provide emergency paid sick leave during the COVID-19 public health emergency. The COVID-19 Paid Sick Leave Ordinance requires employers not subject to the FFCRA's emergency paid sick leave mandate to provide up to 80 hours of paid sick leave to full-time employees who have worked at least two hours in the city. Part-time employees must receive sick leave hours equal to the average number of hours worked over a two-week period. Only employees who leave their residences to perform essential work (as defined by the Santa Clara County Public Health Officer) are eligible under the ordinance.



An employee can use paid sick leave can be used when unable to work (or telework) for any of the following reasons:

- The employee is subject to a COVID-19 quarantine or isolation order from a federal, state, or local authority or is caring for someone who is quarantined or isolated due to COVID-19.
- The employee is self-quarantined or is caring for someone self-quarantined due to COVID-19 at the advice of a healthcare provider
- The employee has COVID-19 symptoms and is seeking medical diagnosis.
- The employee is caring for a minor child whose school or day care has closed due to COVID-19.

The ordinance's pay requirements are similar the FFCRA's standards: Employees using sick leave for their own illness or quarantine must receive their regular rate of pay up to \$511 a day and \$5,110 in aggregate. If sick time is used to care for another person, the employee must receive two-thirds of their regular rate of pay up to \$200 a day and \$2,000 in aggregate.

Employers already providing some combination of paid personal leave at least equivalent to the ordinance's requirements do not need to provide more paid leave time. Employers that provide some but not an equivalent amount of paid leave must make up the difference to comply with the ordinance. The ordinance is effective through Dec. 31, 2020. The [Office of Equality Assurance](#) has issued [FAQs](#) and an [opinion letter](#) on the ordinance.

## San Mateo County

From July 8 through Dec. 31, 2020, [Ordinance No. 20-506](#) requires employers with 500 or more employees nationwide to provide SPSL to employees in the unincorporated areas of the county. Full-time employees can take 80 hours of paid leave, while part-time employees can take the equivalent of their average hours worked in a two-week period. Employees are paid at their regular rate, capped at \$511 per day and \$5,110 in the aggregate for all types of SPSL use.

**Permissible use.** An employee can request SPSL when unable to work or telework for any of these reasons:

- The employee is or needs to care for an individual who is in isolation or self-quarantine to prevent the spread of COVID-19 at the advice of a healthcare provider or under a federal, state, or local order.
- The employee has or needs to care for an individual who has COVID-19 symptoms and is seeking a medical diagnosis.

- The employee needs to provide care for an individual whose school, child care provider or senior care provider is closed or is unavailable due to a public health or other public official's recommendation.

**Limitations for select employees.** Food sector employees covered by California Executive Order No. 51-20 are excluded from the SPSL ordinance. In addition, employers can limit the use of SPSL by healthcare providers, certain aviation security workers and emergency responders. Nevertheless, these employees are entitled to use SPSL if they cannot work or telework because:

- The employee has been advised by a healthcare provider to isolate or self-quarantine to prevent the spread of COVID-19; or
- The employee is experiencing COVID-19 symptoms, is seeking a medical diagnosis, and does not meet guidance from the Centers for Disease Control and Prevention (CDC) setting criteria to return to work for healthcare personnel with confirmed or suspected COVID-19.

**Other leave.** The SPSL is in addition to any other paid sick leave available to the employee under the state's paid sick leave law, any preexisting PTO provided before March 16, 2020, and any other form of leave (vacation, sick or personal) the employee is entitled to pursuant to an employer policy. Employers cannot require use of other paid or unpaid leave, PTO or vacation time before or in lieu of using SPSL. Nevertheless, the SPSL hours required under the ordinance can be offset by any emergency paid leave for COVID-19 related purposes voluntarily provided between March 17 and June 30, or any COVID-19 related supplemental paid leave provided pursuant to the laws of another jurisdiction.

## Santa Rosa

An Urgency Ordinance (No. 2020-006) adopted by the city council requires private employers with more than 500 employees nationwide to provide up to 80 hours of paid sick leave to employees who have worked at least two hours in the city. This temporary paid sick leave (PSL) requirement is effective July 7, 2020, through Dec. 31, 2020.

**Eligible employees.** The temporary paid sick leave is available only for employees who perform "allowed or essential work" — work activities and services permitted by orders of the Sonoma County Public Health Officer. Full-time employees are entitled to 80 hours of paid leave, while part-time employees are entitled to paid leave hours equivalent to the average hours worked over a two-week period. Employees are paid at their regular rate up to \$511 per day and \$5,110 in the aggregate. Unused sick leave is not required to be paid out or made available after Dec. 31, 2020.

**Permissible uses.** The paid sick leave can be used by an eligible employee for any of the following reasons:

- The employee is subject to quarantine or isolation by federal, state or local order due to COVID-19.

- The employee is self-quarantining on the advice of a healthcare provider.
- The employee experiences symptoms of COVID-19 and is seeking medical diagnosis.
- The employee is caring for someone who is quarantined, isolated or otherwise unable to receive care due to COVID-19.
- The employee is caring for a minor child whose school or daycare has closed or whose child care provider is unavailable due to COVID-19.

**Leave already provided.** The COVID-19-related PSL is in addition to any paid leave an employer normally provides. However, a covered employer that has already provided some combination of paid leave at least equivalent to the ordinance's requirements is exempt. Any short period of pandemic-related paid leave an employer has already provided in addition to normal paid leave benefits can offset the ordinance requirements. Employees cannot be required to provide a written note from a healthcare provider.

## Sonoma County

Effective Aug. 18 through Dec. 31, 2020, [Ordinance No. 6320](#) requires employers with 500 or more employees locally or nationally to provide supplemental paid sick leave (SPSL) to employees in unincorporated areas of the county. The ordinance extends the FFCRA's emergency paid sick leave requirements to large employers, with no exemption for healthcare providers and emergency responders. If the FFCRA is extended, the ordinance will automatically extend for the same period of time. The ordinance does not apply to federal, state or local government agencies.

**Amount of SPSL.** Any employee of a covered employer who has worked for more than two hours in the county's unincorporated areas is eligible for SPSL. Full-time employees normally scheduled 40 or more hours a week can take 80 hours of paid leave, while part-time employees can take the equivalent of their average hours worked in a two-week period (calculated over the previous six months). Employees on SPSL for any reason receive their regular rate of pay, capped at \$511 per day and \$5,110 in the aggregate. Employers do not have to pay out unused SPSL.

**Permissible use.** Employers must grant SPSL on an employee's written request (including email or text message) when the employee cannot work or telework for any of these reasons:

- The employee is or needs to care for an individual who is in isolation or quarantine to prevent the spread of COVID-19 on the advice of a healthcare provider or under a federal, state or local order.
- The employee has or needs to care for an individual who has COVID-19 symptoms and is seeking a medical diagnosis.

- The employee needs to care for an individual whose school, senior care provider, or childcare provider has closed or is unavailable in response to a public health or other public official's recommendation.

**Notice requirement.** Covered employers must post a notice of SPSL rights in English and Spanish in the workplace or on any intranet or app-based platform or provide the notice by email. The ordinance does not designate a county agency to publish a model, so employers apparently are responsible for creating this notice.

**Other leave.** The SPSL is in addition to any other paid sick leave available to the employee under the state's paid sick leave law, any preexisting PTO provided before March 16, 2020, and any other form of leave (vacation, sick or personal) provided under an employer policy. Employers cannot require use of other paid or unpaid leave, PTO, or vacation time before or in lieu of using SPSL. Nevertheless, employers may offset an employee's SPSL hours by any paid sick leave, vacation or other PTO available to the employee as of Aug. 18. For the offset to work, the employer must provide enough SPSL so an employee has 80 hours of paid sick leave time available or 160 hours of combined paid leave (sick, vacation and PTO). Supplemental paid sick leave for food sector employees covered by California Executive Order No. 51-20 does not offset SPSL, and the ordinance has no exemption for unionized employees.

## Colorado

The Healthy Families and Workplaces Act (HFWA), effective July 14, replaces the state's Health Emergency Leave with Pay (HELP) rules described below. In addition to an accrued paid leave requirement beginning in 2021, the law requires all employers in Colorado, regardless of industry or size, to provide emergency paid sick leave to any employee not already covered by the FFCRA. The law's emergency paid leave provision is effective until Dec. 31, 2020.

Interpretive guidance (Info No. 6A) from the Department of Labor and Employment (DLE) provides additional information, including the following:

- Employee can use the paid leave if they:
  - Have COVID-19 symptoms and are seeking a medical diagnosis
  - Have been ordered by a federal, state, or local government official or advised by a healthcare provider to quarantine or isolate due to a risk of COVID-19
  - Are caring for someone due to COVID-19 precautions, whether an individual ordered to quarantine or isolate or a child whose school or place of care has closed or is unavailable
- Up to two weeks (80 hours) of paid leave for the employee's own must be provided at the employee's regular rate and hours, while leave to care for someone else is paid at two-thirds of the employee's regular rate.

- Paid leave already provided in 2020 for the specified COVID-19 reasons — whether provided pursuant to federal law, state law or employer policy — can offset HFWA-required amounts.
- Employer policies providing at least as generous paid leave for the specified COVID-related reasons can satisfy the law’s requirements.
- Paid leave is not available to laid-off or furloughed workers or employees whose business has permanently or temporarily closed for reasons other than a government quarantine or isolation order.
- Employers must notify employees about their emergency leave rights under HFWA (providing [Info No. 6A](#) satisfies this requirement) and display an [informational poster](#) provided by the Division of Labor Standards and Statistics.

**HELP rules.** From March 11 to July 14, the HELP rules — including the [March 26](#), [April 3](#) and [April 27](#) amendments — required certain employers to provide paid sick leave for quarantine or isolation orders and COVID-19 testing. Effective dates and covered businesses include:

- Effective March 11: Leisure, hospitality, food service, child care, education and home healthcare industries; nursing homes; and community living facilities
- Effective March 26: Retail establishments that sell groceries
- Effective April 3: Employers in the food and beverage manufacturing industries
- Effective April 27: All retail establishments; real estate sales and leasing businesses; offices and office work; elective medical, dental and health services; and personal care services (including hair, beauty, spas, massage, tattoos, pet care or substantially similar services)

These employers had to provide up to two weeks (maximum 80 hours over 14 calendar days) of sick leave paid at 2/3 of the regular rate of pay to an employee who either:

- Had flulike symptoms or respiratory illness symptoms and is undergoing COVID-19 testing
- Had been instructed by a healthcare provider or an authorized government official to quarantine or isolate due to the risk of having COVID-19

Paid sick leave ended if an employee received a negative COVID-19 test result after being asymptomatic for 72 hours, but no earlier than seven calendar days (10 calendar days for healthcare workers).

The rules did not require additional paid leave if an employer’s existing paid leave policy met the HELP requirements. However, an employee who had exhausted paid leave under the employer’s current policy and then qualified for paid leave under the HELP rules was entitled to the leave provided by the

HELP rules. When an employer was subject to federal or local law in addition to the HELP rules, the law providing the most generous employee benefit or job protection applied.

The amended rules expired on enactment of the HFWA, but the DLE will continue investigate complaints of violations while the rules were in effect.

## Michigan

Michigan's [Executive Order No. 2020-36](#) required individuals who have had close contact with someone who tests positive for COVID-19 or displays one or more of the principal symptoms of COVID-19 to remain home. Employers must let employees use any accrued time under the state's [paid sick leave mandate \(titled the Paid Medical Leave Act\)](#). The order prohibits discharge, discipline or other retaliation against employees who are staying home due to illness, whose close contacts are sick, or who are at particular risk of infecting others with COVID-19. The executive order was replaced by [Executive Order No. 2020-166](#), which was subsequently replaced by [Executive Order No. 2020-172](#) — with additional legal authority and updated [Centers on Disease Control](#) guidance on the proper period of self-quarantine after a diagnosis of or the onset of symptoms associated with COVID-19. The current order also contains an updated a list of the disease's primary symptoms. The order, like the original, is in effect until the end of the declared states of [emergency](#) and [disaster](#).

Michigan's Paid Medical Leave Act (PMLA), first effective March 29, 2019, requires covered employers to provide one hour of paid sick leave for every 35 hours worked, up to 40 leave hours per year. Under the executive order, employees ordered to stay home must be treated as if they are taking sick leave under the PMLA. If the employee required to stay home has no paid leave accruals, the leave may be unpaid.

The original executive order permitted leave to end if an employee received a negative COVID-19 test result, but otherwise required it to extend until seven days after the employee first noticed symptoms or tested positive for COVID-19 and three days after the employee's symptoms resolve. Under the current executive order, leave ends only after 24 hours have passed since the resolution of fever without the use of fever-reducing medications; 10 days have passed since symptoms first appeared or since the employee was swabbed for the test that yielded the positive result; and other symptoms have improved. For employees with potential exposure to the virus, leave must last until either the symptomatic contact receives a negative COVID-19 test or 14 days have passed since the last close contact with a sick or symptomatic individual.

## New Jersey

Emergency legislation ([2020 Ch. 9](#), AB 3848) prohibits employers in the state from terminating or refusing to reinstate an employee who requests or takes time off from work because of a licensed medical professional's written recommendation that the employee has or is likely to have an infectious disease. The law took effect March 20 and continues for the duration of the COVID-19 pandemic and

state of emergency declared by [Executive Order No. 103](#). Violations could lead to reinstatement orders, fines up to \$2,500 per instance and employee-initiated court action.

Two new laws (2020 Chs. [17](#) and [23](#), SB 2304 and SB 2374), amend New Jersey's [paid sick leave law](#) to allow use of accrued sick time during a state of emergency declared by the governor; extend job protections under the [Family Leave Act \(FLA\)](#); and expand the opportunity to use [temporary disability insurance \(TDI\)](#) and [family leave insurance \(FLI\)](#) for reasons related to communicable diseases. The amendments, effective March 25, are not specific to the COVID-19 pandemic and do not have an expiration date.

**Paid sick leave.** The paid sick leave law allows employees to use accrued paid sick leave for a public health emergency that closes down their workplace or their child's school or day care facility. Employees also can use earned sick leave for self-care or caring for a family member. With the amendments, employees can now use accrued paid sick leave if their workplace or child's school or day care has closed due to an emergency declaration or if they are subject to — or need to care for a family member who is subject to — a recommendation or an order to quarantine or isolate.

**FLA, TDI and FLI.** Under the amendments, FLA job protections are available when a communicable disease epidemic requires an employee to care for a child whose school or child care has closed. FLA protections and FLI benefits are available to employees caring a family member subject to quarantine because of a communicable disease or suspected exposure to the disease. Employees may also be eligible for TDI, without a waiting period if they have been advised to isolate or quarantine due to suspected exposure to a communicable disease or need in-home care or treatment because their presence in the community may jeopardize the health of others. Employers can require certifications, subject to certain restrictions.

More information can found in the [COVID-19 FAQs for employees](#) from New Jersey's Department of Labor and Workforce Development.

## New York

Effective March 18, New York emergency legislation (2020 Ch. 25, [SB 8091](#)) provides temporary paid sick leave for employees subject to a mandatory or precautionary quarantine or isolation order due to COVID-19. This includes COVID-19-related orders from the state, the state Health Department, a local board of health or any authorized government entity. The law also expands the state's existing PFL and disability benefit programs to certain employees. The emergency quarantine leave is in addition to any other sick leave provided by an employer. New York City's and Westchester County's paid sick time mandates are not preempted by the temporary state law entitlements.

In addition, [amended](#) PFL regulations (NY Comp. Codes R. & Regs tit. 12 § [355.9](#)) clarify that employees may take family leave to care for a family member diagnosed with COVID-19. Coordination of New York's leave benefits with the federal FFCRA's leave entitlement is complicated.

The state's emergency quarantine leave law is unrelated to the recently enacted paid sick leave law (2020 Ch. 56, [AB 9506-A, Part J](#)). The new paid sick leave measure, effective Sept. 30, requires employers to provide up to 56 hours of paid sick leave per year. For more details, see [New York passes paid sick leave mandate](#) (April 9, 2020).

**Emergency sick leave.** The emergency paid sick leave is in addition to any employer-provided paid sick leave already available to employees. The state Department of Labor has authority to issue related [guidance](#) and investigate [complaints](#). Leave requirements vary by employer size on Jan. 1, 2020, as follows:

- Private employers with 100 or more employees and all public employers must provide at least 14 days of paid sick leave.
- Employers with 11 to 99 employees must provide at least five days of paid sick leave and then grant unpaid leave through the end of the quarantine/isolation period. Employers with up to 10 employees and a net income greater than \$1 million are subject to the same requirement.
- Small employers with up to 10 employees and net income not exceeding \$1 million must provide unpaid sick leave for the entire period of quarantine/isolation.

The legislation doesn't specify how to count the employee population or whether to include only New York workers. Unless otherwise advised, employers can reasonably conclude that they should count their entire workforce — including employees outside of New York — to determine how to comply. During the period of quarantine/isolation, employees of employers with fewer than 100 employees are eligible for PFL and disability benefits after exhausting any paid sick days provided under this emergency legislation.

**Expanded PFL and disability benefits.** For employers with fewer than 100 employees, the expanded PFL entitlement provides benefits to employees unable to work because they are subject to — or have to care for a minor child who is subject to — a mandatory or precautionary quarantine/isolation order. Disability benefits also are available without a waiting period for employees unable to work because of a quarantine or an isolation order. Benefits from both programs are available on the first day of unpaid leave and can be received concurrently. A maximum \$840.70 PFL benefit is available per week. The weekly benefit available under the emergency disability benefit expansion is the difference between the maximum weekly PFL benefit and the employee's total average weekly wage, up to a \$2,043.92 maximum per week. The expanded benefits under the PFL and disability programs are temporary.

**Teleworkers not eligible.** An employee who is asymptomatic or has not been diagnosed and is physically able to work while quarantined or isolated is not eligible for the COVID-related paid sick leave or expanded PFL and disability benefits.

**Personal travel may affect eligibility.** The COVID-19-related paid sick leave and expanded PFL and disability benefits may not be available to employees who are subject to quarantine or isolation orders



because of personal travel to a level-two or level-three country as designated by the CDC. If employees had advance notice of the travel limitations, they can use employer-provided accrued paid leave or take unpaid sick leave during the travel-related quarantine/isolation order, but they don't qualify for benefits under this law. The same applies for employees voluntarily traveling to a state subject to the governor's travel advisory Executive Order No. 205 (see COVID-19 FAQs).

**Job protection.** Employees returning to work after COVID-19-related leave must be restored to the position held before the leave, with the same pay and terms and conditions of employment. Discrimination and retaliation against employees who take leave is prohibited.

**Quarantine or isolation orders.** The COVID-related paid leave and benefits are available to an employee subject to a "mandatory or precautionary order of quarantine or isolation." This includes any such order related to COVID-19 from the state, the state Health Department, a local board of health or any authorized government entity. The state has provided guidance to local health departments on when quarantine or isolation orders are appropriate. The state departments of health and labor have provided guidance on the availability of COVID-19 sick leave for healthcare employees without the need for an order of quarantine or isolation (June 25 guidance; May 17 guidance).

**Coordination with federal COVID-19 emergency leave benefits.** The COVID-related paid sick leave, PFL and disability benefits are only available to the extent they exceed the paid leave required by the federal FFCRA. An employee eligible under both laws can claim any additional leave and benefits available under New York's law that exceed what the federal law allows. Additional guidance from New York on coordinating these various mandates will be welcome. New York private employers with 500 or more employees are not subject to the federal law's paid leave mandates but do have to comply with New York's laws.

**More guidance to come.** New York regulators have issued FAQs on the emergency COVID-19 paid sick leave, PFL and disability benefits.

## Philadelphia

An amendment (No. 200303) to Philadelphia's paid sick leave ordinance — the Promoting Healthy Families and Workplaces (discussed later) — provides paid public health emergency leave, effective Sept. 17 through Dec. 31, 2020. The ordinance contains notice, poster, recordkeeping, job protection, and anti-retaliation provisions, in addition to the requirements discussed below. A city webpage provides a form for filing a complaint about violations.

The amendment requires employers to provide up to 112 hours of paid sick leave during the COVID-19 pandemic to Philadelphia workers (including transportation, food-delivery network and homecare workers) who don't qualify for FFCRA emergency leave. The city's emergency paid leave is available to workers who need to:

- Care for themselves or a family member when showing symptoms of COVID-19 and seeking a medical diagnosis
- Care for themselves or a family member when advised to self-quarantine by a healthcare provider
- Care for themselves or a family during quarantine or isolation order from federal, state or local government
- Care for a child whose school or care provider is closed or unavailable due to precautions taken because of the public health emergency

Workers have to work only 40 hours in a year within the boundaries of the city to be eligible. The public health emergency leave amendment extends to workers of large employers exempt from FFCRA and to healthcare providers or emergency responders excluded from FFCRA emergency paid leave by smaller employers subject to FFCRA. The leave is only available to workers who cannot work or telework.

**Amount of leave and pay rate.** Covered individuals working at least 40 hours per week are entitled to the greater of 80 hours or the average hours worked in a 14-day period, up to a maximum of 112 hours of paid public health emergency leave. Covered individuals working fewer than 40 hours per week are entitled to paid leave equal to the amount of wages and hours received in an average 14-day period. Special rules apply to workers with varying schedules. Pay during public health emergency leave is equal to the worker's regular rate (but no less than minimum wage) and with the same benefits, including healthcare benefits. If a covered individual is laid off or terminated due to the public health emergency but rehired within six months of separation, unused public health emergency leave and unused accrued paid sick time must be reinstated.

**Concurrent use of other emergency leave.** Employers can require public health emergency leave to run concurrently with other emergency paid leave or paid sick time for a public health emergency that the employer must provide under a federal or state law, unless concurrent use is otherwise prohibited. Covered employers must provide any additional public health emergency leave mandated by the city ordinance that exceeds the requirements of other federal or state laws.

**Coordination with existing paid leave policy.** Covered employers do not need to provide additional paid leave if their existing policy provides paid sick leave for the same purposes, under the same conditions and in amounts that satisfy or exceed the city's public health emergency leave ordinance.

**Future public health emergency leave uncertain.** The amendment provides for public health emergency leave during (and for one month after) future public health emergencies declared by a federal, state or local official. However, the amendment sunsets on Dec. 31, 2020, making use of this provision unlikely.

## Additional compensation for healthcare employees

On Sept. 9, an [amendment](#) (No. 200306) to Philadelphia's Promoting Healthy Families and Workplaces ordinance took effect, providing lost wages and medical expenses to healthcare professionals who contract a communicable disease during a pandemic or epidemic affecting the city. Healthcare employers (including but not limited to hospitals, nursing homes and home healthcare providers) must make these benefits available to healthcare employees — including pool employees — who worked at least 40 hours in the three months prior to contracting the disease.

## Rhode Island

The Department of Labor and Training has issued a [workplace fact sheet](#) on COVID-19, reminding workers that they may be eligible for temporary disability or family caregiver insurance benefits if they or their family members have been affected by COVID-19. The state is waiving the seven-day minimum claim period for COVID-19 claims and the need for medical certification if a worker is under quarantine.

## Washington

Under Gov. Jay Inslee's [Proclamation 20-67](#), food production workers not covered by the FFCRA or other federal or state sick leave programs can take emergency supplemental paid sick leave (SPSL) for COVID-19-related reasons. Covered employers include orchards, fields, dairies, fruit and vegetable packing warehouses, meat and seafood processors and packers, agricultural operations (with few exceptions), and farm labor contractors. Food production employers cannot operate between Aug. 18 and Nov. 13, 2020, unless they provide this paid leave.

Full-time employees can take up to 80 hours of SPSL at a rate equal to \$430 for 40 hours or a maximum of \$860 for 80 hours. Part-time employees receive paid leave equal to their total number of hours normally scheduled during a two-week period.

Covered workers are entitled to paid leave when:

- Subject to a federal, state, or local quarantine or isolation order related to COVID-19
- Advised by a healthcare official or provider to self-quarantine or self-isolate due to COVID-19 concerns or a positive diagnosis
- Prohibited from working due to health concerns related to potential transmission of COVID-19
- Experiencing COVID-19 symptoms and seeking a medical diagnosis

The order expires when the governor's public emergency proclamation ([No. 20-25, as amended](#)) expires.

## Seattle

FAQs from Seattle's Office of Labor Standards (OLS) clarify how the city's Paid Sick and Safe Time Ordinance (PSST) applies during the COVID-19 public emergency and detail the city's recent amendments. The ordinance requires employers with one or more employees working in the city to provide paid leave so employees can care for themselves or a family member who has a physical or mental health condition, a medical appointment or a critical safety issue. Under the original ordinance, employees also could use accrued paid leave when a public official closes their place of business or their child's school or place of care for health reasons.

**Amendments.** March 16 amendments require employers to allow the use of accrued paid sick leave if a family member's place of care or school is closed and remove the requirement that the closure occur for a health-related reason subject to a public official's order. In addition, employers with 250 or more full-time equivalent employees must allow the use of PSST when their place of business is closed for any health or safety reason. The guidance also covers mandatory use of PSST, including for employees returning from a different country; exhausted accruals; paid leave donation; and other issues.

**Emergency rule.** On April 8, the OLS adopted an emergency rule that bars employers during the civil emergency from requiring employees on PSST leave to provide documentation from a healthcare provider. The agency says a requirement is "an unreasonable burden for workers and our healthcare system." The rule expired June 7.

**Gig workers.** Effective July 13, gig workers for transportation and food delivery network companies can access PSST under an emergency COVID-19 city ordinance (No. 126091). Eligible gig workers who work in Seattle at least once in the 90 calendar days before taking the leave can receive their average daily compensation for PSST used in 24-hour increments for any covered reason, including:

- When they need to care for their own or a family member's physical or mental health condition, including a doctor's appointment
- When they need to care for themselves, a family member or a household member for reasons related to domestic violence, sexual assault or stalking
- When their family member's school or place of care has closed
- When their company reduces, suspends or discontinues operations for health- or safety-related reasons

The ordinance applies to companies like Lyft, Uber, Grubhub, Postmates, DoorDash and Instacart that hire 250 or more gig workers worldwide. Covered entities have the option of calculating accrued PSST retroactively (one day for every 30 days worked in whole or in part in Seattle since Oct. 1, 2019) or

simply providing five days of PSST on July 13 and beginning accruals prospectively. Companies must report the option chosen to the OLS in writing by July 27, 2020.

## Washington, DC

A Washington, DC, [emergency act](#) expands the city's existing [Accrued Sick and Safe Leave Act](#) to provide emergency leave during the COVID-19 public health emergency. Beginning April 10, 2020, an employer (other than a healthcare provider) with between 50 and 499 employees must provide paid leave for the same purposes provided in the federal FFCRA's emergency paid sick leave provision:

- A federal, state, or local quarantine or an isolation order
- A self-quarantine recommendation from a healthcare provider
- COVID-19 symptoms needing a medical diagnosis
- The need to care for an individual in quarantine or isolation or experiencing COVID-19 symptoms
- The need to care for a child whose school or care facility has closed for COVID-19 reasons

Paid leave extends to employees who have worked for at least 15 days before the leave request. Full-time employees working in the city receive up to 80 hours of paid leave, and part-time employees get paid leave equal to their usual number of hours worked in a two-week period. The leave must be paid at 100% of the employee's regular rate (as opposed to the two-thirds rate in some cases under the FFCRA), but no lower than minimum wage, and with no cap.

**Coordination with other leave.** An [omnibus COVID-related bill](#) enacted on June 8 amends the coordination of the emergency paid sick leave with other available paid leave. Employees can only use the emergency paid leave concurrently with or after exhausting any other paid leave available under federal or District of Columbia law or the employer's policies. An employer can reduce the pay required for emergency sick leave by the amount of pay an employee concurrently receives under another leave law or policy. If an employee takes emergency paid leave after exhausting other paid leave, the employee's emergency leave entitlement can be reduced by the paid leave hours already taken.

**Legislative update.** The Coronavirus Support Temporary Amendment Act of 2020 ([D.C. Law 23-130](#)), effective Oct. 9, 2020, through the end of the District's declared COVID-19 public health emergency, repeals the emergency act but carries over the emergency paid leave provisions (see section 105, paid public health emergency leave) so that employer obligations do not change.

## 3

# COVID-19 guidance for existing paid leave benefits

## Connecticut

The Connecticut Department of Labor has published [COVID-19 FAQs](#) for workers and employers that address a number of topics, including the use of accrued paid sick leave during the pandemic. The state's paid sick leave law requires employers with 50 or more employees to provide up to 40 hours of paid leave per year. Employees can use this paid leave for their own or a child's or spouse's illness or medical care. According to the FAQs, which the department plans to update regularly, paid sick leave will cover certain absences related to COVID-19.

## Massachusetts

[FAQs](#) from the Massachusetts attorney general clarify employee rights and employer obligations under the state's existing paid sick leave law in the context of COVID-19. Massachusetts employers must provide up to 40 hours of accrued paid sick time each year for employees to use — to take care of themselves or family members or to comply with a required or recommended quarantine. The state's sick leave law does not cover absences caused by school, child care or work closures due to a public health emergency. Nevertheless, employers are encouraged to allow liberal use of earned sick time — and vacation or PTO — during the pandemic to support full compliance with the recommendations of health professionals.

## Minnesota

No state law requires employers to provide paid sick leave. However, a Minnesota Department of Labor [fact sheet](#) notes that employers provide paid sick time for an employee's own illness, they generally must allow an employee to use sick leave to care for an ill minor child, an adult child, a spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or step-parent.

In addition, employers with employees in [Duluth](#), [Minneapolis](#) or [St. Paul](#) must provide paid sick leave that can be accrued over time or front-loaded at the start of the year. Specifics differ for each ordinance. Each city has provided FAQs for employers to clarify how these ordinances apply to COVID-19 related absences.

[Duluth FAQs](#). Employees in Duluth can use accrued paid sick time to seek coronavirus screening or treatment, care for symptoms or infection, and undergo testing or quarantine after close personal

contact with an infected or symptomatic person. Employees can use sick leave for self-care or to care for a covered family member. The ordinance doesn't cover use of paid sick time when a family member's school or child care facility has closed or when the employee's workplace has closed by order of a public official due to the virus. However, the FAQs note that an employer can allow the use of paid sick leave for reasons not covered by the ordinance.

**Minneapolis FAQs.** Employees in Minneapolis can take accrued sick leave for absences related to coronavirus symptoms, testing or infection. Employees can use paid sick time for self-care or to care for a family member. They also can use paid sick time when a family member's school or child care facility has closed or when the employee's workplace has closed by order of a public official due to the virus. Preemptive closures or self-quarantine are not covered uses under the ordinance.

**St. Paul FAQs.** Employees in St. Paul can use accrued sick leave if their workplace has closed or they need to care for a child whose school or place of care has closed because of COVID-19. Employees at greater risk of severe COVID-19 complications can use sick leave for preventive care for an underlying medical condition. Employers, at their discretion, can provide more paid leave if an employee has exhausted all accrued sick leave. An employer cannot *require* an employee to telecommute or work from home instead of taking paid sick leave, but an employer can offer the choice.

## **Nevada**

Nevada's Office of the Labor Commissioner has issued COVID-19 [guidance](#) on the state's new paid leave law ([2019 Ch. 592](#)). Employers cannot require employees to use accrued paid sick leave if unable to work due to a mandatory government quarantine, but employees can choose to use paid or other applicable leave. The Office of the Labor Commissioner's [website](#) that features links to COVID-19 resources for employers, including a summary of the federal COVID-19 paid leave requirements.

## **Oregon**

Oregon's sick leave law requires employers to provide employees with at least one hour of paid sick time for every 30 hours worked. The state's Wage and Hour Division has published [FAQs](#) for employers and employees about sick time and the coronavirus. Employees can use accrued sick time when a public health emergency closes their place of work, or they have to care for child whose school or child care center has closed due to the public health emergency. Employees also can use paid sick leave for their own illness or to care for an ill family member (including parents, grandparents and grandchildren).

## **Philadelphia**

Supplemental [regulations](#), effective during the COVID-19 public health emergency, allow expanded use of accrued leave under the city's [paid sick leave law](#). Employees may use accrued leave to undergo a COVID-19 evaluation and a two-week self-quarantine if they have symptoms of the virus,

had direct contact with an infected individual or have recently traveled in a high-risk country. Self-quarantine may also apply to employees considered high-risk by a medical professional.

Additional leave rights extend to employees caring for family members at home due to COVID-19-related travel restrictions or closures, such as a school's or day care provider's closure or a state-ordered business closure. The regulations also detail what documentation an employer may require, such as public statements from government officials or a signed employee statement of existing symptoms or need to stay home. Employers can't require a note from a health professional, consistent with CDC [guidance](#).

## Vermont

Vermont's paid sick time law requires employers to provide up to 40 hours of accrued paid leave every year. [COVID-19 FAQs](#) from the state's Department of Labor remind employers and employees that accrued paid sick leave can be used by employees who have COVID-19 or need to care for a sick family member. Under the law, employees can also use accrued sick time when a family member's school or business is closed for public health or safety reasons.

## Washington

The Department of Labor & Industries has posted answers to [common questions on paid sick leave and COVID-19](#). Employees can use paid sick leave if a public official closes their place of business or their child's school or place of care due to COVID-19. Employees can also use PTO for these purposes if paid sick leave is part of the PTO program. However, employers cannot require employees to use to their paid sick leave to cover virus-related absences. The employee can choose when to use accrued paid sick leave.



## 4

# Related resources

### Non-Mercer resources

- [Centers for Disease Control and Prevention resource page](#)
- [Pub. L. No. 116-127, the Families First Coronavirus Response Act](#) (Congress, March 14, 2020)
- Arizona: [FAQs about COVID-19 and Earned Paid Sick Time](#) (Industrial Commission, April 7, 2020)
- California: [COVID-19 SPSL leave posters in English and Spanish](#) (Labor Commissioner)
- California: [COVID-19 website for employers and employees](#) (Employment Development Department)
- California: [FAQs](#) (Department of Industrial Relations)
- California: [AB 1867](#) (Sept. 9, 2020)
- California: [Executive Order N-51-20](#) (April 16, 2020)
- California: [FAQs on labor laws related to COVID-19](#) (Labor Commissioner's Office, April 7, 2020)
- California: [Executive Order No. 25-20](#) (Governor's Office, March 12, 2020)
- California: [Healthy Workplaces, Healthy Families Act of 2014](#)
- Long Beach: [COVID-19 Paid Supplemental Sick Leave Ordinance \(No. 20-0017\)](#) (City Council, June 9, 2020)
- Los Angeles County: [COVID-19 Supplemental Paid Sick Leave Ordinance](#) (Board of Supervisors, April 28, 2020)
- Los Angeles: [Paid sick leave and COVID-19 guidance](#) (Office of Wage Standards, June 11, 2020)
- Los Angeles: [Rules and regulations implementing the public order on SPSL due to COVID-19](#) (Office of Wage Standards, May 26, 2020)
- Los Angeles: [Emergency order on supplemental paid sick leave due to COVID-19](#) (Mayor's Office, April 7, 2020)

- Los Angeles: [COVID-19 Supplemental Paid Sick Leave Ordinance \(No. 20-0147-S39\)](#) (City Council, March 25, 2020)
- Oakland: [FAQs regarding Oakland's Protecting Workers and Communities During a Pandemic — COVID-19 Emergency Paid Sick Leave Ordinance](#), (Office of the City Attorney, July 22, 2020)
- Oakland: [Emergency paid sick leave posters](#) (Contracts and Compliance Division, June 19, 2020)
- Oakland: [Ordinance No. 20-0345](#) (City Council, May 12, 2020)
- Sacramento County: [Worker Protection, Health, and Safety Act of 2020 \(Ordinance No. 1593\)](#) (Board of Supervisors, Sept. 1, 2020)
- Sacramento: [Worker Protection, Health, and Safety Act \(Ordinance No. 2020-0026\)](#) (City Council, June 30, 2020)
- San Francisco: [Paid sick leave ordinance webpage](#)
- San Francisco: [PHELO FAQs](#) (June 15, 2020)
- San Francisco: [Ordinance No. 200355](#) (April 17, 2020)
- San Francisco: [Ordinance No. 200313](#) (Board of Supervisors, April 17, 2020)
- San Francisco: [Guide to reimbursement under the Workers and Families First Program](#) (City and county government, April 8, 2020)
- San Francisco: [Workers and Families First paid sick leave program FAQs](#) (Office of Economic & Workforce Development, March 30, 2020)
- San Francisco: [Paid sick leave & the coronavirus](#) (OLSE, March 24, 2020)
- San Francisco: [Workers and Families First Program](#) (Mayor's Office, March 16, 2020)
- San Jose: [COVID-19 paid sick leave FAQs](#) (Office of Equality Assurance)
- San Jose: [Ordinance No. 30390](#) (City Clerk's Office, April 7, 2020)
- San Mateo County: [Ordinance No. 20-506](#) (Board of Supervisors, July 7, 2020)
- Santa Rosa: [Ordinance No. 2020-006](#) (City Council, July 7, 2020)
- Sonoma County: [Ordinance No. 6320](#), Urgency Paid Sick Leave Ordinance (Board of Supervisors, Aug. 18, 2020)
- Colorado: [Info. No. 6A](#), Paid leave under the HFWA (Department of Labor and Employment, August 2020)

- Colorado: [2020 Ch. 205](#), the Healthy Families and Workplaces Act (HFWA) (Legislature, July 14, 2020)
- Colorado: [Health Emergency Leave with Pay \(HELP\) webpage](#) (DLE, July 14, 2020)
- Colorado: [Health emergency leave with pay \(HELP\) rules](#) (DLE, March 11, 2020, as amended on March 16, April 3, and April 27, 2020)
- Connecticut: [COVID-19 FAQs for workers and employers](#) (Labor Department, June 17, 2020)
- Massachusetts: [FAQs about COVID-19](#) (Office of the Attorney General)
- Michigan: [Executive Order No. 2020-172](#) (Office of the Governor)
- Michigan: [Executive Order No. 2020-166](#) (Office of the Governor)
- Michigan: [Executive Order No. 2020-36](#) (Office of the Governor, April 3, 2020)
- Michigan: [Paid Medical Leave Act FAQs](#) (Bureau of Employment Relations, Feb. 25, 2019)
- Minnesota: [Worker protections related to COVID-19](#) (Department of Labor and Industry, May 28, 2020)
- Duluth, MN: [Earned Sick and Safe Time and COVID-19 FAQs](#) (City Clerk, March 17, 2020)
- Minneapolis, MN: [COVID-19 and the sick and safe time ordinance FAQs](#) (Department of Civil Rights, March 18, 2020)
- Nevada: [Office of Labor Commissioner website](#)
- Nevada: [COVID-19 and paid leave guidance](#) (Office of the Labor Commissioner, March 11, 2020)
- New Jersey: [COVID-19 FAQs for employees](#) (Department of Labor & Workforce Development)
- New Jersey: [2020 Ch. 23](#) (SB 2373) (Legislature, April 14, 2020)
- New Jersey: [2020 Ch. 17](#) (SB 2304) (Legislature, March 25, 2020)
- New Jersey: [2020 Ch. 9](#) (AB 3848) (Legislature, March 20, 2020)
- New Jersey: [Executive Order No. 103](#) (Governor's Office, March 9, 2020)
- New York: [New paid leave for COVID-19](#) (Workers' Compensation Board)
- New York: [Guidance on use of COVID-19 sick leave for healthcare employers](#) (Departments of Health and Labor, June 25, 2020)

- New York: [Guidance on use of COVID-19 sick leave for healthcare employers](#) (Departments of Health and Labor, May 17, 2020)
- New York: 2020 Ch. 25 ([SB 8091](#)), Emergency COVID-19 paid sick leave law (Senate, March 18, 2020)
- Oregon: [COVID-19 FAQs for employers and employees](#) (Wage and Hour Division)
- Philadelphia: [COVID-19 pandemic paid sick leave resources](#) (Office of Labor, Sept. 22, 2020)
- Philadelphia: [Paid sick leave public health emergency amendment](#), No. 200303 (City Council, Sept. 17, 2020)
- Philadelphia: [PSL pandemic amendment for healthcare and pool employees](#), No. 200306 (City Council, Sept. 9, 2020)
- Philadelphia: [Supplemental emergency regulation on COVID-19 and Ch. 9-4100 of the Philadelphia Code](#) (Office of Labor, March 16, 2020)
- Philadelphia: [Paid sick leave resources](#) (City government, Feb. 13, 2020)
- Philadelphia: [City Code Ch. 9-4100, the Promoting Healthy Families and Workplaces \(2015 Ord. No. 141026\)](#) (City Council, Feb. 12, 2015)
- Rhode Island: [COVID-19 workplace fact sheet](#) (Department of Labor and Training, March 25, 2020)
- Vermont: [COVID-19 FAQs for employer and employees](#) (Department of Labor, March 19, 2020)
- Vermont: [Earned sick time law FAQs](#) (Department of Labor, Oct. 22, 2019)
- Washington: [Proclamation 20-67](#) (Governor's Office, Aug. 13, 2020)
- Washington: [Paid sick leave and COVID-19 webpage](#) (Department of Labor & Industries)
- Seattle: [Paid sick and safe time webpage](#) (Office of Labor Standards)
- Seattle: [Paid sick and safe time for gig workers ordinance](#) (City Council, June 12, 2020)
- Seattle: [Emergency Human Rights Rule 70-080](#) (Office of Labor Standards, April 8, 2020)
- Seattle: [Paid sick and safe time amendments](#) (City Council, March 16, 2020)
- Washington, DC: Coronavirus Support Temporary Amendment Act of 2020 ([D.C. Law 23-130](#))
- Washington, DC: [Act 23-328, Coronavirus Support Congressional Review Emergency Amendment Act of 2020](#) (City Council, June 8, 2020)

- Washington, DC: [Act 23-286](#), COVID-19 Response Supplemental Emergency Amendment Act of 2020 (City Council, April 10, 2020)
- Washington, DC: [§ 32–531.01 et seq.](#) (City Council, April 10, 2020)

## **Mercer Law & Policy resources**

- [Roundup: Coronavirus \(COVID-19\) updated resources for employers](#) (regularly updated)
- [Colorado enacts paid sick leave law, emergency leave requirements](#) (Aug. 19, 2020)
- [ME and NV paid accrued leave mandate expands state paid sick leave totals](#) (July 1, 2019)
- [Keeping track of COVID-19 laws affecting employee benefits, jobs](#) (May 4, 2020)
- [Virus aid legislation includes cost-sharing curbs, new leave rights](#) (March 18, 2020)
- [New California laws affect health insurance, leave, other HR policies](#) (Feb. 19, 2020)
- [2020 state paid family and medical leave contributions and benefits](#) (Feb. 14, 2020)

## **Other Mercer resources**

- [Mercer Link's coronavirus community](#) (internal only)
- [Navigating coronavirus](#) (regularly updated)
- [Paid leave: Five considerations for a second COVID wave and beyond](#) (Aug. 20, 2020)
- [Paid leave: Five things to consider as COVID cases rise](#) (Aug. 13, 2020)
- [Designing a COVID-19 emergency leave policy: Four key considerations](#) (March 17, 2020)
- [Update: Rapid action plan on paid leave during the pandemic](#) (March 12, 2020)
- [COVID-19 and paid leave: Three scenarios to plan for](#) (March 5, 2020)

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