



The Families First Coronavirus Response Act SC Department of Juvenile Justice Guidelines

On March 18, 2020, the “Families First Coronavirus Response Act” (FFCRA) was signed into law. The FFCRA contains two different temporary paid leave types related to the 2019 novel coronavirus (COVID-19) that apply to South Carolina state government agencies and institutions:

- **Emergency Paid Sick Leave Act (EPSL):** Provides up to 80 hours of paid sick leave for employees for six qualifying reasons related to COVID-19.
- **Emergency Family and Medical Leave Expansion Act (EFMLA):** Temporarily expands the federal Family and Medical Leave Act to provide leave for employees who are unable to work, including work-from-home, as a result of having to care for a minor child due to a COVID-19 related closure of a school or child care center.

Both paid leave provisions take effect **April 1, 2020**, and both expire **December 31, 2020**. Leave taken under the FFCRA must be taken April 1 – December 31, 2020. Leave may be used at any time from April 1 – December 31, 2020, but paid leave provided under the Act does not carry over from year to year. FFCRA leave cannot be used for absences before April 1, 2020. Under the FFCRA, employees may take EPSL or EFMLA leave intermittently.

The FFCRA and related regulations encourage employers and employees to implement highly flexible work-from-home arrangements that allow employees to perform work, potentially at unconventional times, while tending to family and other responsibilities, such as teaching children whose schools are closed for COVID-19 related reasons. Flexibility in work-from-home arrangements is critical to the FFCRA framework Congress created within the broader national response to COVID-19.

Consistent with the intent of the FFCRA, we are reminded that the directive from Governor Henry McMaster for state agencies to maximize work-from-home opportunities to the greatest extent possible remains in effect. EFMLA and EPSL should only be used by employees if the employee is unable to work and the agency has exhausted all work-from-home opportunities which may exist. Said another way, an employee may only take FFCRA leave if one of the qualifying reasons for leave prevents him/her from performing the work offered.

If an employee is provided with FFCRA leave, the employee is not eligible for unemployment insurance. If an individual has been separated from employment and is collecting unemployment insurance, he/she is not eligible for EPSL or EFMLA. For specific information regarding unemployment benefits and COVID-19, please visit <https://dew.sc.gov/covid-hub>.

Emergency Paid Sick Leave Act

The Emergency Paid Sick Leave Act is a new, temporary form of leave that applies to any public agency, including all South Carolina state government agencies and institutions. Full-time state employees may take up to 80 hours of paid sick leave for one of six qualifying reasons outlined below. Part-time employees are entitled to paid leave for the number of hours equal to the number of hours that such employee works, on average, over a two-week period.

All employees (including temporary, temporary grant and time-limited employees), regardless of how long they have worked for the agency, are eligible for paid sick leave – with the exception of healthcare providers and emergency responders. These exemptions will be provided on an individual or position basis. The following employees, for example, may be excluded from these provisions due to their status as healthcare providers and/or emergency responders:

- Nurses, Doctors, Dentists, Healthcare Assistants, Public Health Personnel
- Public Safety Officers, Investigators, Correctional Institution Personnel
- Child Welfare Workers and Service Providers

An agency must provide paid sick leave if the employee is unable to work or work-from-home because:

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID–19. (Under Governor McMaster’s Executive Order, this applies to SCDJJ employees deemed non-essential or not critical to the continuation of state government functions who are not eligible to telework as they are not able to perform job-related duties from home.)
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID–19.
3. The employee is experiencing symptoms of COVID–19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to an order as described in paragraph 1 or who has been advised as described in paragraph 2. Please note that these individuals include an immediate family member, roommate, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if he or she self-quarantined or was quarantined.
5. The employee is 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 child care provider of such son or daughter is unavailable, due to COVID–19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

If leave is taken for the first three reasons listed in the Act as noted above, the employee is paid their regular rate of pay up to \$511.00 per day or \$5,110 in the aggregate. If leave is taken for any other eligible reason (reasons four through six listed in the Act as noted above), the employee is paid two-thirds of the employee’s regular rate of pay up to a maximum of \$200 per day and \$2,000

in the aggregate. Employees can use any accrued leave to augment leave taken pursuant to the EPSL up to their regular salary rate.

Emergency Family and Medical Leave Expansion Act

The EFMLA amends and expands the federal Family and Medical Leave Act (FMLA), on a temporary basis, to provide qualifying employees 12 weeks of leave if the employee is unable to work, including work-from-home, due to the need to care for the employee's child (under 18 years of age) if the child's school or place of care is closed or the child care provider is unavailable due to a public health emergency.

Employees are eligible to take leave under the EFMLA Act if they have been employed at least 30 calendar days. This includes employees in non-FTE and non-leave accruing positions. If the employee worked as a temporary, time-limited or temporary grant employee and was then transitioned to an FTE position, the total time worked in both positions should be added to determine if the 30-day timeframe has been met. The FFCRA permits employers to exclude an employee who is a health care provider or an emergency responder as described above.

- EFMLA provides 12 workweeks of leave with the first 10 workdays being unpaid. Employees may use any paid leave available concurrently with EFMLA leave during this 10-day period, to include using EPSL for the first 10 workdays.
- The paid leave for eligible employees is calculated at two-thirds of an employee's regular rate of pay and should be based on the number of hours the employee would otherwise be normally scheduled to work. Paid leave under the EFMLA is capped at \$200 per day and \$10,000 in the aggregate. Employees can use any accrued leave to augment leave taken pursuant to the EFMLA up to their regular salary rate.
- If an employee has already taken 12 workweeks of FMLA leave during the applicable 12-month period, they may not take additional leave under the EFMLA.

What's Next?

To apply for the EPSL and/or EFMLA benefits, follow these steps:

1. Discuss with your supervisor whether or not you are able to telecommute and/or whether you fall under one of the qualifying reasons for leave.
2. If you believe that you qualify for leave, complete the attached form(s) and provide supporting documentation pursuant to the provisions of the law.
3. Submit your request form with supporting documentation to the Agency Time and Leave Administrator, Office of Human Resources.
4. Notification will be provided after review.