

Federal Emergency Coronavirus Paid Leave Laws: The Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief and Economic Security (CARES) Act

At the start of the COVID-19 pandemic, 33 million Americans lacked a single day of paid sick time they could use for themselves or to care for a sick family member. With a public health crisis now in effect, it is absolutely essential that we act to ensure that anyone who needs to stay home from work because they or a family member is ill can do so without having to fear for their job or lost wages.

Congress passed the [Families First Coronavirus Response Act](#) (FFCRA) in response to the growing coronavirus emergency; the President signed it into law on March 18, 2020, and it became effective on April 1, 2020. The law contains several important paid leave provisions related to the pandemic. Congress followed the FFCRA by passing a second bill, the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#), which the President signed into law on March 27, 2020, effective immediately. The CARES Act included a number of additional paid leave and unemployment insurance provisions that are also reflected in this fact sheet.

A Better Balance is continuing to work with our partners and members of Congress to address the gaps in this law that leave many workers vulnerable during this pandemic. For model state and local public health emergency leave legislation to expand upon federal law, as well as other fact sheets, guides, and resources around paid leave and COVID-19, please visit <https://www.abetterbalance.org/covid19/>.

Emergency Paid Sick Leave Act

The law includes emergency paid sick leave requirements related to coronavirus, which took effect on April 1, 2020, and expire on December 31, 2020.

Overview of the emergency paid sick leave provisions:

- **The emergency paid sick time requirements apply only to sick time needs related to coronavirus.**
- **The law applies to public agencies regardless of size and private entities that employ fewer than 500 employees.** An employer of a worker who is a health care provider or an emergency responder may elect to exclude such worker from these emergency paid sick leave requirements.
- **The law includes rulemaking exemptions for small businesses, certain health care providers and emergency responders, and certain federal government workers.** The Secretary of Labor has authority to issue regulations for good cause to: (1) exclude certain health care providers and emergency responders from eligibility for emergency paid sick leave, including by allowing such employers to opt those individuals out; and (2) exempt businesses with fewer than 50 employees from the emergency paid sick leave requirements related to school/place of care closures or unavailable child care (see purpose 5 below) when the imposition of such requirements would jeopardize the business' viability. In addition, the Director of the Office of Management and Budget has the authority to exclude certain federal government employees for good cause.

- **Regulations** issued by the Department of Labor define the term “health care provider” (for purposes of the exception) broadly. For example, a health care provider could include anyone (whether or not they themselves are involved in providing medical services) employed by a broad range of health facilities, including doctor’s offices or clinics, hospitals, nursing or retirement homes, medical labs, medical or nursing schools, or pharmacies. In addition, employees of entities that contract with health care providers may be exempted, as may medical services providers, medical manufacturers, or those creating coronavirus-related medicine, tests, or devices.
- The regulations similarly define “emergency responder” broadly, encompassing “anyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19.”
- Under the regulations, businesses with fewer than 50 employees can self-determine they are exempt from providing emergency paid sick leave related to school/place of care closures or unavailable child care because at least *one* of the following criteria applies:
 - “The leave requested . . . would result in the small business’s expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity;”
 - “The absence of the Employee or Employees requesting leave . . . would entail a substantial risk to the financial health or operational capabilities of the business because of their specialized skills, knowledge of the business, or responsibilities;”
 - or
 - “There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the Employee or Employees requesting leave . . . , and these labor or services are needed for the small business to operate at a minimal capacity.”
- **Workers will be entitled to up to 80 hours of emergency paid sick time (although employers can choose to provide more).** Full-time employees will be entitled under the law to 80 hours of paid sick time (the equivalent of 10 eight-hour days). Part-time time employees will be entitled under the law to the number of hours that they work, on average, over a 2-week period.
- **Workers will be able to take time off if the worker is unable to work (or telework) due to a need for leave because of any of the following:**
 - 1) The worker is subject to a federal, state, or local quarantine or isolation order related to coronavirus (which regulations specify includes a general shelter-in-place or similar stay-at-home order);
 - 2) The worker has been advised by a health care provider to self-quarantine due to concerns related to coronavirus;
 - 3) The worker is experiencing coronavirus symptoms and seeking a medical diagnosis;
 - 4) The worker is caring for an individual: who is subject to a federal, state, or local quarantine or isolation order related to coronavirus; or who has been advised by a health care provider to self-quarantine due to concerns related to coronavirus (note: by regulation, an “individual” for whom a worker can care includes a member of the worker’s immediate family, someone with whom the worker shares a home, 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 were quarantined or self-quarantined”);
- 5) The worker is caring for a son or daughter if a school or place of care has been closed due to coronavirus, or the child care provider of the son or daughter is unavailable due to coronavirus (note: “son or daughter,” as under the FMLA, includes a biological, foster, or adopted child, a stepchild, a legal ward, or the child of a person standing in loco parentis under 18 years of age or 18 years of age or older who is incapable of self-care because of a mental or physical disability; in loco parentis refers to someone acting and intending to act as a parent, with no requirement of a legal or biological relationship); or
 - 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 Labor and Secretary of the Treasury.
- **Under Department of Labor regulations, employees may not be eligible for leave if their employer would not otherwise have work for them to do. In such cases, unemployment insurance may be available.**
 - The example the Department of Labor gave to explain this regulation was of a cashier who worked at a coffee shop that closed due to COVID-19 and is subject to a stay at home order. That cashier would not be eligible for paid sick leave according to the DOL because his inability to work is due to the closure. In that case, the cashier should apply for unemployment insurance.
 - **Emergency paid sick leave is available for immediate use by the employee, regardless of how long the individual has been employed by the employer.**
 - **Workers using emergency paid sick leave must be paid the *greater of*:** their regular rate of pay; the federal minimum wage; a state minimum wage where they are employed; or a local minimum wage where they are employed.
 - *However, workers only have to be compensated 2/3 of this amount for emergency paid sick leave used for the purposed numbered (4), (5), and (6) above, which includes caring for another individual.*
 - *Furthermore, compensation cannot exceed \$511 per day and \$5,110 in the aggregate for the purposes of leave numbered (1), (2), and (3) above, regarding the worker’s self-care. For the purposes of leave numbered (4), (5), and (6) above, which includes care of another individual, compensation cannot exceed \$200 per day and \$2,000 in the aggregate.*
 - **After the first workday (or portion thereof) in which an employee receives emergency paid sick leave, an employer may require the individual to follow reasonable notice procedures.**
 - **An employee is able to use emergency paid sick time prior to any existing paid leave, and an employer is prohibited from requiring an employee to use other paid leave first.**
 - **Employers cannot require an employee, as a condition of providing emergency paid sick leave, to be involved in searching for or finding a replacement worker to cover the hours when they are using the leave.**
 - **Emergency paid sick leave will not carry over from one year to the next.**
 - **Under Department of Labor regulations, workers may only take intermittent leave under**

certain circumstances.

- For an employee *reporting to the employer's worksite* (i.e. not teleworking), intermittent leave may only be taken if: 1) the employer and employee mutually agree; *and* 2) the leave is for the purpose of leave numbered 5 above (to care for a child whose school or place of care is closed, or whose child care provider is unavailable, due to COVID-19).
 - For an employee who is *directed or allowed by the employer to telework, or normally works from home*, intermittent leave may be taken for any qualifying purpose of leave as long as the employer and employee mutually agree.
- **The law includes provisions for employment under multi-employer collective bargaining agreements (CBAs).** Employers under these provisions, consistent with the CBA and its bargaining obligations, may fulfill this law's emergency paid sick time requirements by making contributions to a multi-employer fund, plan, or program based on the hours of paid sick time each of its employees is entitled to under this law, as long as the fund, plan, or program allows employees to secure pay from it for the law's emergency paid sick leave purposes.
- **All covered workers are protected when they take sick time.** Workers will be protected against retaliation, including job loss, discipline, and/or discrimination, for using their emergency paid sick leave, filing a complaint, or testifying in an action under the law. In addition, workers taking emergency paid sick leave have the right to the continuation of their health insurance while on leave on the same terms as if they were working.
- **Nothing in the law diminishes other rights or benefits of an employee under the following:** any other federal, state, or local law, collective bargaining agreement, or existing employer policy.

Emergency Family and Medical Leave Expansion Act

The law amends the federal Family and Medical Leave Act (FMLA), effective on April 1, 2020, and terminating on December 31, 2020.

Overview of the emergency family and medical leave expansion:

- **Public health emergency leave:** Until December 31, 2020, the law amends the FMLA to include a need, as described below, related to the coronavirus public health emergency.
- **Purposes for Leave:** Workers can access this public health emergency leave *only* if they are unable to work (or telework) due to a need for leave to care for a son or daughter under 18 years of age—or 18 years of age or older who is incapable of self-care because of a mental or physical disability—if the school or place of care has been closed, or the child care provider of the son or daughter is unavailable, due to a public health emergency related to coronavirus (declared by a federal, state, or local authority). The FMLA's "son or daughter" definition applies, which includes a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* (*in loco parentis* refers to one who is acting and intending to act as a parent, with no requirement of a legal or biological relationship).
- **Under Department of Labor regulations, employees may not be eligible for leave if their employer would not otherwise have work for them to do. In such cases, unemployment insurance may be available.**

- **Eligibility:** Workers are eligible for this public health emergency leave if they are employed by an employer with fewer than 500 employees and they have been employed with their employer for at least 30 calendar days, except that most federal employees are not eligible for leave under this provision. An employer of a worker who is a health care provider or an emergency responder may elect to exclude that worker from the public health emergency leave.
 - Note: Under the 30 calendar days of employment requirement, an employee is still eligible if the individual was laid off by an employer on or after March 1, 2020, had worked for the employer for at least 30 of the last 60 calendar days prior to the individual's layoff, and was rehired by the employer.
- **Rulemaking Exemptions:** The Secretary of Labor has authority to issue regulations for good cause to: (1) exclude certain health care providers and emergency responders from eligibility for the emergency family and medical leave expansion; and (2) exempt businesses with fewer than 50 employees from the emergency family and medical leave expansion's requirements when the imposition of such requirements would jeopardize the business' viability. In addition, the Director of the Office of Management and Budget has the authority to exclude certain federal government employees for good cause.
 - **Regulations** issued by the Department of Labor have construed the health care provider and emergency responder exceptions broadly. See pages 1-2 of this fact sheet for more information on this definition, which is the same for this public health emergency leave expansion as under the emergency paid sick leave provisions of the law described earlier.
 - Under the regulations, businesses with fewer than 50 employees can self-determine they are exempt from providing this public health emergency leave because at least *one* of the following criteria applies:
 - "The leave requested . . . would result in the small business's expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity;"
 - "The absence of the Employee or Employees requesting leave . . . would entail a substantial risk to the financial health or operational capabilities of the business because of their specialized skills, knowledge of the business, or responsibilities;"
 - or*
 - "There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the Employee or Employees requesting leave . . . , and these labor or services are needed for the small business to operate at a minimal capacity."
- **Notice:** If the need for leave is foreseeable, the employee must provide the employer with notice of leave as is practicable.
- **Intermittent Leave:** Intermittent leave can only be taken if the employer and employee mutually agree.
- **Unpaid and Paid Leave Requirements — Workers will be eligible for up to 12 weeks of leave for these new purposes as follows:**

- **The first 10 days of public health emergency leave may be *unpaid***; during these 10 days, an employee may elect to substitute any accrued vacation, personal, medical, or sick leave, including emergency sick leave described in the first section of this fact sheet.
- **An employer must provide *paid leave for each day of public health emergency leave after the first 10 days***. Leave must be paid at an amount not less than 2/3 of the employee's regular rate of pay and based on the number of hours the employee would otherwise normally be scheduled to work. However, an employer is not required to pay more than \$200 per day and \$10,000 in the aggregate for each employee for paid leave under this provision.
- **Job protection/restoration:** Employees who take public health emergency leave under the FMLA expansion are entitled upon return from leave to be restored to their job position or to an equivalent position with equivalent employment benefits, pay, and other terms/conditions of employment. *However, an employer with fewer than 25 employees does not have to restore a worker who took a public health emergency leave to their position if all of the following apply:*
 - The position held by the worker when the leave began no longer exists due to economic conditions or other changes to operating conditions that affect employment and were caused by the public health emergency during the period of leave;
 - The employer made a reasonable effort to restore the employee to an equivalent position with equivalent benefits, pay, and employment terms/conditions; and
 - If the reasonable effort to restore the worker fails, the employer makes reasonable efforts for a period of 1-year to contact the individual if an equivalent position becomes available.
- **Health insurance:** Employees who take public health emergency leave under the FMLA expansion are entitled to continuation of their health insurance while on leave on the same terms as while they are working.
- **Multi-employer collective bargaining agreements (CBAs):** Employers under these provisions, consistent with the CBA and its bargaining obligations, may fulfill this law's emergency family and medical leave requirements by making contributions to a multi-employer fund, plan, or program based on the paid leave each of its employees is entitled to under this law, as long as the fund, plan, or program allows employees to secure pay from it for the law's emergency paid sick leave purposes.

Unemployment Provisions

The CARES Act also includes the following provisions dealing with unemployment benefits:

- **Pandemic Emergency Unemployment Compensation (PEUC):** Subject to certain requirements, workers can receive up to 13 weeks of additional benefits under their state unemployment insurance program after exhausting their regular unemployment insurance benefits.
- **Pandemic Unemployment Assistance (PUA):** Subject to certain requirements, workers who are not eligible for regular unemployment insurance will be eligible for special benefits for up to 39 weeks (counting any weeks that the worker received regular or PEUC unemployment benefits). These benefits will cover workers who are unable to work for one of several specific coronavirus related reasons. PUA will also provide benefits to those who are unemployed or cannot find work

and do not qualify for regular unemployment insurance because they are self-employed, seeking part-time work (in some states), lack sufficient work history, or otherwise do not qualify. These benefits will cover the period from January 27, 2020 to December 31, 2020 and can be paid retroactively (although the additional \$600 a week under PUC is not available for any workers until March 27).

- **Pandemic Unemployment Compensation (PUC):** Workers receiving either regular unemployment insurance (including PUEC) or PUA can receive **an additional \$600** per week in addition to their regular benefit amount from the date of signing of the CARES Act until July 31, 2020.
- **Compensation for first week of unemployment insurance benefits:** States that waive their one-week waiting period for unemployment insurance benefits, meaning the workers can receive benefits from their first week of unemployment, will be reimbursed by the federal government for benefits and administrative costs during that period.
- **All new and additional unemployment benefits under the CARES Act will be paid for by the federal government.**

Tax Provisions

The law also includes the following tax provisions:

- In accordance with certain restrictions and details not outlined here, the law provides employers a tax credit for each calendar quarter (against certain taxes imposed under the Internal Revenue Code) in an amount equal to 100% of the qualified sick leave wages and family leave wages paid by the employer during that quarter (pursuant to both the emergency paid sick leave provisions and paid family leave expansions to the FMLA under this law), not to exceed the applicable compensation caps. This provision does not apply to governments.
 - The law includes provisions that will allow tax credits described above to be refunded in advance.
 - Certain penalties will be waived for a failure to deposit taxes imposed by Sections 3111(a) or 3221(a) of the Internal Revenue Code if the Secretary determines that such failure was due to the anticipation of the tax credits described here.
- In accordance with certain restrictions and details not outlined here, the law also provides a tax credit to certain self-employed individuals in an amount equal to 100% of a “sick leave equivalent amount” (or 67% for the family care provisions where only 2/3 of compensation is available, as discussed earlier) or “family leave equivalent amount” based on days when the individual was unable to perform business services or trade due to sick leave or family leave reasons covered by the emergency provisions of this law. The amount is not to exceed the law’s applicable compensation caps.
- Any wages required to be paid by the emergency paid sick leave and emergency family and medical leave expansion provisions of this law are not considered wages for employer taxation purposes under section 3111(a) of the Internal Revenue Code.

KNOW YOUR RIGHTS: The Families First Coronavirus Response Act FAQ

Congress passed, and the President has signed, the “Families First Coronavirus Response Act” (FFCRA), which is effective from April 1, 2020 to December 31, 2020. Congress also passed and the President signed the “Coronavirus Aid, Relief and Economic Security” (CARES) Act, which is generally effective on March 27, 2020. The CARES Act amended FFCRA with respect to some sick time provisions and also provides expanded unemployment insurance benefits. Below are responses to some Frequently Asked Questions by workers about the new laws as they pertain to paid sick time. You can read A Better Balance’s statement about the passage of FFCRA and how we are fighting for additional protections, [here](#).

1. Am I covered by the FFCRA law?

You are probably covered if you work as a part-time or full-time employee in:

- Any public agency regardless of size; or
- A private entity with less than 500 employees total.

You may also potentially be entitled to tax credits or special unemployment benefits under these laws if you are self-employed (see below).

Please note that there are some exceptions described below. You may be entitled to additional protections under relevant [state or local sick time laws](#).

2. I am not currently able to work or telework because I have coronavirus symptoms and am seeking a diagnosis or have been ordered by the government or advised by a health care provider to quarantine. What can I do to receive income while I’m not working?

You can receive [emergency paid sick time](#) off from your employer (80 hours if you are a full-time worker, or the amount you normally work in a two-week period if you are a part-time worker). You must be paid 100% of either your regular rate of pay or the federal, state, or local minimum wage where you are employed (whichever one is greater). However, your employer isn’t obligated under emergency sick time to pay you more than \$511 per day (\$5,110 total) for personal care, meaning caring for yourself not others.

You may also be eligible for additional income under [state temporary disability insurance](#) or unemployment insurance. Note that many eligibility requirements have changed due to coronavirus, so you should search for information provided by your state about unemployment insurance. In addition to state unemployment insurance, the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#) was passed by Congress, and signed into law. It provides benefits to workers who may need income, even if they are not eligible for emergency sick time or family leave. Please see below for more information.

3. I am not currently able to work or telework because I need to care for someone else who has been ordered by the government or advised by a health care provider to quarantine due to coronavirus.

You may use [emergency paid sick time](#) (80 hours if you are a full-time worker, or the amount you normally work in a two-week period if you are a part-time worker) for this reason at a rate of 2/3 of the greater of either your regular rate of pay or the federal, state, or local minimum wage where you are employed. However, your employer isn't obligated under emergency sick time to provide you more than \$200 per day (\$2,000 total) if you are caring for another individual.

You can take time under this provision to care for a member of your immediate family, someone with whom you share a home, or a similar person where your relationship creates the expectation you would care for that person if that person were quarantined or self-quarantined.

Note that you may not be eligible for leave if your employer would not otherwise have work for you to do (such as if your workplace has shut down and you are not able to telework). In those circumstances, you may be eligible for unemployment insurance.

4. I am not currently able to work or telework because my child's school or daycare is closed due to a public health crisis related to coronavirus, or my child's childcare provider is unavailable due to the coronavirus.

You may use [emergency paid sick time](#) (80 hours if you are a full-time worker, or the amount of time and earnings you normally work in a two-week period if you are a part-time worker) to receive pay while you are out of work. You must be paid 2/3 of the greater of either your regular rate of pay or the federal, state, or local minimum wage where you are employed. However, your employer isn't obligated under emergency sick time to pay you more than \$200 per day or \$2,000 total if you are caring for your child.

If you have been employed by your employer for at least 30 days, then you may also be entitled to up to 12 weeks of [emergency paid family leave](#), but only when your child's school/place of care is closed, or childcare is unavailable, due to coronavirus.

You may be required to follow your employer's notice procedures to use emergency paid family leave, or provide certain documentation. However, the first ten days of emergency paid family leave doesn't have to be paid. During these ten days, you may choose to use your emergency paid sick time described above, or any accrued vacation, personal, emergency sick, or medical leave as income. Afterwards, you must be paid at an amount no less than 2/3 of your regular rate of pay and based on the number of hours you would otherwise normally be scheduled. Under federal law, your employer isn't obligated to provide emergency paid family leave in excess of \$200 per day and \$10,000 total.

Note that you may not be eligible for leave if your employer would not otherwise have work for you to do (such as if your workplace has shut down and you are not able to telework). In those circumstances, you may be eligible for unemployment insurance.

5. Generally, what are the situations for which I can take emergency paid sick time under the law? In particular, if I don't currently have any COVID-19 symptoms, but am afraid I may have been exposed to the virus, can I use emergency paid sick time?

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The law's emergency paid sick time provisions may apply to you if you are experiencing any of the following situations. This law covers workers who are unable to work or telework because they:

- 1) have coronavirus symptoms and are seeking a medical diagnosis;
- 2) are subject to a federal, state, or local quarantine or isolation order related to coronavirus (including a shelter-in-place order or other general order to stay at home or an order affecting those in particular populations, such as those above a certain age);
- 3) have been advised to self-quarantine by a health care provider;
- 4) are caring for a child whose school/childcare has been closed or for whom childcare is unavailable due to coronavirus; or
- 5) are caring for an individual who is subject to a federal, state, or local quarantine or isolation order related to coronavirus, or who has been advised by a health care provider to self-quarantine due to concerns related to coronavirus.

Note that you may not be eligible for leave if your employer would not otherwise have work for you to do (such as if your workplace has shut down and you are not able to telework). In those circumstances, you may be eligible for unemployment insurance.

It's important to note that even if you do not have symptoms currently, if you have been exposed to someone who has coronavirus symptoms or who has tested positive for coronavirus, your health care provider may advise you to self-quarantine and this can be a reason for coverage under the law. Furthermore, you should be aware that even if you are not subject to any isolation orders, you may be able to use any accrued personal or vacation time to take time off of work, or you may have rights under [state or local paid leave laws](#). Finally, if you are afraid to go to work because you have a disability and may be more at risk than others, please see this page about the [Americans with Disabilities Act](#).

6. I work for the federal government—can I use emergency paid sick time?

It depends. Most federal employees may be able to use emergency paid sick time. However, most federal employees, including those who are covered by [Title II](#) of the FMLA, may not be eligible to use emergency family leave. In addition, currently, the CARES Act allows the Director of the Office of Management and Budget to exclude for good cause certain federal employees, including Executive branch employees, from using emergency paid sick time or family leave. You can find specific guidelines on eligibility [here](#). State and local employees are also covered under this law.

7. My state or locality has issued an order (like a shelter in place or stay at home order) preventing me from going into work. Can I use emergency sick leave?

Yes. The FFCRA's emergency paid sick time provision applies in instances where you are not able to work or telework because of a federal, state, or local quarantine or isolation order related to the coronavirus. This includes a shelter in place or stay at home order issued by any government authority.

Note that you may not be eligible for leave if your employer would not otherwise have work for you to do (such as if your workplace has shut down and you are not able to telework). In those circumstances, you may be eligible for unemployment insurance.

8. I was laid off or furloughed because of the coronavirus. What should I do next?

You may want to search for information provided by your state about applying for unemployment

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insurance (see Question #18). If you are furloughed or laid off, you are no longer eligible for paid leave under the law, though your employer must still pay you for any covered leave you had already taken at the time you were laid off or furloughed. However, you should also keep in mind that it is illegal for your employer to fire you or otherwise retaliate against you because you sought to exercise your right to emergency paid sick time or family leave under this law (see Question #19).

9. My hours were cut because of the crisis. Can I use my emergency paid sick time or family leave for the hours I am no longer scheduled to work?

No. You may not use emergency paid sick time or family leave for the hours you are no longer scheduled to work. However, depending on your state's rules, you may qualify for unemployment insurance for your lost income. You may also still use your emergency paid sick time or family leave for hours that you *are* still scheduled to work if you experience a qualifying need.

10. Can I take my emergency paid sick time or family leave intermittently (in smaller chunks, rather than all at one time)?

If you are not teleworking (in other words, you are still going in to your work site), you can only take emergency paid sick time or family leave intermittently if your employer agrees *and* you are taking leave because your child's school or day care is closed or your childcare provider is unavailable. If you are not teleworking, you cannot take leave intermittently for any other reason.

If you are teleworking, you can take emergency paid sick time or family leave intermittently for any covered reason if your employer agrees.

11. Am I eligible for emergency paid sick or family leave if I work for a health care provider or emergency responder?

Maybe. Under rules set by the Department of Labor, your employer *may* choose to exclude you from receiving emergency sick time or family leave if you work for a health care provider or emergency responder. Many different types of employers can be considered health care providers or emergency responders, including doctors' offices or clinics, pharmacies, nursing facilities, medical labs, medical manufacturers, and companies that contract with health care providers. If you have any questions, please contact our helpline [here](#).

12. Are there any exceptions for employees of small businesses?

In some cases, yes. If your employer has fewer than 50 employees *and* you are taking leave because your child's school or day care is closed or your childcare provider is unavailable, your employer may be able to claim an exception to the law if they meet certain criteria for showing that providing that leave would jeopardize the business's viability.

13. Can I get paid emergency sick or family leave if I only work part-time?

Yes. Part-time workers will be paid emergency sick time for the number of hours they work on average over a two-week period.

Part-time workers or workers who have irregular schedules may be paid emergency family leave based

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on the average number of hours worked within a six-month period prior to taking emergency leave. If you have not worked over this six-month period, then you may be paid emergency family leave at a rate of the reasonable expectation at hiring of the average number of hours the employee would normally be scheduled to work.

14. Is there a waiting period before I can use this leave?

The effective date of this law was April 1, 2020. After this date, leave is available immediately for covered employees who have covered absences related to coronavirus.

15. Can I lose my job because I'm taking eligible leave under this federal law to care for myself or someone else?

Generally, no. You are protected against retaliation, including job loss, discipline, and/or discrimination for using your emergency paid sick time or your emergency paid family leave. Your employer must continue your health care coverage on the same terms as if you continued to work if you take emergency paid sick time or family leave. If you use emergency paid family leave, then your employer must restore you to your job position or to an equivalent position with equivalent employment benefits, pay, and other terms/conditions of employment. There is a limited exception to the right to be reinstated, but *not* to the protection against retaliation, for workplaces with less than 25 employees. See [here](#) for more information.

16. What do I have to do to use emergency paid sick time?

As of April 1, 2020, emergency paid sick time is available for immediate use by the employee, regardless of how long you have worked at the place of employment. Your employer can't force you to use your PTO or accrued annual leave before using any emergency sick time. Also, your employer can't require you to find a replacement to cover the hours you are using leave.

17. What protections are available if I am self-employed (such as a freelancer or independent contractor)?

You may be eligible for a tax credit in an amount equal to 100% of a "sick leave equivalent amount" (or 67% for the family care provisions, where only 2/3 of compensation is available) or "family leave equivalent amount" based on days when you were unable to perform work for the reasons outlined above, up to certain caps and other conditions. However, you should know that businesses sometimes call people independent contractors who are actually employees under the law.

You may also be eligible for Pandemic Unemployment Assistance (PUA) under the CARES Act. See below for more information.

18. What protections are available that provide unemployment benefits?

The CARES Act includes several provisions dealing with unemployment benefits that will be paid for by the federal government:

- **Pandemic Emergency Unemployment Compensation (PEUC):** Subject to certain requirements, workers can receive up to 13 weeks of additional benefits under their state unemployment insurance program after exhausting their regular unemployment insurance

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benefits.

- **Pandemic Unemployment Assistance (PUA):** Subject to certain requirements, workers who are not eligible for regular unemployment insurance will be eligible for special benefits for up to 39 weeks (counting any weeks that the worker received regular or PEUC unemployment benefits). These benefits will cover workers who are unable to work for one of several specific coronavirus related reasons. PUA will also provide benefits to those who are unemployed or cannot find work and do not qualify for regular unemployment insurance because they are self-employed, seeking part-time work (in some states), lack sufficient work history, or otherwise do not qualify. These benefits will cover the period from January 27, 2020 to December 31, 2020 and can be paid retroactively (although the additional \$600 a week under PUC is not available for any workers until March 27).
- **Pandemic Unemployment Compensation (PUC):** Workers receiving either regular unemployment insurance (including PEUC) or PUA can receive **an additional \$600** per week in addition to their regular benefit amount from March 27, 2020 until July 31, 2020.

It is important to keep in mind that states which waive their one-week waiting period for unemployment insurance benefits will be reimbursed by the federal government for benefits and administrative costs during that period.

19. What can I do if I think my rights have been violated?

If you feel your rights have been violated, you can file a complaint with the Department of Labor. Different procedures may apply for government employees. If your employer has more than 50 employees, you may also be able to file a lawsuit if your rights to emergency family leave have been violated. For more information, call our free and confidential helpline at 1-833-NEED-ABB (1-833-633-3222).

20. I have more questions. Where can I get free and confidential information about my rights?

If you have a problem or want more information about your rights, call A Better Balance's free and confidential helpline at 1-833-NEED-ABB (1-833-633-3222).

Please note that this FAQ does not represent an exhaustive overview of the Families First Coronavirus Response Act described, and it does not constitute legal advice. It is possible that additional provisions not described in this fact sheet may apply to a worker's specific circumstances or category of employment. Please see this [fact sheet](#) for even more details on the law.

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Coronavirus Paid Leave Tax Credits for Self-Employed Workers

Due to the coronavirus crisis, many self-employed workers, including freelancers, independent contractors, and entrepreneurs, are unable to work. If you are one of them, a new federal law may give you the right to tax credits for the time you cannot work for specific coronavirus-related reasons. This fact sheet explains how these tax credits work.

How to Calculate Your Credits

Calculate Your Average Daily Self-Employment Income

To determine your credits, you will need to know your average daily self-employment income. You can calculate this amount by taking your *net* earnings from self-employment for the taxable year and dividing by 260.

You can only claim these credits for days you could not work for a covered reason between **April 1, 2020 and December 31, 2020**.

Sick Leave Tax Credit

You can receive a tax credit for **up to 10 days total** of sick leave. The amount of the credit will depend on your reason for needing leave.

You can receive a credit of **100% of your average daily self-employment income**, up to a maximum of **\$511/day (\$5,111 total)** for days you cannot work because you:

1. have coronavirus symptoms and are seeking a medical diagnosis;
2. are subject to a federal, state, or local quarantine or isolation order related to coronavirus (including a shelter-in-place order or other general order to stay at home); or
3. have been advised to self-quarantine by a health care provider.

You can receive a credit of **67% of your average daily self-employment income**, up to a maximum of **\$200/day (\$2,000 total)** for days you cannot work because you:

1. need to care for your child because your child's school or childcare has been closed or childcare is unavailable due to coronavirus; or
2. are caring for someone who is subject to a federal, state, or local quarantine or isolation order related to coronavirus, or who has been advised by a health care provider to self-quarantine due to concerns related to coronavirus.

Family Leave Tax Credit

You can receive a tax credit for up to **50 days** of family leave.

You can receive a credit for **67% of your average daily self-employment income**, up to a maximum of **\$200/day (\$10,000 total)** for days you cannot work because you need to care for your child because your child's school or childcare has been closed or childcare is unavailable due to coronavirus.

If you qualify, you can take *both* credits (even if you used your sick leave credit for childcare), up to a maximum of 60 combined days. In addition, if you earn income from both self-employment

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and a traditional job, paid sick or family leave you take from your job for coronavirus-related reasons may count against what you can claim as tax credits.

How to Use Your Credits

Claim Your Credits On Your 2020 Tax Return

You can claim your sick leave and family leave tax credits on your Form 1040 (individual income tax return) for the 2020 tax year.

These credits count against the amount you owe in federal self-employment tax. These credits are *refundable*, meaning that if your credit is larger than the amount of money you owe in self-employment taxes, the excess amount will be refunded to you.

Funding Your Leave & Estimated Tax Payments

To fund your covered sick or family leave, you can reduce your estimated income tax payments by taking into account the amount of the credit(s) you will claim on your 2020 tax return.

Retaining Documentation of Your Leave

To claim your credit, you may need to provide documentation. While the IRS has not specified exactly what will be required, you should keep careful records, including:

- the dates for which you are claiming sick leave or family leave
- the specific reason(s) for leave
- a statement that you cannot perform services in your trade or business (including teleworking) for the qualifying reason
- any supporting documentation you have

If applicable, you should also keep records of:

- the name of the government entity that issued the order of quarantine or isolation
- the name of the health care provider recommending self-quarantine
- the name of the person you are caring for and their relationship to you

If you need sick or family leave because you are caring for a child whose school or daycare is closed or whose childcare provider is unavailable, you should also keep records of:

- the name(s) and age(s) of the child (or children) you are caring for
- the name of the school, place of care, or childcare provider
- a statement that no one else will be caring for the child (or children) during that time
- if you need leave to care for a child older than fourteen during daylight hours, a statement that special circumstances exist requiring you to provide care

If you have further questions, call A Better Balance's free legal clinic at **1-833-NEED-ABB**.

Please note that this fact sheet does not represent an exhaustive overview of the law described, and it does not constitute legal advice. It is possible that additional provisions not described in this fact sheet may apply to your specific circumstances.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK,
Plaintiff,

-v-

UNITED STATES DEPARTMENT OF
LABOR, *et al.*
Defendants.

20-CV-3020 (JPO)

OPINION AND ORDER

J. PAUL OETKEN, District Judge:

The ongoing COVID-19 pandemic has visited unforeseen and drastic hardship upon American workers. In response to this extraordinary challenge, Congress passed the Families First Coronavirus Response Act, which, broadly speaking, entitles employees who are unable to work due to COVID-19’s myriad effects to federally subsidized paid leave. Congress charged the Department of Labor (“DOL”) with administering the statute, and the agency promulgated a Final Rule implementing the law’s provisions. *See* 85 Fed. Reg. 19,326 (Apr. 6, 2020) (“Final Rule”).

The State of New York brings this suit under the Administrative Procedure Act, claiming that several features of DOL’s Final Rule exceed the agency’s authority under the statute. The parties have cross-moved for summary judgment, and DOL has moved to dismiss for lack of standing. For the reasons that follow, the Court concludes that New York has standing to sue and that several features of the Final Rule are invalid. New York’s motion for summary judgment is therefore granted in substantial part, as explained below.

I. Background

“COVID-19 [is] a novel severe acute respiratory illness that has killed . . . more than 1[5]0,000 nationwide” to date. *South Bay United Pentecostal Church v. Newsom*, 140 S. Ct.

1613, 1613 (2020) (Mem.) (Roberts, C.J., concurring in denial of application for injunctive relief); *see also* Centers for Disease Control and Prevention, Coronavirus Disease 2019: Cases and Deaths in the U.S., <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/us-cases-deaths.html> (last visited Aug. 1, 2020). “At this time, there is no known cure, no effective treatment, and no vaccine. Because people may be infected but asymptomatic, they may unwittingly infect others.” *South Bay United Pentecostal Church*, 140 S. Ct. at 1613. Accordingly, social-distancing measures have been taken nationwide, by state and local governments and by civil society, to stem the spread of the virus. The impact on American workers is multifold, as both the infection itself and the public-health response have been dramatically disruptive to daily life and work.

The legislation at the heart of this litigation, the Families First Coronavirus Response Act, is one of several measures Congress has taken to provide relief to American workers and to promote public health. *See* Pub. L. No. 116-127, 134 Stat. 178 (Mar. 18, 2020) (“FFCRA”). Broadly speaking, and as relevant here, the FFCRA obligates employers to offer sick leave and emergency family leave to employees who are unable to work because of the pandemic. By granting the employers a corresponding, offsetting tax credit, Congress subsidizes these benefits, though the employers front the costs.

This litigation involves two major provisions of that law: the Emergency Family and Medical Leave Expansion Act (“EFMLEA”) and the Emergency Paid Sick Leave Act (“EPSLA”).

A. Emergency Family and Medical Leave Expansion Act

As its name suggests, the EFMLEA entitles employees who are unable to work because they must care for a dependent child due to COVID-19 to paid leave for a term of several

weeks.¹ *See* FFCRA §§ 3102(a)(2); 3102(b). Formally, it is an amendment to the Family and Medical Leave Act (“FMLA”), 29 U.S.C. § 2601 *et seq.* Congress ultimately foots the bill for these benefits, by way of a tax credit to the employer or self-employed individual. *See* FFCRA §§ 7003(a), 7004(a).

An employer of “an employee who is a health care provider or emergency responder may elect to exclude such employee” from the benefits provided by the EFMLEA. *See* FFCRA § 3105. The FMLA defines “health care provider” as “a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate),” or “any other person determined by the Secretary to be capable of providing health care services.” 29 U.S.C. § 2611(6)(B).

B. Emergency Paid Sick Leave Act

The EPSLA requires covered employers to provide paid sick leave² to employees with one of six qualifying COVID-19-related conditions. *See* FFCRA §§ 5102, 5110(2). The conditions include that the employee: (1) “is subject to a Federal, State, or local quarantine or isolation order related to COVID-19”; (2) “has been advised by a health care provider to self-quarantine due to concerns related to COVID-19”; (3) “is experiencing symptoms of COVID-19 and seeking a medical diagnosis”; (4) “is caring for an individual subject” to a quarantine or isolation order by the government or a healthcare provider; (5) is caring for a child whose school or place of care is closed, or whose childcare provider is unavailable, because of COVID-19; or (6) “is experiencing any other substantially similar condition specified by the Secretary of Health

¹ The first ten days for which an employee of a covered employer takes emergency family leave under the EFMLEA may be unpaid, but after ten days, employees are entitled to job-protected emergency family leave at two-thirds of their regular wages for another ten weeks. *See* FFCRA § 3102(b) (adding FMLA § 110(b)(2)).

² The EPSLA entitles full-time employees to 80 hours — or roughly two weeks — of job-protected paid sick leave. *Id.* §§ 5102(b)(2)(A), 5104(1).

and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.” *Id.* § 5102(a). In parallel to the EFMLEA’s exemption for healthcare providers, under the EPSLA, an employer may deny leave to an employee with a qualifying condition if the employee “is a health care provider or an emergency responder.” *Id.* The statute specifies that “health care provider” has the same meaning given that term in the FMLA. *Id.* § 5110(4) (citing 29 U.S.C. § 2611). And the Secretary of Labor “may issue regulations to exclude certain health care providers and emergency responders from the definition of employee.” *Id.* § 5111(1). As it does under the EFMLEA, the federal government ultimately covers the cost of the benefits through a tax credit to employers. FFCRA §§ 7001(a), 7002.

C. The Department of Labor’s Final Rule

On April 1, 2020, DOL promulgated its Final Rule implementing the FFCRA.³ As explained in greater detail below, the present challenge relates to four features of that regulation: its so-called “work-availability” requirement; its definition of “health care provider”; its provisions relating to intermittent leave; and its documentation requirements. Broadly speaking, New York argues that each of these provisions unduly restricts paid leave.

On April 14, 2020, New York filed this suit and simultaneously moved for summary judgment. (*See* Dkt. No. 1.) On April 28, 2020, DOL cross-moved for summary judgment and moved to dismiss for lack of standing. (*See* Dkt. No. 24.) Those motions are now fully briefed, and the Court has received the brief of amici curiae Service Employees International and 1199SEIU, United Healthcare Workers East in support of New York.⁴ (*See* Dkt. No. 31.) The Court heard oral argument on May 12, 2020.

³ The Rule was promulgated without notice-and-comment procedures, pursuant to a statutory designation of good cause under the APA. *See* FFCRA §§ 501(a)(3), 5111.

⁴ The unions’ motion to file their amicus brief is granted. (*See* Dkt. No. 31.)

II. Legal Standard

Summary judgment is appropriate when “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). When “a party seeks review of agency action under the APA, the ‘entire case on review is a question of law,’ such that ‘judicial review of agency action is often accomplished by filing cross-motions for summary judgment.’” *Just Bagels Mfg., Inc. v. Mayorkas*, 900 F. Supp. 2d 363, 372 (S.D.N.Y. 2012) (alteration and citation omitted). Sitting as an “appellate tribunal,” the district court must “decid[e], as a matter of law, whether the agency action is . . . consistent with the APA standard of review.” *Zevallos v. Obama*, 10 F. Supp. 3d 111, 117 (D.D.C. 2014) (quoting *Kadi v. Geithner*, 42 F. Supp. 3d 1, 9 (D.D.C. 2012)), *aff’d*, 793 F.3d 106 (D.C. Cir. 2015).

III. Discussion

A. Standing

The Court’s analysis begins with its jurisdiction, specifically the State of New York’s standing to sue. Though DOL styled its objection to New York’s standing as a motion to dismiss pursuant to Rule 12(b)(1), “each element [of standing] must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, *i.e.*, with the manner and degree of evidence required at the successive stages of the litigation.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992). New York has moved for summary judgment on its claims, and it bears the burden of proof at trial to show its own standing. Irrespective of DOL’s labeling, then, New York must demonstrate, through “affidavit or other evidence,” *id.* at 561, that there exists no genuine dispute of material fact that it has standing, as it must do with respect to every element of its claim to obtain summary judgment.

To establish its constitutional standing, New York must demonstrate (1) an injury in fact . . . [that is] concrete and particularized [and] actual or imminent, not conjectural or

hypothetical,” (2) that the injury is “fairly traceable to the challenged action,” and (3) that it is “likely . . . that the injury will be redressed by a favorable decision.” *Lujan*, 504 U.S. at 560 (internal alterations, quotation marks, and citations omitted). All three components of standing — injury-in-fact, causation, and redressability — are contested here.

In the context of state standing, courts generally recognize three types of constitutionally cognizable injuries. First, like a private entity, a state may suffer a direct, proprietary injury, for example, a monetary injury. *See New York v. Mnuchin*, 408 F. Supp. 3d 399, 408 (S.D.N.Y. 2019). Second, a state may suffer an injury to its so-called “quasi-sovereign interests.” *Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 607 (1982). Though the universe of “quasi-sovereign interests” has never been comprehensively defined, it is understood to encompass both “the health and well-being — [p]hysical and economic — of its residents in general,” as well as the state’s interest in “not being discriminatorily denied its rightful status within the federal system.” *Id.* When a state sues to vindicate its quasi-sovereign interests, it is said to be suing in its *parens patriae* capacity. *Id.* (The third type of injury, which is not at issue in this case, is an injury to a sovereign interest, such as “the power to create and enforce a legal code,” *id.*, or those implicated in the “adjudication of boundary disputes or water rights,” *Connecticut v. Cahill*, 217 F.3d 93, 97 (2d Cir. 2000).) Importantly, these categories (proprietary, quasi-sovereign, and sovereign) are not hermetically sealed from one another, and a single act may injure a state in more than one respect.

New York claims that the Final Rule’s challenged features, which either limit paid leave or burden its exercise, impose both proprietary and quasi-sovereign injuries on the state. (*See* Dkt. No. 27 at 3–13.) Without paid leave, New York argues, employees must choose between taking unpaid leave and going to work even when sick. (*See* Dkt. No. 27 at 7–13.) Some

employees will elect the former, the State predicts, diminishing their taxable income and therefore the State's tax revenue. (*See* Dkt. No. 27 at 11–13.) Some will choose the latter, escalating the spread of the virus and thereby raising the State's healthcare costs. (*See* Dkt. No. 27 at 7–10.) And overall, the bind employees are left in will result in greater reliance on various state-administered programs, increasing the State's administrative burden. (*See* Dkt. No. 27 at 10–11.)

These predictions are supported by New York's record evidence, which consists of declarations from public-health and policy experts opining, based on empirical studies, that when paid leave is diminished, fewer sick employees take leave, transmission of flu-like diseases rises, and more employees take unpaid leave. (*See* Dkt. No. 26, Ex. 1, ¶ 17; Dkt. No. 26, Ex. 4 ¶ 12.) Indeed, the Final Rule itself is grounded in an acknowledgement that a dearth of paid leave will result in employees' being "forced to choose between their paychecks and the individual and public health measures necessary to combat COVID-19." Final Rule at 19,335. The evidence also suggests that the predictable consequence of the Final Rule will be less taxable income for the state, because both regular wages and paid leave benefits are taxable income, but unpaid leave generates no taxable income. (*See* Dkt. No. 26, Ex. 3.) Because "[a] state's 'loss of *specific* tax revenues' is a 'direct [proprietary] injury' capable of supporting standing," New York may sue to vindicate this "[e]xpected financial loss." *New York*, 408 F. Supp. 3d at 409 (quoting *Wyoming v. Oklahoma*, 502 U.S. 437, 448 (1992)) (emphasis added).

DOL complains that New York's evidence is insufficient because at summary judgment, the State is required to show "empirical" evidence quantifying these effects "in minimally concrete numbers and terms." (Dkt. No. 30 at 5.) But no precedent requires the Court to disregard non-quantitative evidence, or to demand specific numerical projections. To the

contrary, because even “an identifiable trifle” suffices to demonstrate standing, *United States v. Students Challenging Regulatory Agency Procedures (SCRAP)*, 412 U.S. 669, 689 n.14 (1973), all New York must show is that it will be injured, not the magnitude of its injury. Indeed, the very out-of-circuit precedent cited by DOL eschews any notion that the specific amount of the financial loss, rather than the mere fact of it, must be shown to demonstrate standing. *See Massachusetts v. U.S. Dep’t of Health and Human Servs.*, 923 F.3d 209, 226 (1st Cir. 2019) (“The Departments’ attack on the accuracy of the numbers provided by the Commonwealth misses the point: the Commonwealth need not be exactly correct in its numerical estimates in order to demonstrate an imminent fiscal harm.”); *id.* (“Whether costs to the Commonwealth are above or below this [estimate], they are not zero.”) In urging that New York’s injury is not sufficiently “concretized,” DOL confuses a qualitatively concrete harm, which the standing precedents require, with a quantitatively concrete harm, which has no special constitutional significance.

Nor is the causal chain between the challenged action and the predicted harm too attenuated. The chain consists of few links, none of which DOL can seriously contest: Restricting eligibility and increasing administrative burdens for paid leave will reduce the number of employees receiving paid leave; some employees who need leave will therefore take unpaid leave;⁵ their income will decrease, shrinking the state’s income tax base. Despite the federal government’s characterization, this is hardly an argument “that actions taken by United States Government agencies [will] injure[] a State’s economy and thereby cause[] a decline in general tax revenues.” *Wyoming*, 502 U.S. at 448. To the contrary, it is the specific and

⁵ The Court need not and does not address the alleged diminution in the State’s *sales* tax revenue, which admittedly rests on a more attenuated causal chain.

imminently threatened diminution of an identifiable source of tax revenue. And by the same token, New York’s injury will be redressed by a favorable ruling. *See Carpenters Indus. Council v. Zinke*, 854 F.3d 1, 6 n.1 (D.C. Cir. 2017) (Kavanaugh, J.) (“Causation and redressability typically overlap as two sides of a causation coin [I]f a government action causes an injury, enjoining the action usually will redress that injury.” (citation and internal quotation marks omitted)).

Because the threatened injury to New York’s tax revenue is sufficient to support standing, the Court need not address the state’s alternative theories of standing, namely, the potential burden on its healthcare system or the injury to its quasi-sovereign interests.⁶

⁶ Though the Court does not reach New York’s argument regarding *parens patriae* standing, a few words are in order about that theory. By invoking its *parens patriae* standing, New York invites the Court to enter something of a legal thicket. It is well established that an injury to a State’s quasi-sovereign interest fulfills Article III’s requirement that a State suffer an injury-in-fact. *See Alfred L. Snapp & Son, Inc.*, 458 U.S. at 607. But the courts have also long recognized that generally, at least in constitutional cases, a State may not invoke its *parens patriae* standing against the federal government, because, the traditional justification goes, “[i]n that field, it is the United States, and not the State, which represents them as *parens patriae*.” *Massachusetts v. Mellon*, 262 U.S. 447, 486 (1923). This common-law limitation is known as the “*Mellon* bar,” named for the almost hundred-year-old case in which it was first articulated. *See id.*

The success of New York’s *parens patriae* argument turns on a fundamental but arguably unresolved doctrinal question about the *Mellon* bar: Does *Mellon* apply in suits, like this one, brought by a state to enforce a statute rather than the Constitution? *See Connecticut v. U.S. Dep’t of Commerce*, 204 F.3d 413, 415 n.2 (2d Cir. 2000) (declining to address question). The traditional justification for the judge-made limitation would seem to hold no water in that context, because “[t]he prerogative of the federal government to represent the interests of its citizens . . . is not endangered so long as Congress has the power of conferring or withholding” the statutory right. *Maryland People’s Counsel v. FERC*, 760 F.2d 318, 320 (D.C. Cir. 1985) (Scalia, J.).

New York contends that the Supreme Court’s decision in *Massachusetts v. EPA* definitively resolves this doctrinal question in favor of a state’s *parens patriae* standing in statutory actions. (*See* Dkt. No. 27 at 3–5; *see also* 549 U.S. 497 (2007).) The *Massachusetts* majority’s discussion of *parens patriae* standing is not a paragon of clarity, but that case aside, sound arguments nonetheless still seem to support the conclusion that the *Mellon* bar does not prohibit suits in which Congress has conferred a statutory cause of action upon a state. There is

no serious question that a quasi-sovereign injury satisfies the “irreducible minimum” of *Article III* standing; “[o]therwise the numerous cases allowing *parens patriae* standing in suits not involving the federal government would be inexplicable.” *Maryland People’s Counsel*, 760 F.2d at 321. Moreover, as noted at the outset, the traditional justification for the *Mellon* bar is seemingly inapt in the context of claims involving statutory rights. And the imposition of a judge-made, prudential bar to suit when there exists a constitutional case or controversy and Congress has endowed the litigant with a statutory cause of action is seemingly incongruous with the modern recognition that “a federal court’s obligation to hear and decide” cases within its jurisdiction “is virtually unflagging,” see *Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 128 & n.4 (2014) (internal quotation marks and citation omitted), as well as with basic separation-of-powers principles.

The relevant question, then, would seem to be not whether the state has *constitutional* standing to bring a suit in its *parens patriae* capacity (it does, if it has suffered a quasi-sovereign injury), but rather whether the state has *statutory* standing. Or, to use modern parlance, the relevant question is whether the state’s congressionally conferred cause of action is capacious enough to support a *parens patriae* suit. See *Lexmark*, 572 U.S. at 128 n.4 (2014) (explaining that “prudential standing” is really a question of a litigant’s cause of action). Indeed, even Defendants accept the conclusion that if Congress has furnished a cause of action to New York for this kind of suit, the *Mellon* bar has no application. (See Dkt. No. 25 at 13.) That conclusion squares with the Second Circuit’s approach in *parens patriae* cases involving private defendants, which distinguishes between the question of constitutional injury to a quasi-sovereign interest and statutory standing to bring a *parens patriae* action. See *Connecticut v. Physicians Health Servs. of Connecticut, Inc.*, 287 F.3d 110, 120 (2d Cir. 2002). The touchstone, then, is congressional intent.

The D.C. Circuit, which DOL invokes repeatedly, takes just such an approach. That court has long recognized “that the courts must dispense with [the *Mellon* bar] if Congress so provides.” *Maryland People’s Counsel*, 760 F.2d at 321; see also *Gov’t of Manitoba v. Bernhardt*, 923 F.3d 173, 181 (D.C. Cir. 2019) (“Because the *Mellon* bar is prudential, we have held that the Congress may by statute authorize a State to sue the federal government in its *parens patriae* capacity.”). And though a recent D.C. Circuit opinion, heavily relied upon by the federal government here, held that the general cause of action in the APA did not *alone* evince an intent to authorize *parens patriae* suits by states against the federal government, it withheld judgment on the forfeited argument that the underlying statute forming the basis of the action (in that case, the National Environmental Policy Act) did so. *Id.* n.4. In short, the D.C. Circuit did not adopt a bright-line rule that APA suits can never be brought in a state’s *parens patriae* capacity, but rather indicated that the question may turn on congressional intent as expressed in the *underlying* statute that the litigant claims was violated. That the inquiry might turn on the underlying statute is consistent with direct-injury cases under the APA, where the question of “statutory standing” (*i.e.*, the cause of action) also turns on “the statutory provision whose violation forms the legal basis for his complaint.” *Air Courier Conference of Am. v. Am. Postal Workers Union AFL-CIO*, 498 U.S. 517, 523 (1991) (internal quotation marks and citation omitted).

Having determined that the State possesses standing based on its proprietary injury to its tax revenue, the Court proceeds to the merits.

B. The Work-Availability Requirement

New York’s first challenge goes to a fundamental feature of the regulatory scheme, the work-availability requirement. By way of reminder, the EPSLA grants paid leave to employees who are “unable to work (or telework) due to a need for leave because” of any of six COVID-19-related criteria. FFCRA § 5102(a). The EFMLEA similarly applies to employees “unable to work (or telework) due to a need for leave to care for . . . [a child] due to a public health emergency.” FFCRA § 101(a)(2)(A). The Final Rule implementing each of these provisions, however, excludes from these benefits employees whose employers “do[] not have work” for them. *See* Final Rule at 19,349–50 (§§ 826.20(a)(2), (6), (9), (b)(1)).

The limitation is hugely consequential for the employees and employers covered by the FFCRA, because the COVID-19 crisis has occasioned the temporary shutdown and slowdown of countless businesses nationwide, causing in turn a decrease in work immediately available for employees who otherwise remain formally employed. The work-availability requirement may therefore greatly affect the breadth of the statutory leave entitlements.

The question posed to the Court is whether the work-availability requirement is consistent with the FFCRA. But before turning to that central issue, the Court must address the

That understanding has considerable virtues: it harmonizes *parens patriae* cases with modern standing doctrine, and it confines the *Mellon* doctrine to its justifiable limits. Neither party here, however, has briefed the question of precisely how this Court should discern such congressional intent — for example, whether the normal zone-of-interests test for statutory standing under the APA applies, or whether, in *parens patriae* suits against the federal government, federalism concerns require something more searching. And ultimately, the State’s direct, proprietary injury is sufficient to confer constitutional standing, and the federal government has not disputed that the State possesses a right of action to vindicate that injury. The Court therefore need not decide these thorny academic issues.

antecedent question of the work-availability requirement’s scope. Specifically, in the context of the EPSLA, the express language of the Final Rule applies the work-availability requirement to only three of the six qualifying conditions. *See* Final Rule at 19,349–50 (§ 826.20(a)(2), (6), (9).) DOL nonetheless urges the Court to superimpose the requirement onto the three remaining conditions. In its view, the statute’s language compels the work-availability requirement, and therefore, the Final Rule must be interpreted to apply it to each of the six enumerated circumstances. (*See* Dkt. No. 30 at 8.)

Even if DOL’s statutory premise were correct, however, its conclusion would not follow. No canon of regulatory interpretation requires this Court to adopt a saving construction of the Final Rule, or to interpret it so as to avoid conflict with the statute. To the contrary, the Court must interpret the Final Rule based on its “text, structure, history, and purpose.” *Kisor v. Wilkie*, 139 S. Ct. 2400, 2415 (2019). In arguing that the regulation must be interpreted consistent with the statute, even if such an interpretation is contrary to the regulation’s unambiguous terms, DOL puts the proverbial cart before the horse.⁷

This Court therefore undertakes anew the task of interpreting the Final Rule, and in so doing, concludes that its terms are clear: The work-availability requirement applies only to three

⁷ The doctrine of *Auer* or *Seminole Rock* deference is of no help to DOL here. Just last term, the Supreme Court made clear that “convenient litigating positions” are not entitled to such deference, *Kisor*, 139 S. Ct. at 2417, and DOL has not explained how the interpretation advanced before this Court is anything more than a newly articulated litigating position.

It is true that deference to an interpretation of a regulation embodied in the regulation’s preamble is usually warranted, as it “is evidence of an agency’s contemporaneous understanding of its proposed rules.” *Halo v. Yale Health Plan, Dir. of Benefits & Records Yale Univ.*, 819 F.3d 42, 52–53 (2d Cir. 2016) (citation omitted). But the preamble only reinforces that the work-availability requirement applies only to three of the six qualifying conditions, in that it only mentions the requirement in its discussion of some qualifying conditions. *See* 85 Fed. Reg. 19329–30. And, in any event, even if the preamble supported the agency’s position, it could not countermand the unambiguous terms of the regulation itself.

of the Emergency Paid Sick Leave Act’s six qualifying conditions. Nothing in the Final Rule’s text or structure suggests the requirement applies outside of the three circumstances to which it is explicitly attached. And, as traditional tools of textual interpretation teach, the explicit recitation of the requirement with respect to some qualifying circumstances suggests by negative implication its inapplicability to the other three. *See N.L.R.B. v. SW Gen., Inc.*, 137 S. Ct. 929, 940 (2017). DOL has proffered no reason, apart from its statutory argument, that the regulation should be interpreted to apply the requirement more broadly than the Final Rule’s express terms command. Accordingly, the Court concludes that the work-availability requirement applies only to three of the six qualifying conditions under the EPSLA, as well as family leave under the EFMLEA.

The question remains, however, whether that regime exceeds the agency’s authority under the statute. To answer that question, the Court must apply *Chevron*’s familiar two-step framework. *See Chevron U.S.A. Inc., v. Natural Resources Defense Council*, 467 U.S. 837 (1984). Under *Chevron*, “if the statute is silent or ambiguous with respect to the specific issue,” courts will defer to an agency’s interpretation as long as it is reasonable. 467 U.S. at 843. Thus, at *Chevron*’s first step, the Court must determine whether the statute is ambiguous. *See Catskill Mountains Chapter of Trout Unlimited, Inc. v. Envtl. Prot. Agency*, 846 F.3d 492, 507 (2d Cir. 2017). If it is, the Court must proceed to step two and determine whether the agency’s interpretation of the ambiguous statute is reasonable. *See id.*

The statute here grants paid leave to employees who, in the case of the EPSLA, are “unable to work (or telework) due to a need for leave because” of any of the six qualifying conditions or, in the case of the EFMLEA, are “unable to work (or telework) due to a need for leave to care for” a child due to COVID-19. *See FFCRA* §§ 5102(a), 110(a)(2)(A). According

to DOL, those terms are unambiguous, such that the Court's need not advance to *Chevron*'s second step. Specifically, DOL urges that the terms "due to" (as it appears in both provisions at issue) and "because" *compel* the conclusion that an employee whose employer "does not have work" for them is not entitled to leave irrespective of any qualifying condition. The terms "due to" and "because," DOL argues, imply a but-for causal relationship. If the employer lacks work for the employee, the employee's qualifying condition would not be a but-for cause of their inability to work, but rather merely one of multiple sufficient causes. And, DOL adds, an absence from work due to a lack of work is not "leave."

DOL is correct, of course, that the traditional meaning of "because" (and "due to") implies a but-for causal relationship. *See Bostock v. Clayton Cty., Georgia*, 140 S. Ct. 1731, 1739 (2020). But to say that these terms usually connote but-for causation is not to say that they unambiguously do. Nor does it necessarily follow that the baseline requirement of but-for causation cannot be supplemented with a special rule for the case of multiple sufficient causation. *See Burrage v. United States*, 571 U.S. 204, 214 (2014) (acknowledging that but-for causation, in typical legal usage, is sometimes supplemented with a special rule for multiple sufficient causation). Indeed, as the Supreme Court recently recognized in another statutory context interpreting the term "because,"

Congress could have taken a more parsimonious approach. As it has in other statutes, it could have added 'solely' to indicate that actions taken 'because of' the confluence of multiple factors do not violate the law. *Cf.* 11 U.S.C. § 525; 16 U.S.C. § 511. Or it could have written "primarily because of" *Cf.* 22 U.S.C. § 2688. But none of this is the law we have.

Bostock, 140 S. Ct. 1731, 1739 (2020). Here, the Court cannot conclude that the terms "because" or "due to" unambiguously foreclose an interpretation entitling employees whose

inability to work has multiple sufficient causes — some qualifying and some not — to paid leave.

Nor is the Court persuaded that the term “leave” requires that the inability to work be caused solely by a qualifying condition. “Leave,” DOL argues, connotes “authorized especially extended absence from duty or employment,” or “time permitted away from work, esp[ecially] for a medical condition or illness or for some other purpose.” (*See* Dkt. No. 25 at 23 (first quoting Definition of Leave, Merriam-Webster, <https://www.merriam-webster.com/dictionary/leave> (last accessed Aug. 2, 2020), and then quoting Definition of Leave, Cambridge Dictionary, <https://dictionary.cambridge.org/us/dictionary/english/leave> (last accessed Aug. 2, 2020).) But those definitions can accommodate New York’s view as well as DOL’s. An employee may need leave (*i.e.*, an agreed-upon and permitted absence from work) tethered to one reason even if her employer has no present work for her due to some other reason. For example, in ordinary usage, a teacher on paid parental leave may still be considered on “leave” even if school is called off for a snow day.

New York, for its part, argues that the statute unambiguously forecloses DOL’s argument. (*See* Dkt. No. 4 at 8–10.) The statute, New York notes, both uses mandatory language to describe the obligation to provide paid leave and contains several express exceptions to that obligation, suggesting the absence of other implied limitations. (*See* Dkt. No. 4 at 8.) But those features of the statute are entirely consistent with DOL’s interpretation. The causation requirement in the Final Rule is not an additional, implicit exception, nor a negation of the mandatory nature of the leave obligations, but rather a limiter of the universe of individuals who qualify for the leave in the first instance. The statutory regime cannot be implemented without ascribing *some* causal requirement to the causal language, and doing so is not tantamount to

adding an additional, exogenous criterion. New York also perceives a conflict between requiring but-for causation and the broader remedial goals of the statute, given that the Final Rule would dramatically narrow the pool of employees entitled to leave as compared to New York’s preferred interpretation. (See Dkt. No. 4 at 10–11.) But any such conflict is immaterial at *Chevron*’s first step, where the Court’s charge is only to determine whether the statute’s text is ambiguous. And in any event, that Congress’s aim in passing the statute was remedial does not require that every provision of the statute be read to unambiguously be given maximal remedial effect. The statute, like virtually all statutes, reflects a balance struck by Congress between competing objectives.

The statute’s text, the Court concludes, is ambiguous as to whether it requires but-for causation in all circumstances, or instead whether some other causal relationship — specifically, multiple sufficient causation — satisfies its eligibility criteria. The Court must therefore proceed to *Chevron*’s second step.

At its second step, *Chevron* requires an inquiry into “whether the agency’s answer [to the interpretive question] is based on a permissible construction.” *Catskill Mountains*, 846 F.3d at 520 (quoting *Mayo Found. for Med. Educ. & Research v. United States*, 562 U.S. 44, 54 (2011)). A reviewing court should not “disturb an agency rule at *Chevron* step two unless it is ‘arbitrary or capricious in substance, or manifestly contrary to the statute.’” *Id.* Even under this deferential standard of review, interpretations “arrived at with no explanation,” like interpretations “picked out of a hat,” are unacceptable, even if they “might otherwise be deemed reasonable on some unstated ground.” *Catskill Mountains*, 846 F.3d at 520.

The Final Rule’s work-availability requirement fails at *Chevron* step two, for two reasons. First, as to the EPSLA, the Final Rule’s differential treatment of the six qualifying

conditions is entirely unreasoned. Nothing in the Final Rule explains this anomaly. And that differential treatment is manifestly contrary to the statute's language, given that the six qualifying conditions share a single statutory umbrella provision containing the causal language. *See* FFCRA § 5102(a). Second, and more fundamentally, the agency's barebones explanation for the work-availability requirement is patently deficient. The requirement, as an exercise of the agency's delegated authority, is an enormously consequential determination that may considerably narrow the statute's potential scope. In support of that monumental policy decision, however, the Final Rule offers only *ipse dixit* stating that "but-for" causation is required. *See, e.g.*, Final Rule at 19329 (reasoning that the work-availability requirement is justified "because the employee would be unable to work even if he or she" did not have a qualifying condition). That terse, circular regurgitation of the requirement does not pass *Chevron's* minimal requirement of reasoned decision-making. The work-availability requirement therefore fails *Chevron's* second step.

C. Definition of "Health Care Provider"

The State of New York next contends that the Final Rule's definition of a "health care provider" exceeds DOL's authority under the statute. (*See* Dkt. No. 4 at 11–16.) Because employers may elect to *exclude* "health care providers" from leave benefits, the breadth of the term "health care provider" has grave consequences for employees.

The FMLA, which supplies the relevant statutory definition for both provisions of the FFCRA at issue, defines a "health care provider" as: "(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or (B) any other person determined by the Secretary to be capable of providing health care services." 29 U.S.C. § 2611(6). The Final Rule's definition is worth quoting at

length; invoking the Secretary’s authority under subsection (B), it defines a “health care provider” for the purposes of the FFCRA leave provisions as:

anyone employed at any doctor’s office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, Employer, or entity. This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions,

as well as

any individual employed by an entity that contracts with any of these institutions described above to provide services or to maintain the operation of the facility where that individual’s services support the operation of the facility, [and] anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments.

Final Rule at 19,351 (§ 826.25). The definition, needless to say, is expansive: DOL concedes that an English professor, librarian, or cafeteria manager at a university with a medical school would all be “health care providers” under the Rule. (*See* Dkt. No. 25 at 29.)

Returning to *Chevron*’s first step, the Court concludes that the statute unambiguously forecloses the Final Rule’s definition. The broad grant of authority to the Secretary is not limitless. The statute requires that the Secretary determine that the *employee* be capable of furnishing healthcare services. It is the “person” — *i.e.*, the employee — that the Secretary must designate. 29 U.S.C. § 2611(6). And the Secretary’s determination must be that the person is *capable of providing healthcare services*; not that their work is remotely related to someone else’s provision of healthcare services. Of course, this limitation does not imply that the Secretary’s designation must be made on an individual-by-individual basis. But the statutory text requires at least a minimally role-specific determination. DOL’s definition, however, hinges

entirely on the identity of the *employer*, in that it applies to anyone employed at or by certain classes of employers, rather than the skills, role, duties, or capabilities of a class of employees.

DOL nonetheless urges that its definition is consistent with the context in which the term is used. The term “health care provider,” as used in the FFCRA, serves to exempt employees who are essential to maintaining a functioning healthcare system during the pandemic. *See* Final Rule at 19,335. A broad definition of “health care provider” operationalizes that goal, because employees who do not directly provide healthcare services to patients — for example, lab technicians or hospital administrators — may nonetheless be essential to the functioning of the healthcare system. (*See* Dkt. No. 25 at 28.) But that rationale cannot supersede the statute’s unambiguous terms. And, in any event, the Final Rule’s definition is vastly overbroad even if one accepts the agency’s purposivistic approach to interpretation, in that it includes employees whose roles bear *no nexus whatsoever* to the provision of healthcare services, except the identity of their employers, and who are not even arguably necessary or relevant to the healthcare system’s vitality. Think, again, of the English professor, who no doubt would be surprised to find that as far as DOL is concerned, she is essential to the country’s public-health response. The definition cannot stand.⁸

⁸ New York levies an additional challenge against the definition of “health care provider.” The Final Rule purports to define a “health care provider” solely for the purposes of the EFMLEA and EPSLA, while leaving in place the narrower definition in pre-existing regulations implementing the FMLA. The definition, New York claims, must track the definition ascribed to the same words elsewhere in the FMLA, because the same provision gives the definition of “health care provider” for both relevant sections the FFCRA and for the remainder of the FMLA. (*See* Dkt. No. 4 at 15–16.) But the Supreme Court has occasionally suggested that an agency may interpret a shared term differently across various sections of a statute, even if the statute provides a single statutory definition, as long as the different definitions individually are reasoned and do not exceed the agency’s authority. *See, e.g., Barber v. Thomas*, 560 U.S. 474, 574–75 (2010); *but see id.* at 582–83 (Thomas, J., dissenting). Nonetheless, because the Court rejects the Final Rule’s definition on other grounds, it has no occasion to consider whether the differentiation is permissible.

D. Intermittent Leave

New York next argues that the regulation’s prohibition on intermittent leave exceeds DOL’s authority under the statute. The Final Rule permits “employees to take Paid Sick Leave or Expanded Family and Medical Leave intermittently (*i.e.*, in separate periods of time, rather than one continuous period) only if the Employer and Employee agree,” and, even then, only for a subset of the qualifying conditions. *See* Final Rule at 19,353 (§§ 826.50(a)-(c)). By constraining the exercise of intermittent leave to “circumstances where there is a minimal risk that the employee will spread COVID-19 to other employees,” the Final Rule balances the statute’s goals of employee welfare and public health. *Id.* at 19,337.

The parties again disagree on the meaning of the regulations. New York reads the regulations to require employees to take *any* qualifying leave in a single block, and that any leave not taken consecutively in a single block is thereafter forfeited. (*See* Dkt. No. 4 at 17–20.) On this understanding, an employee who took two days off while seeking a COVID-19 diagnosis but thereafter returned to work could not take any additional EFMLEA leave, even if the employee later developed a different qualifying condition. DOL responds that the regulations forbid intermittent leave only for any *single* qualifying reason. (*See* Dkt. No. 25 at 30–31.) Thus, if the employee returns to work after taking two days of qualifying leave while seeking a diagnosis, the employee may later take more paid leave if she develops another qualifying condition.

This time, the language of the regulation favors DOL’s view. The Final Rule states that “[o]nce the Employee begins taking Paid Sick Leave for one or more of [the reasons for which intermittent leave is forbidden], the Employee must use the permitted days of leave consecutively until the Employee no longer has a qualifying reason to take Paid Sick Leave.” Final Rule at 19,353. That provision, however, says nothing about forfeiting *remaining* days of

leave after leave is taken intermittently. The most natural reading of the provision, then, squares with the interpretation advanced by DOL: An employee taking leave for an intermittent-leave-restricted reason must take his or her leave consecutively until his or her need for leave abates. But once the need for leave abates, the employee retains any remaining paid leave, and may resume leave if and when another qualifying condition arises. That understanding is also in harmony with the Rule’s stated justification for the restriction, which, as discussed in more detail below, relates to the public-health risk of an employee who may be infected with COVID-19 returning to work before the risk of contagion dissipates.

Turning to the heart of New York’s challenge, the Court concludes that the intermittent-leave constraints, as properly interpreted, are largely though not entirely consistent with the FFCRA. Congress did not address intermittent leave at all in the FFCRA; it is therefore precisely the sort of statutory gap, under *Chevron* step one, that DOL’s broad regulatory authority empowers it to fill. FFCRA § 5111(3) (delegating the authority to the Secretary to promulgate regulations “as necessary, to carry out the purposes of this Act”); *see id.* § 3102(b), *amended by* CARES Act § 3611(7) (same). Moreover, Congress knows how to address intermittent leave if it so desires; the FFCRA’s silence contrasts with the presence of both affirmative grants and affirmative proscriptions on intermittent leave in the FMLA. *See* 29 U.S.C. § 2612(b)(1). Unlike in those instances, in the context of the FFCRA, Congress left this interstitial detail to the agency’s expert decision-making. And though New York points to several provisions in the FFCRA that would be nonsensical if leave could not be accrued incrementally (*see* Dkt. No. 4 at 18–20), those provisions cohere with the Final Rule’s intermittent leave restrictions as properly interpreted, because the Final Rule as construed contemplates leave taken in multiple increments, as long as each increment is attributable to a

different instance of qualifying conditions. DOL's intermittent-leave rules are therefore entitled to deference if they are reasonable. *See Woods v. START Treatment & Recovery Centers, Inc.*, 864 F.3d 158, 168 (2d Cir. 2017).

The intermittent-leave provisions falter in part, however, at *Chevron's* second step. Under the Final Rule, intermittent leave is allowed for only certain of the qualifying leave conditions, and, even then, only if the employer agrees to permit it. Final Rule at 19,353 (§§ 826.50(a)-(c)). The conditions for which intermittent leave is entirely barred are those which logically correlate with a higher risk of viral infection.⁹ As explained in the Final Rule's preamble, this restriction advances Congress's public-health objectives by preventing employees who may be infected or contagious from returning intermittently to a worksite where they could transmit the virus. *See id.* at 19,337. Fair enough. But that justification, while sufficient to explain the Final Rule's *prohibitions* on intermittent leave for qualifying conditions that correspond with an increased risk of infection, utterly fails to explain why employer *consent* is required for the remaining qualifying conditions, which concededly do not implicate the same public-health considerations. For example, as the Final Rule explains, if an employee requires paid leave "solely to care for the employee's son or daughter whose school or place of care is closed," the "absence of confirmed or suspected COVID-19 in the employee's household reduces the risk that the employee will spread COVID-19 by reporting to the employer's

⁹ These include leave because employees: are subject to government quarantine or isolation order related to COVID-19, have been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19, are experiencing symptoms of COVID-19 and are taking leave to obtain a medical diagnosis, are taking care of an individual who either is subject to a quarantine or isolation order related to COVID-19 or has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19, or are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

worksite while taking intermittent paid leave.” Final Rule at 19,337. The Final Rule therefore acknowledges that the justification for the bar on intermittent leave for certain qualifying conditions is inapplicable to other qualifying conditions, but provides no other rationale for the blanket requirement of employer consent. Insofar as it requires employer consent for intermittent leave, then, the Rule is entirely unreasoned and fails at *Chevron* step two. It survives *Chevron* review insofar as it bans intermittent leave based on qualifying conditions that implicate an employee’s risk of viral transmission.

E. Documentation Requirements

Finally, New York argues that the Final Rule’s documentation requirements are inconsistent with the statute. (*See* Dkt. No. 4 at 21–23.) The Final Rule requires that employees submit to their employer, “prior to taking [FFCRA] leave,” documentation indicating, *inter alia*, their reason for leave, the duration of the requested leave, and, when relevant, the authority for the isolation or quarantine order qualifying them for leave. *See* Final Rule at 19,355 (§ 826.100). But the FFCRA, as New York points out, contains a reticulated scheme governing prior notice. With respect to emergency paid family leave, the EFMLEA provides that, “[i]n any case where the necessity for [leave] is foreseeable, an employee shall provide the employer with such notice of leave as is practicable.” FFCRA § 3102(b) (adding FMLA § 110(c)). And with respect to paid sick leave, the EPSLA provides that “[a]fter the first workday (or portion thereof) an employee receives paid sick time under this Act, an employer may require the employee to follow reasonable notice procedures in order to continue receiving such paid sick time.” *Id.* § 5110(5)(E). To the extent that the Final Rule’s documentation requirement imposes a different and more stringent precondition to leave, it is inconsistent with the statute’s unambiguous notice provisions at fails at *Chevron* step one.

The federal government urges the Court to distinguish between the question of prior notice (which is what the statutory scheme addresses) and documentation requirements (which is what the regulation describes). (*See* Dkt. No. 33–34.) But a blanket (regulatory) requirement that an employee furnish documentation *before taking leave* renders the (statutory) notice exception for unforeseeable leave and the statutory one-day delay for paid sick leave notice completely nugatory. Labels aside, the two measures are in unambiguous conflict. The federal government also contends that the documentation requirements are not onerous (*see* Dkt. No. 34 at 25); be that as it may, the requirement is an unyielding condition precedent to the receipt of leave and, in that respect, is more onerous than the unambiguous statutory scheme Congress enacted. The documentation requirements, to the extent they are a precondition to leave, cannot stand.

F. Severability

The APA requires courts to “hold unlawful and set aside agency action” that is not in accordance with law or in excess of statutory authority. 5 U.S.C. § 706(2). “Agency action” may include “the whole or a part of an agency rule.” 5 U.S.C. § 551(13). “Thus, the APA permits a court to sever a rule by setting aside only the offending parts of the rule.” *Carlson v. Postal Regulatory Comm’n*, 938 F.3d 337, 351 (D.C. Cir. 2019). To that end, the “‘invalid part’ of a statute or regulation ‘may be dropped if what is left is fully operative as a law,’ absent evidence that ‘the [agency] would not have enacted those provisions which are within its power, independently of that which is not.’” *United States v. Smith*, 945 F.3d 729, 738 (2d Cir. 2019) (quoting *Buckley v. Valeo*, 424 U.S. 1, 108 (1976)).

Here, New York contends that each offending portion of the Final Rule is severable from the remainder of the Final Rule. (*See* Dkt. No. 4 at 23–25.) DOL does not dispute the provisions’ severability, and the Court sees no reason that the remainder of the Rule cannot

operate as promulgated in the absence of the invalid provisions. The following portions, and only the following portions, of the Final Rule are therefore vacated: the work-availability requirement; the definition of “health care provider”; the requirement that an employee secure employer consent for intermittent leave; and the temporal aspect of the documentation requirement, that is, the requirement that the documentation be provided before taking leave. The remainder of the Final Rule, including the outright ban on intermittent leave for certain qualifying reasons and the substance of the documentation requirement, as distinguished from its temporal aspect, stand.

The Court acknowledges that DOL labored under considerable pressure in promulgating the Final Rule. This extraordinary crisis has required public and private entities alike to act decisively and swiftly in the face of massive uncertainty, and often with grave consequence. But as much as this moment calls for flexibility and ingenuity, it also calls for renewed attention to the guardrails of our government. Here, DOL jumped the rail.

G. Conclusion

For the foregoing reasons, Defendants’ motion to dismiss is DENIED. Plaintiff’s motion for summary judgment is GRANTED as to the work-availability requirement, the definition of “health care provider,” and the temporal aspect of the documentation requirements, and is GRANTED in part and DENIED in part as to the intermittent-leave provision. Defendants’ motion for summary judgment is GRANTED in part as to the intermittent-leave prohibition, and is otherwise DENIED.

The Clerk of Court is directed to close the motions at Docket Numbers 3, 24, and 31.

SO ORDERED.

Dated: August 3, 2020
New York, New York



J. PAUL OETKEN
United States District Judge

Emergency Paid Sick Leave Tracker: State, City, and County Developments

In response to the COVID-19 pandemic, states, cities, and counties throughout the U.S. have acted to protect workers affected by the virus by enacting emergency paid sick leave policies. This document tracks the growing list of emergency paid sick leave measures at the state and local level, and it will be updated with new developments periodically. Please note that this document is not exhaustive and only lists jurisdictions that have exceeded the federal [Families First Coronavirus Response Act](#) (FFCRA) requirements, and it does not include cities and states that have codified the FFCRA's requirements for state or local workers. For more information related to COVID-19, please see A Better Balance's website at <https://www.abetterbalance.org/covid19/>.

Jurisdiction	Link to Text	Type	Basic Summary	Effective Period
Arizona	https://www.azica.gov/sites/default/files/media/03-17-20%20FREQUENTLY%20ASKED%20QUESTIONS%20RE%20COVID-19_MasterwTOC%20FINAL.pdf	Administrative guidance	Clarifies that sick leave provided by the state's permanent law can be used for specified reasons related to COVID-19. For more information about paid sick time rights in Arizona, click here .	The guidance was issued in response to COVID-19 and does not expire.
California	https://www.gov.ca.gov/wp-content/uploads/2020/04/4.16.20-EO-N-51-20.pdf	Executive order	Emergency paid leave for food sector workers (defined in the order) for specified reasons related to COVID-19. For more information about paid sick time rights in California, click here .	April 16, 2020 until the date that California's statewide stay-at-home order is lifted
	https://www.dir.ca.gov/dlse/2019-Novel-Coronavirus.htm	Administrative guidance	Clarifies that sick leave provided by the state's permanent law can be used for specified reasons related to COVID-19.	The guidance was issued in response to COVID-19 and does not expire.
Colorado	https://leg.colorado.gov/sites/default/files/2020a_205_signed.pdf	Legislation	Emergency paid sick leave for workers not covered under the federal FFCRA's emergency paid sick leave provisions, in the amount and for the purposes provided in the federal law. Note that the legislation in Colorado also passed a permanent paid sick time law that will take effect on January 1, 2021. For more information on the Colorado law, click here .	The emergency leave portion of the law became effective upon signing on July 14, 2020 and is effective until December 31, 2020.
Massachusetts	https://www.mass.gov/service-details/frequently-asked-questions-about-covid-19-employee-rights-and-employer-obligations	Administrative guidance	Clarifies that sick leave provided by the state's permanent law can be used for specified reasons related to COVID-19. For more information about paid sick time rights in Massachusetts, click here .	The guidance was issued in response to COVID-19 and does not expire.

Emergency Paid Sick Leave Tracker: State, City, and County Developments

Michigan	https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-524136--,00.html	Executive order	Emergency leave for certain workers for specified reasons related to COVID-19. For more information about paid sick time rights in Michigan, click here .	April 3, 2020 until the date when Michigan is no longer in States of Emergency and Disaster
New Jersey	https://www.njleg.state.nj.us/2020/Bills/S2500/2304_11.PDF	Legislation	Expands the purposes for which sick leave and paid family and medical leave can be used under the state's permanent law during a declared state of emergency or when ordered/recommended to quarantine due to exposure to a communicable illness. For more information about paid sick time rights in New Jersey, click here .	The emergency law became effective on March 25, 2020 and is permanent.
New York	https://assembly.state.ny.us/leg/?default_fld=&bn=S08091&term=2019&Summary=Y&Actions=Y&Text=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y#S08091	Legislation	Emergency paid leave for covered workers for specified reasons related to COVID-19.* For more information, see A Better Balance's fact sheet about this emergency law. Note that New York State also passed a permanent paid sick time law in April 2020, and workers will be able to use their accrued time under that law starting January 1, 2021.	The emergency law became effective on March 18, 2020 and does not expire.
Oregon	https://www.oregon.gov/boli/WHI/OST/pages/index.aspx	Administrative guidance	Clarifies that sick leave provided by the state's permanent law can be used for specified reasons related to COVID-19. For more information about paid sick time rights in Oregon, click here .	The guidance was issued in response to COVID-19 and does not expire.
Washington, D.C.	https://aboutblaw.com/P7k;https://lims.dccouncil.us/downloads/LIMS/45021/Signed_Act/B23-0758-Signed_Act.pdf	Legislation	Emergency paid leave for certain employees for specified reasons related to COVID-19. For more information about paid sick time rights in Washington, D.C., click here .	The emergency measure is in effect from April 10, 2020 and through amendments, will remain effective until February 17, 2021 (could be extended).
Washington State	https://lni.wa.gov/agency/outreach/paid-sick-leave-and-coronavirus-covid-19-common-questions	Administrative guidance	Clarifies that sick leave provided by the state's permanent law can be used for specified reasons related to COVID-19. For more information about paid sick time rights in Washington State, click here .	The guidance was issued in response to COVID-19 and does not expire.

Emergency Paid Sick Leave Tracker: State, City, and County Developments

Emeryville, CA	http://www.ci.emeryville.ca.us/DocumentCenter/View/12679/Emeryville-PSL-GuidanceCoronavirus-final	Administrative guidance	Clarifies that sick leave provided by the city's permanent law can be used for specified reasons related to a public health emergency. For more information about paid sick time rights in Emeryville, click here .	The guidance was issued in response to COVID-19 and does not expire.
Long Beach, CA	http://longbeach.legistar.com/View.ashx?M=F&ID=8561955&GUID=FF810516-C2AE-439B-9AEA-598238F94463	Legislation	Emergency paid leave for certain workers not covered by the federal FFCRA for specified reasons related to COVID-19.	The ordinance is effective beginning May 19, 2020; the City Council will determine a sunset date based on reports every 90 days.
Los Angeles, CA	https://www.lamayor.org/sites/g/files/wph446/f/page/file/20200519%20Mayor%20Public%20Order%20SUPPLEMENTAL%20PAID%20SICK%20LEAVE%20Revised.pdf	Executive order	Emergency paid leave for certain workers not covered by the federal FFCRA for specified reasons related to COVID-19. Note that the Mayor's executive order suspended and superseded earlier emergency leave legislation passed by the City Council. For more information about paid sick time rights in Los Angeles, click here .	April 7, 2020 until 2 calendar weeks after the date of expiration of the COVID-19 local emergency period
	https://wagesla.lacity.org/sites/g/files/wph471/f/PSLCOVID20200318.pdf	Administrative guidance	Clarifies that sick leave provided by the city's permanent law can be used for specified reasons related to a public health emergency.	The guidance was issued on March 18, 2020 and does not expire.
Los Angeles County, CA	http://file.lacounty.gov/SDSInter/bos/supdocs/145514.pdf	Legislation	Emergency paid leave for certain workers not covered by the federal FFCRA for specified reasons related to COVID-19.	Although the law took effect in April 2020, it requires employers to provide emergency leave as of March 31, 2020. The law is in effect until December 31, 2020.
Oakland, CA	https://cao-94612.s3.amazonaws.com/documents/EPSTL-FINAL-corrected-amended-5-12-20-	Legislation	Emergency paid leave for certain employees for specified reasons related to COVID-19. For more information about paid sick time rights in Oakland, click here .	May 12, 2020 until December 31, 2020, unless extended by a resolution of the City

Emergency Paid Sick Leave Tracker: State, City, and County Developments

	Council-corrected.pdf			Council.
Sacramento, CA	https://www.californiaworkplacelawblog.com/wp-content/uploads/sites/867/2020/07/2020-0026.pdf	Legislation	Emergency paid leave for certain workers not covered by the federal FFCRA for specified reasons related to COVID-19.	July 15, 2020 until December 31, 2020
San Diego, CA	https://www.sandiego.gov/sites/default/files/esl_covidFAQ.pdf	Administrative guidance	Clarifies that sick leave provided by the city's permanent law can be used for specified reasons related to COVID-19. For more information about paid sick time rights in San Diego, click here .	The guidance was issued in response to COVID-19 and does not expire.
San Francisco, CA	https://sfgov.legistar.com/View.ashx?M=F&ID=8256102&GUID=D72AD621-6A22-43B3-AF8B-A447165D6984	Legislation	Emergency paid leave for certain workers not covered by the federal FFCRA for specified reasons related to COVID-19. For an FAQ from the San Francisco Office of Labor Standards Enforcement, click here . For more information about paid sick time rights in San Francisco, click here .	April 17, 2020 until August 16, 2020 or upon the termination of the local emergency order declared by the Mayor on Feb. 25, 2020, whichever occurs first.
	https://sfgov.org/olse/sites/default/files/OLSE%20Guidance%20-%20PSLO%20-%20Coronavirus%20-%20Updated%2003.24.20.pdf	Administrative guidance	Clarifies that sick leave provided by the city's permanent law can be used for specified reasons related to a public health emergency. Also, includes a temporary rule, which bans employers from requesting a doctor's note or other documentation from employees taking leave under the city's permanent sick leave ordinance.	The guidance was issued in response to COVID-19 and does not expire. However, the temporary rule is in effect from March 24, 2020 until the date the local health emergency regarding COVID-19 ends.
San Jose, CA	https://records.sanjoseca.gov/Ordinances/ORD30390.pdf	Legislation	Emergency paid leave for certain workers not covered by the federal FFCRA for specified reasons related to COVID-19.	April 7, 2020 until December 31, 2020

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San Mateo County, CA	https://sanmateocounty.legistar.com/LegislationDetail.aspx?ID=4585430&GUID=287A9981-226D-488C-A7EE-D09266D9D6A2&Options=&Search=	Legislation	Emergency paid leave for certain workers not covered by the federal FFCRA for specified reasons related to COVID-19.	July 8, 2020 until December 31, 2020
Santa Rosa, CA	https://santa-rosa.legistar.com/LegislationDetail.aspx?ID=4584886&GUID=49149B20-46ED-46D9-B697-1CDE3F3D68CB&Options=&Search=	Legislation	Emergency paid leave for certain workers not covered by the federal FFCRA for specified reasons related to COVID-19.	July 7, 2020 until December 31, 2020
Goshen, IN	https://aimindiana.org/wp-content/uploads/2020/04/Goshen-Ord5040.pdf	Legislation	Emergency paid leave for certain city employees during a declared national, state, or local emergency.	The ordinance became effective on April 16, 2020 and does not expire.
Duluth, MN	https://duluthmn.gov/media/9458/covid19-info.pdf	Administrative guidance	Clarifies that sick leave provided by the city's permanent law can be used for specified reasons related to COVID-19. For more information about paid sick time rights in Duluth, click here .	The guidance was issued in response to COVID-19 and does not expire.
Minneapolis, MN	http://sicktimeinfo.minneapolismn.gov/uploads/9/6/3/1/96313024/covid-19_and_sst_final_3.30.20.pdf	Administrative guidance	Clarifies that sick leave provided by the city's permanent law can be used for specified reasons related to COVID-19. For more information about paid sick time rights in Minneapolis, click here .	The guidance was revised on March 30, 2020 and does not expire.

Emergency Paid Sick Leave Tracker: State, City, and County Developments

St. Paul, MN	https://www.stpaul.gov/sites/default/files/Media%20Root/Human%20Rights%20%26%20Equal%20Economic%20Opportunity/Earned%20Sick%20and%20Safe%20Time%20FAQ%20COVID%20PDE.pdf	Administrative guidance	Clarifies that sick leave provided by the city's permanent law can be used for specified reasons related to COVID-19. For more information about paid sick time rights in St. Paul, click here .	The guidance was issued in response to COVID-19 and does not expire.
Wilmington, NC	https://wilmington.granicus.com/MetaViewer.php?view_id=25&clip_id=5408&meta_id=210915	Resolution	Provides an advance on paid leave for certain city employees for specified reasons related to COVID-19.	March 17, 2020 until the date when the Governor lifts the current state of emergency
Flemington, NJ	http://www.historicflemington.com/_Content/pdf/agendas/2020-03-18-Council-Agenda.pdf	Resolution	Emergency paid leave for city employees for specified reasons related to COVID-19.	March 18, 2020 until the date when the state is no longer in a declared health emergency
New York, NY	https://www1.nyc.gov/assets/dca/downloads/pdf/workers/Complying-with-NYC-Workplace-Laws-During-COVID-19.pdf	Administrative guidance	Clarifies that sick leave provided by the city's permanent law can be used for specified reasons related to COVID-19. For more information about paid sick time rights in New York City, click here .	The guidance was issued in response to COVID-19 and does not expire.
Philadelphia, PA	http://regulations.phila-records.com/pdfs/03162020142718-0001.pdf	Regulation	Temporarily clarifies that sick leave provided by the city's permanent law can be used for specified reasons related to COVID-19. Also, temporarily limits employers from requiring a doctor's note from employees taking sick leave. For more information about paid sick time rights in Philadelphia, click here .	March 16, 2020 until the date the local disaster emergency declared by the Mayor in response to COVID-19 is lifted
Burlington, VT	https://www.burlingtonvt.gov/sites/default/files/Emergency%20Leave%20Policy.pdf	Policy approved by Council	Emergency paid leave for certain city employees for specified reasons related to COVID-19.	March 23, 2020 until the date the Mayor provides further notice

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Seattle, WA	http://seattle.legistar.com/View.aspx?M=F&ID=8235716&GUID=35CBCB14-E1CC-4D12-9610-283BCA5CFE84	Legislation	Expands the purposes for which sick leave can be used under the city's permanent law. For more information about paid sick time rights in Seattle, click here .	This law became effective on March 18, 2020 and does not expire.
	https://seattle.legistar.com/LegislationDetail.aspx?ID=4538824&GUID=D6D81875-E8F2-4C8D-B9B1-4B623D196828&Options=ID%7cText%7c&Search=paid+sick+time	Legislation	Temporary sick and safe leave for certain gig workers (food delivery network company workers or transportation network company drivers).	July 13, 2020 until 3 years after the termination of the civil emergency proclaimed by the Mayor on March 3, 2020 (and any concurrent proclamations) or on December 31, 2023, whichever is later.

* Certain workers may not qualify for NYS emergency paid sick leave due to travel to certain other countries or designated states.

Emergency Paid Sick Leave Tracker: State, City, and County Developments

The following emergency paid sick leave measures were also enacted in response to the COVID-19 pandemic, however, they are no longer effective.


Jurisdiction	Link to Text	Type	Basic Summary	Effective Period
Colorado	https://www.colorado.gov/pacific/cdle/colorado-health-emergency-leave-pay-%E2%80%9Ccolorado-help%E2%80%9D-rules	Executive order requiring new regulations	Emergency paid leave for employees in a range of employment sectors for specified reasons related to COVID-19. For the full list of covered employment fields, see Rule 3.1 in the linked regulations.	The rule was first adopted on March 11, 2020 and then amended several times, most recently on April 27, 2020. It stayed in effect until Colorado's paid sick time law took effect (described earlier in the chart) on July 14, 2020.
North Carolina	https://files.nc.gov/dpi/documents/fbs/emergencysickleavepolicy.pdf	Policy adopted by State Board of Education	Emergency paid leave for certain school employees for specified reasons related to COVID-19.	Adopted March 27, 2020 for the period of April 1 through April 30, 2020 and was extended through May 31, 2020.
Seattle, WA	https://www.seattle.gov/Documents/Departments/LaborStandards/PSST%20Verification%20ER_04-08-2020_for%20Web.pdf	Regulation	Temporarily limits employers from requiring a doctor's note from employees taking leave under the city's permanent sick leave ordinance.	April 8, 2020 until June 7, 2020


This document is in progress and may not reflect all developments regarding emergency paid leave laws around the country. Additionally, this document does not provide an exhaustive overview of the measures described, and it does not constitute legal advice.


Overview of Paid Sick Time Laws in the United States


Updated on July 16, 2020

Please note that these paid sick time materials do not represent an exhaustive overview of the state, county, and city paid sick time laws described, and it does not constitute legal advice. It is possible that additional provisions not described in these materials may apply to a worker's specific circumstances or category of employment.


 <small>For more information visit A Better Balance (abetterbalance.org)</small>	Arizona	California	Berkeley
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	Workers employed by an employer in Arizona are covered. State government workers, but not local government workers, are exempted. Individuals employed by a parent or a sibling and individuals performing babysitting services in the employer's home on a casual basis are also exempted.	Workers employed in California for 30 or more days a year after commencement of employment are covered. Flight deck/cabin crews subject to Railway Labor Act with comparable paid time off are exempted. Workers who provide in-home supportive care are exempted until July 1, 2018, at which point they will be able to accrue paid sick time (subject to specific usage and carryover provisions).	Workers who, in a particular week, perform at least 2 hours of work within the geographic boundaries of Berkeley and who are either entitled to minimum wage under California law.
Can sick time be used to care for loved ones?	Yes: children; parents; parents of a spouse or registered domestic partner; spouses; registered domestic partners; grandparents, grandchildren, or siblings (of the employee or the employee's spouse/registered domestic partner); and any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.	Yes: children; parents; grandchildren; grandparents; spouses; registered domestic partners; parents of a spouse or registered domestic partner; and siblings.	Yes: children; parents; grandchildren; grandparents; spouses; registered domestic partners; siblings; and, if a worker has no spouse/registered domestic partner, a designated person of the worker's choice.
How is "child" defined?	Biological, adopted or foster children, stepchildren or legal wards, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor.	Biological, adopted, or foster child, stepchild, legal ward, or the child of a worker standing in loco parentis to the child.	Legal guardians or wards; children from biological, adoptive, foster care, and step-relationships; children of a domestic partner; or the child of a worker standing in loco parentis to the child.
Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?	Yes, when the worker or the worker's family member is the victim.	Yes, but only when the worker is the victim.	No, not beyond what is provided under the State's paid sick time law.
Can sick time be used under the law to bond with a new child and/or deal with a family member's death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	No.	No.
Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?	Yes.	No.	No.
Rate at which workers earn paid sick time?	1 hour for every 30 hours worked.	1 hour for every 30 hours worked.	1 hour for every 30 hours worked.
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	Yes. Workers in businesses with 15 or more workers can earn up to 40 hours of paid sick time per year. Workers in businesses with fewer than 15 can earn up to 24 hours of paid sick time per year.	No.	Yes. Workers in businesses with 25 or more workers can earn up to 72 hours of paid sick time per year. Workers in businesses with fewer than 25 workers can earn up to 48 hours of paid sick time per year.
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Workers in businesses with 15 or more workers: 40 hours. Workers in businesses with fewer than 15 workers: 24 hours.	Employers may cap the amount of paid sick time a worker earns at 48 hours or 6 days. Employers may also cap the amount of paid sick time a worker can use each year at 24 hours or 3 days.	Workers in businesses with 25 or more workers: up to 72 hours. Workers in businesses with fewer than 25 workers: up to 48 hours.
When do workers begin to earn paid sick time?	At the commencement of employment. Earned paid sick time can be used as it is accrued, except that an employer may require a worker to wait until the 90th calendar day after commencing employment before using accrued earned paid sick time.	At the commencement of employment, but workers aren't entitled to use paid sick time until the 90th day of employment. As noted earlier, the law covers a worker when the worker works in California for more than 30 days within a year from the commencement of employment.	On the first day of employment, but workers aren't entitled to use paid sick time until 90 calendar days after commencement of employment.

 For more information visit A Better Balance (abetterbalance.org)	Arizona	California	Berkeley
Does unused sick time carry forward to the subsequent year?	Workers are entitled to carry forward unused paid sick time, but employers aren't required to allow annual accrual or use of more than: 40 hours of paid sick time a year (for businesses with 15 or more workers); or 24 hours of paid sick time a year (for businesses with fewer than 15 workers). In lieu of carryover of unused earned paid sick time from one year to the next, an employer may pay a worker for unused paid sick time at the end of a year and provide the worker with an amount of paid sick time that meets or exceeds the law's requirements that is available for the worker's immediate use at the beginning of the subsequent year.	Workers are entitled to carry forward unused paid sick time, but employers aren't required to allow use of more than 24 hours (or three days) of paid sick time per year. Carry forward is not required if the full amount of paid sick time (24 hours, or three days) is provided at the beginning of each year.	Workers are entitled to carry forward unused paid sick time. However, employers with fewer than 25 workers may limit use of paid sick time to 48 hours per year; larger employers may not limit the use of paid sick time (only the accrual, or amount earned, as described earlier).
Private Right of Action to go to Court?	Yes.	The State Labor Commissioner or Attorney General may bring a civil action in Court against an employer or person violating the article. The law does not explicitly address whether a worker may bring a civil action in Court.	Yes.
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	All or any part of the law doesn't apply to workers covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms.	The law doesn't apply to workers covered by a CBA if the CBA expressly provides for paid time off and certain wage and hour working conditions. Construction industry workers are not covered if the CBA, in addition to expressly providing for paid time off and certain wage and hour working conditions, also waives the law's provisions in clear and unambiguous terms.	All or any part of the law doesn't apply to workers covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms.
What Agency or Official Enforces the Law?	Industrial Commission of Arizona	The California Labor Commissioner's Office, also known as the California Division of Labor Standards Enforcement (DLSE)	No particular agency specified in the law (although the separate minimum wage law passed at the same time will be enforced by the Berkeley Department of Finance or other city department/agency as designated by the City by resolution).
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	Yes (under litigation).	Yes. The CA law does not preempt or limit other laws/policies that provide greater earning or use of paid sick time. Therefore, the more expansive San Francisco, Oakland, San Diego, Emeryville, Santa Monica, Los Angeles, and Berkeley paid sick time laws will still apply to workers covered by those laws, and other cities in CA may continue to pass broader paid sick time laws. Also, in November 2012, the voters of Long Beach, California approved a measure to guarantee a living wage and paid sick time to certain hotel workers in the city. Under the law, hotels with 100 or more rooms are required to pay workers a minimum of \$13 an hour (adjusted for increases in the federal minimum wage or cost of living) and allow workers to earn a minimum of 5 paid sick days a year.	N/A
Statutory Citation(s)	Ariz. Rev. Stat. §§ 23-364, 23-371 et seq.	Cal. Lab. Code § 245 et seq.	Berkeley Code § 13.100.010 et seq.
Additional Notes	For more information, see https://www.azica.gov/frequently-asked-questions-about-wage-and-earned-paid-sick-time-laws .	California's statewide paid sick time law took effect in July 2015. On April 4, 2016, the Governor signed into law minimum wage legislation that also expanded the existing paid sick time law to cover providers of in-home supportive care, beginning July 1, 2018. For these newly covered domestic workers, paid sick time usage and carry forward will differ from what is described in this chart, with more information available here: https://www.cdss.ca.gov/inforesources/ihss-providers/resources/sick-leave . For more information on the full California law, see http://www.dir.ca.gov/DLSE/ab1522.html .	For more information, see https://www.cityofberkeley.info/PSLO/ .


 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Emeryville	Los Angeles	Oakland
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	Workers who, in a calendar week, perform at least 2 hours of work within the geographic boundaries of Emeryville and who are entitled to minimum wage under California law are covered.	Workers who, in a particular week, perform at least 2 hours of work within the geographic boundaries of Los Angeles and who are entitled to minimum wage under California law are covered. To be entitled to paid sick time, workers must also work in Los Angeles for the same employer for 30 days or more within a year from the commencement of employment.	Workers who, in a particular week, perform at least 2 hours of work within the geographic boundaries of Oakland and who are entitled to minimum wage under California law are covered.
Can sick time be used to care for loved ones?	Yes: children; parents; grandchildren; grandparents; spouses; registered domestic partners; parents of a spouse or registered domestic partner; siblings; and, if a worker has no spouse/registered domestic partner, a designated person of the worker's choice. Paid sick time can also be used to care for a guide dog, signal dog, or service dog of the worker or worker's family member or designated partner.	Yes: children; parents; grandchildren; grandparents; spouses; registered domestic partners; parents of a spouse or registered domestic partner; siblings; and any individual related by blood or affinity whose close association with the worker is the equivalent of a family relationship.	Yes: children; parents; legal guardian or ward; grandchildren; grandparents; spouses; registered domestic partners; siblings; and, if a worker has no spouse/registered domestic partner, a designated person of the worker's choice.
How is "child" defined?	Biological, adopted, or foster child, stepchild, legal ward, or the child of a worker standing in loco parentis to the child.	Biological, adopted, or foster child, stepchild, legal ward, or the child of a worker standing in loco parentis to the child.	Legal guardians or wards; children from biological, adoptive, foster care, and step-relationships; children of a domestic partner; or the child of a worker standing in loco parentis to the child.
Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?	Pursuant to regulations, yes, but only when the worker is the victim.	Yes, but only when the worker is the victim.	No, not beyond what is provided under the State's paid sick time law.
Can sick time be used under the law to bond with a new child and/or deal with a family member's death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	No.	No.
Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?	No.	No.	No.
Rate at which workers earn paid sick time?	1 hour for every 30 hours worked.	1 hour for every 30 hours worked.	1 hour for every 30 hours worked.
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	Yes. Workers in businesses with more than 55 workers can earn up to 72 hours of paid sick time. Workers in businesses with 55 or fewer workers can earn up to 48 hours of paid sick time. Note: The enforcing agency has interpreted the law to cap how much paid sick time can be earned—but not on an annual basis. Once a worker reaches his or her earnings cap (i.e., banks the maximum amount of earned sick time as indicated in the chart) and uses paid sick time, the worker once again begins to earn paid sick time back up to this same cap.	No.	Yes. Workers in businesses with 10 or more workers can earn up to 72 hours of paid sick time. Workers in businesses with fewer than 10 workers can earn up to 40 hours of paid sick time. Note: The enforcing agency has interpreted the law to cap how much paid sick time can be earned—but not on an annual basis. Once a worker reaches his or her earnings cap (i.e., banks the maximum amount of earned sick time as indicated in the chart) and uses paid sick time, the worker once again begins to earn paid sick time back up to this same cap.
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Workers in businesses with more than 55 workers: up to 72 hours. Workers in businesses with 55 or fewer workers: up to 48 hours. Note: The enforcing agency has interpreted the law to cap how much paid sick time can be earned—but not on an annual basis. Once a worker reaches his or her earnings cap (i.e., banks the maximum amount of earned sick time as indicated in the chart) and uses paid sick time, the worker once again begins to earn paid sick time back up to this same cap.	Up to 48 hours a year.	Workers in businesses with 10 or more workers: up to 72 hours. Workers in businesses with fewer than 10 workers: up to 40 hours. Note: The enforcing agency has interpreted the law to cap how much paid sick time can be earned—but not on an annual basis. Once a worker reaches his or her earnings cap (i.e., banks the maximum amount of earned sick time as indicated in the chart) and uses paid sick time, the worker once again begins to earn paid sick time back up to this same cap.
When do workers begin to earn paid sick time?	On the first day of employment, but workers aren't entitled to use paid sick time until the 90th day of employment.	On the first day of employment. A worker is entitled to use paid sick time beginning on the 90th day of employment. As noted earlier, the law covers a worker when the worker works in Los Angeles for the same employer for 30 days or more within a year from the commencement of employment.	On the first day of employment, but workers aren't entitled to use paid sick time until after 90 calendar days of employment.
Does unused sick time carry forward to the subsequent year?	Workers are entitled to carry forward 72 hours of unused paid sick time (in businesses with more than 55 workers) or 48 hours of unused paid sick time (in businesses with 55 or fewer workers), but employers are not required to allow workers to earn more than these 72-hour or 48-hour caps.	Workers are entitled to carry forward unused paid sick time to the following year, but employers may cap it at 72 hours.	Workers are entitled to carry forward 72 hours of unused paid sick time (in businesses with 10 or more workers) or 40 hours of unused paid sick time (in businesses with fewer than 10 workers), but employers are not required to allow workers to earn more than these 72-hour or 40-hour caps.
Private Right of Action to go to Court?	Yes.	Yes.	Yes.
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	All or any portion of the law doesn't apply to workers covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms showing that the parties intend the waiver.	No specific language regarding waivers or exemptions for workers covered by a CBA.	All or any part of the law doesn't apply to workers covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms.


 For more information visit A Better Balance (abetterbalance.org)	Emeryville	Los Angeles	Oakland
What Agency or Official Enforces the Law?	No specific agency authorized. The City itself has authority under the law to issue rules and regulations, as well as to enforce the law through administrative citations and/or remedies.	Los Angeles Office of Wage Standards (within the Department of Public Works' Bureau of Contract Administration)	As of July 1, 2020, the Department of Workplace and Employment Standards has the authority to enforce the law.
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	N/A	N/A	N/A
Statutory Citation(s)	Emeryville Code § 5-37.01 et seq.	Los Angeles Code § 187.00 et. seq. and § 188.00 et. seq.	Oakland Code § 5.92.010 et seq.
Additional Notes	For more information, see http://www.ci.emeryville.ca.us/1024/Minimum-Wage-Ordinance .	For more information, see http://wagesla.lacity.org/ .	For more information, see http://www2.oaklandnet.com/government/o/CityAdministration/d/MinimumWage/index.htm .


 <p>For more information visit A Better Balance (abetterbalance.org)</p>	San Diego	San Francisco	Santa Monica
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	Workers who, in at least one calendar week of the year, perform at least 2 hours of work within San Diego are covered. Independent contractors, certain workers authorized under State law to be paid less than the minimum wage, certain providers of in-home supportive services under State law, workers employed under a publicly subsidized summer or short-term youth employment program, or any student employee, camp or program counselor of an organized camp under State law are exempted.	Workers employed within the geographic boundaries of San Francisco are covered.	Workers who, in a calendar week, perform at least 2 hours of work within the geographic boundaries of Santa Monica and who are entitled to minimum wage under California law are covered. Government and school district employees are exempted.
Can sick time be used to care for loved ones?	Yes: children; parents; grandchildren; grandparents; spouses; registered domestic partners (registered under state/local law or with the internal registry of at least one partner's employer); parents of a spouse or registered domestic partner; and siblings.	Yes: children; parents; legal guardian or ward; grandchildren; grandparents; spouses; registered domestic partners; siblings; and if a worker has no spouse/registered domestic partner, a designated person of the worker's choice. As of January 1, 2017, the parents of a spouse or registered domestic partner will also be covered.	Yes: children; parents; grandchildren; grandparents; spouses; registered domestic partners; parents of a spouse or registered domestic partner; and siblings.
How is "child" defined?	Biological, adopted, or foster child; stepchild; child of a registered domestic partner; legal ward; or the child of a worker standing in loco parentis to the child.	Legal guardians or wards; children from biological, adoptive, foster care, and step-relationships; children of a domestic partner; or the child of a worker standing in loco parentis to the child.	Biological, adopted, or foster child, stepchild, legal ward, or the child of a worker standing in loco parentis to the child.
Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?	Yes, when the worker or the worker's family member is the victim.	Yes, but only as of January 1, 2017, and only when the worker is the victim.	Yes, but only when the worker is the victim.
Can sick time be used under the law to bond with a new child and/or deal with a family member's death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	No.	No.
Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?	Yes.	No.	No.
Rate at which workers earn paid sick time?	1 hour for every 30 hours worked.	1 hour for every 30 hours worked.	1 hour for every 30 hours worked.
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	No.	Yes. Workers in businesses with 10 or more workers can earn up to 72 hours of paid sick time. Workers in businesses with fewer than 10 workers can earn up to 40 hours of paid sick time. Note: The enforcing agency has interpreted the law to cap how much paid sick time can be earned—but not on an annual basis. Once a worker reaches his or her earnings cap (i.e., banks the maximum amount of earned sick time as indicated in the chart) and uses paid sick time, the worker once again begins to earn paid sick time back up to this same cap.	Yes. As of January 1, 2018, workers in businesses with 26 or more workers can earn up to 72 hours of paid sick time per year. Workers in businesses with 25 or fewer workers can earn up to 40 hours of paid sick time per year.
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Employers may cap the amount of paid sick time a worker earns at 80 hours. Employers may also cap the amount of paid sick time a worker can use each year at 40 hours.	Workers in businesses with 10 or more workers: up to 72 hours. Workers in businesses with fewer than 10 workers: up to 40 hours. Note: The enforcing agency has interpreted the law to cap how much paid sick time can be earned—but not on an annual basis. Once a worker reaches his or her earnings cap (i.e., banks the maximum amount of earned sick time as indicated in the chart) and uses paid sick time, the worker once again begins to earn paid sick time back up to this same cap.	As of January 1, 2018, workers in businesses with 26 or more workers: up to 72 hours a year. Workers in businesses with 25 or fewer workers: up to 40 hours a year.
When do workers begin to earn paid sick time?	At the commencement of employment, but workers aren't entitled to use paid sick time until 90 calendar days following the commencement of employment.	At the commencement of employment, but workers aren't entitled to use paid sick time until the 90th day of employment.	At the commencement of employment, but workers aren't entitled to use paid sick time until after the first 90 days of employment (or sooner if provided for in the employer's policies).
Does unused sick time carry forward to the subsequent year?	Workers are entitled to carry forward unused paid sick time. An employer may satisfy the law's carry-over provisions if the employer provides a worker with at least 40 hours of paid sick time at the beginning of each benefit year, regardless of whether the employee is full-time, part-time, or temporary.	Workers are entitled to carry forward 72 hours of unused paid sick time (in businesses with 10 or more workers) or 40 hours of unused paid sick time (in businesses with fewer than 10 workers), but employers are not required to allow workers to earn more than these 72-hour or 40-hour caps.	Workers are entitled to carry forward unused paid sick time to the following year, until their paid sick time reaches the annual caps described in the chart on the prior page (depending on business size and year). Carry forward is not required if the full amount of paid sick time required by the law is received by the worker at the beginning of each year (calendar year, fiscal year, or year of employment).
Private Right of Action to go to Court?	Yes.	Yes.	Yes.
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	No specific language regarding waivers or exemptions for workers covered by a CBA.	All or any part of the law doesn't apply to workers covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms.	All or any part of the law doesn't apply to workers covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms.


 <p>For more information visit A Better Balance (abetterbalance.org)</p>	San Diego	San Francisco	Santa Monica
What Agency or Official Enforces the Law?	San Diego's Office of the City Treasurer (although the Mayor may designate another office/department under the Mayor's authority)	San Francisco Office of Labor Standards Enforcement	The Santa Monica Finance Director is authorized to adopt administrative regulations consistent with the law.
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	N/A	N/A	N/A
Statutory Citation(s)	San Diego Code § 39.0101 et seq.	San Francisco Code Chapter 12W	Santa Monica Code § 4.62 et seq.
Additional Notes	For more information about San Diego's sick time law, see https://www.sandiego.gov/treasurer/minimum-wage-program .	For more information, see http://sfgov.org/olse/paid-sick-leave-ordinance-pslo .	For more information, see https://beta.smgov.net/strategic-goals/inclusive-diverse-community/minimum-wage-ordinance .


 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Connecticut	District of Columbia	Cook County and Chicago, IL
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	Hourly workers in certain “service” occupations in Connecticut are covered, if they work for a business with 50 or more workers. For the full list of which professions are covered “service” occupations, go to www.ctdol.state.ct.us/wgwkstnd/SickLeaveLaw.htm and look at the definition of “service worker” (Sec. 31-57r(7)). Certain manufacturers and non-profit organizations are exempted, as are temporary and day laborers.	Workers employed by an employer within Washington, D.C are covered. The following individuals are exempted: independent contractors; students; health care workers choosing to participate in a premium pay program; unpaid volunteers engaged in the activities of an educational, charitable, religious, or nonprofit organization; and casual babysitters.	Cook County: Workers in Cook County who work at least 80 hours for an employer within any 120-day period are covered. Workers employed by a unit of local government are exempted. Chicago: Workers in Chicago who work at least 80 hours for an employer within any 120-day period are covered. Government employees other than those who work for the City of Chicago and certain City agencies and certain camp counselors are exempted.
Can sick time be used to care for loved ones?	Yes: children and spouses.	Yes: children; grandchildren; spouses of children; siblings; spouses of siblings; parents; parents of a spouse or registered domestic partner; spouses; registered domestic partners; and a person with whom the worker has a committed (mutual, familial) relationship and has shared a mutual residence for at least the preceding 12 months.	Yes: children; legal guardians or wards; spouses; domestic partners (including parties to a civil union); parents; parents of a spouse or domestic partner; grandparents; grandchildren; siblings; or any other individual related by blood or whose close association with the worker is the equivalent of a family relationship.
How is “child” defined?	Biological, foster, or adopted children, stepchildren, legal wards, or the child of a worker standing in loco parentis to the child. The child must be under 18 or incapable of self-care because of a mental/physical disability.	Biological children, foster children, grandchildren, or a child who lives with the worker and for whom the worker permanently assumes and discharges parental responsibility.	Biological, foster, or adopted children, stepchildren, legal guardians or wards, or a child to whom the worker stands in loco parentis.
Can sick time be used for specific “safe time” purposes (related to domestic violence, sexual assault, or stalking)?	Yes, but only when the worker is the victim.	Yes, when the worker or the worker’s family member is the victim.	Yes, when the worker or the worker’s family member is the victim.
Can sick time be used under the law to bond with a new child and/or deal with a family member’s death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	No.	If a worker is subject to the federal Family and Medical Leave Act (FMLA), they may carry forward up to 40 hours of unused paid sick time to be used for leave covered by the FMLA, which includes bonding with a new child (as well as certain military family needs). Paid sick time can’t be used to deal with a family member’s death.
Can sick time be used when a worker’s place of work or child’s school/place of care is closed by public health officials for a public health emergency?	No.	No.	Yes.
Rate at which workers earn paid sick time?	1 hour for every 40 hours worked.	In businesses with 24 or fewer workers: 1 hour for every 87 hours worked. In businesses with 25-99 workers (and workers in a restaurant or bar who regularly receive tips to supplement a base wage below the minimum wage): 1 hour for every 43 hours worked. In businesses with 100 or more workers: 1 hour for every 37 hours worked.	1 hour for every 40 hours worked.
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	Yes, workers who work for employers with fewer than 50 employees are exempt.	Yes. Workers in businesses with 24 or fewer workers can earn up to 24 hours of paid sick time per year. Workers in businesses with 25-99 workers (and workers in a restaurant or bar who regularly receive tips to supplement a base wage below the minimum wage) can earn up to 40 hours of paid sick time per year. Workers in businesses with 100 or more workers can earn up to 56 hours of paid sick time per year.	No.
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Up to 40 hours of paid sick time a year.	Workers in businesses with 24 or fewer workers: up to 24 hours a year. Workers in businesses with 25-99 workers (and workers in a restaurant or bar with 1-99 workers who regularly receive tips to supplement a base wage below the minimum wage): up to 40 hours a year. Workers in businesses with 100 or more workers: up to 56 hours a year. The number of workers is determined by the average monthly number of full-time equivalents in the prior year.	Up to 40 hours a year.
When do workers begin to earn paid sick time?	At the commencement of employment, but workers aren’t entitled to use paid sick time until the 680th hour of employment.	At the commencement of employment, but workers aren’t entitled to use paid sick time until after 90 days of employment.	On the first calendar day after the worker commences employment, but workers can be required to wait to use accrued paid sick time for up to 180 calendar days after commencement of employment.
Does unused sick time carry forward to the subsequent year?	Workers are entitled to carry forward up to 40 hours of unused paid sick time, but employers are not required to allow use of more than 40 hours of paid sick time a year.	Per regulations, workers can carry forward unused paid sick time, but employers aren’t required to allow use of more than: 56 hours of paid sick time a year (for businesses with 100 or more workers); 40 hours of paid sick time a year (for businesses with at least 25 and fewer than 100 workers—this presumably will also be the rule for tipped workers in a restaurant or bar); or 24 hours of paid sick time a year (for business with fewer than 25 workers).	Workers are entitled to carry forward half of their unused paid sick time, up to a maximum of 20 hours, but employers aren’t required to allow use of more than 40 hours of paid sick time a year. However, as described earlier in this chart, workers subject to the FMLA may carry forward up to 40 hours of unused paid sick time for FMLA purposes. But, in Chicago, carry forward is not required if the employer 1) credits the worker with 40 hours of sick time up front within 180 days after the worker began working for the employer and 2) makes an additional 20 hours of paid sick leave available to the worker to be used for leave covered by the FMLA at the beginning of each benefit year.

 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Connecticut	District of Columbia	Cook County and Chicago, IL
Private Right of Action to go to Court?	No.	Yes.	Yes.
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	No specific language regarding waivers or exemptions for workers covered by a CBA	The law's paid sick time requirements won't apply to workers in the building/construction industry covered by a CBA that expressly waives the requirements in clear and unambiguous terms. Otherwise, the law's paid sick time requirements can't be waived in the written terms of a CBA for less than 3 paid leave days.	The law does not apply to construction industry workers covered by a CBA. After July 1, 2017, all or any part of the law doesn't apply to workers covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms.
What Agency or Official Enforces the Law?	The Connecticut Department of Labor	Washington D.C. Department of Employment Services	Cook County: Cook County Commission on Human Rights Chicago: Chicago Department of Business Affairs and Consumer Protection
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	Not explicitly addressed in the paid sick time law.	N/A	N/A
Statutory Citation(s)	Conn. Gen. Stat. § 31-57r et seq.	D.C. Code § 32-531.01 et seq.	Cook County Code § 42-1 et seq.; Chicago Code § 1-24-010 et seq.
Additional Notes	For more information, see http://www.ctdol.state.ct.us/wgwkstnd/SickLeave.htm .	For more information, see https://does.dc.gov/service/office-wage-hour-compliance .	The Chicago City Council unanimously adopted a paid sick time law, with the Mayor's support, on June 22, 2016. In addition to the description of covered workers in the chart, note that the Chicago law exempts workers who, in any 2-week period, perform fewer than 2 hours of work while physically present within Chicago are exempted. In addition to the information in the chart, please note as well that the following workers are not covered by the Cook County Law: workers who, in any 2-week period, perform fewer than 2 hours of work while physically present within Cook County; and workers who are employed in municipalities within Cook County that have opted out of the law.


 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Massachusetts	Maryland	Montgomery County, MD
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	Workers employed in Massachusetts are covered. Workers employed by cities and towns are only covered if the law is accepted by vote or appropriation as provided in the State Constitution.	Workers employed in Maryland who regularly work at least 12 hours per week are covered. The following workers are exempted: independent contractors; agricultural workers; certain realtors who work solely on a commission basis; workers under the age of 18 before the beginning of the year; certain workers employed by a temporary services agency to provide temporary staffing to another person if the agency doesn't have day-to-day control over the work assignments and supervision of the worker; workers directly employed by an employment agency to provide part-time or temporary services to another person; workers that are on-call in a health or human services industry that can reject or accept a shift, not guaranteed to be called on to work, and not employed by a temporary staffing agency.	Workers employed in Montgomery County are covered, but they must regularly work more than 8 hours each week. Independent contractors are exempted. Workers are also exempted if all of the following apply: 1) they don't have a regular work schedule with the employer; 2) they contact the employer for work assignments and are scheduled to work those assignments within 48 hours later; 3) they have no obligation to work for the employer if they don't contact the employer for assignments; and 4) they're not employed by a temporary placement agency.
Can sick time be used to care for loved ones?	Yes: children; spouses; parents; or parents of a spouse.	Yes: children; parents; parents-in-law; legal guardians; spouses; grandparents; grandchildren; siblings; and individuals who acted as a parent or stood in loco parentis to the employee (or the employee's spouse) when the employee (or the employee's spouse) was a minor. Beginning on October 1, 2020, wards of the employee or the employee's spouse and legal guardians of the employee's spouse will be covered as well.	Yes: children; parents and legal guardians of the worker; spouses; grandparents; spouses of grandparents; grandchildren; siblings; and spouses of siblings.
How is "child" defined?	Biological, adopted, or foster child, stepchild, a legal ward, or a child of a person who has assumed the responsibilities of parenthood.	Biological, adopted, or foster children; stepchildren; a child for whom the employee has legal or physical custody or guardianship; a child for whom the employee stands in loco parentis regardless of the child's age.	Biological, adopted, or foster child; stepchild; child for whom the worker has legal or physical custody or guardianship; child for whom the worker is the primary caregiver.
Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?	Yes, but only when the worker or the worker's dependent child is the victim.	Yes, when the worker or the worker's family member is a victim.	Yes, when the worker or the worker's family member is the victim.
Can sick time be used under the law to bond with a new child and/or deal with a family member's death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	Sick time can be used for maternity or paternity leave.	No.
Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?	No.	No.	Yes.
Rate at which workers earn paid sick time?	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below).	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below).	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below).
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	Yes. Workers in businesses with 11 or more workers can earn up to 40 hours of paid sick time per year. Workers in businesses with fewer than 11 workers can earn up to 40 hours of unpaid, job-protected sick time per year.	Workers in businesses with 15 or more employees can earn up to 40 hours of paid sick time per year. Workers in businesses with 14 or fewer workers can earn up to 40 hours of unpaid, job-protected sick time per year.	Yes. Workers in businesses with 5 or more workers can earn up to 56 hours of paid sick time per year. Workers in businesses with fewer than 5 workers can earn up to 32 hours of paid sick time and 24 hours of unpaid, job-protected sick time per year.
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Workers in businesses with 11 or more workers: up to 40 hours of paid sick time a year. Workers in businesses with fewer than 11 workers: up to 40 hours of unpaid, job-protected sick time a year.	Employers with 15 or more employees may cap the amount of sick time a worker earns at 40 hours of paid sick time per year. Employers with 14 or fewer employees shall at least provide an employee with 40 hours of unpaid, job-protected sick time per year. Employers may cap the amount of sick time a worker can use at 64 hours per year.	Workers in businesses with 5 or more workers: up to 56 hours a year. Workers in businesses with fewer than 5 workers: up to 32 hours of paid sick time and 24 hours of unpaid, job-protected sick time.
When do workers begin to earn paid sick time?	At the date of hire, but workers aren't entitled to use sick time until the 90th calendar day following commencement of employment.	At the commencement of employment. However, workers aren't entitled to use earned sick time during the first 106 calendar days of employment.	At the commencement of employment, but workers can be required to wait 90 days before using their sick time.
Does unused sick time carry forward to the subsequent year?	Workers are entitled to carry forward up to 40 hours of unused sick time, but employers aren't required to allow use of more than 40 hours of sick time a year. Per regulations, employers may choose to pay out workers up to 40 hours of unused sick time at the end of the year. If an employer pays out a worker for 16 hours or more of unused sick time, they must provide 16 hours of unpaid sick time up front in the new year; if they pay out less than 16 hours, they shall provide an equivalent amount of unpaid sick time up front in the new year. In either case, this unpaid sick time is replaced by paid sick time as the worker earns it.	Workers are entitled to carry forward up to 40 hours of unused sick time to the following year, but employers are allowed to cap the total amount of earned sick time accrued at any time at 64 hours. Carry forward is not required if the employer provides the full amount of earned sick time at the beginning of each year or if an employee is employed by a nonprofit entity or governmental unit in accordance with a grant, the duration of which is limited to 1 year and not subject to renewal.	Workers are entitled to carry forward up to 56 hours of unused sick time and may use up to 80 hours of sick time a year when they have sick time that is carried forward. However, employers are not required to allow carry forward if, at the beginning of the new year, they award the full amount of sick time that the worker would earn over that year.
Private Right of Action to go to Court?	Yes, after filing with the Attorney General.	No.	No.


 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Massachusetts	Maryland	Montgomery County, MD
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	No specific language regarding waivers or exemptions for workers covered by a CBA.	All or any part of the law doesn't apply to certain workers in the construction industry covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms. The CBA waiver provision does not apply to those employed as a janitor, building cleaner, security officer, superintendent, concierge, doorman, or handyperson. The law does not have an effect on any bona fide CBA entered into before June 1, 2017, for the duration of the contract term.	No specific language regarding waivers or exemptions for workers covered by a CBA.
What Agency or Official Enforces the Law?	The Massachusetts Attorney General	Maryland Department of Labor, Licensing & Regulation	County Office of Human Rights. The County Executive may also delegate enforcement to a legally authorized State agency.
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	Not explicitly addressed in the paid sick time law.	No, except that Montgomery County's paid sick time law (which pre-dated the statewide law) remains valid and in effect. Local governments can still pass sick time laws covering their own workforces.	N/A
Statutory Citation(s)	Mass. Gen. Laws ch. 149, §§ 148C, 148D	Md. Code Ann. Lab. & Empl. § 3-1301 et seq.	Montgomery County Code Chapter 27, Article XIII
Additional Notes	For more information, see http://www.mass.gov/ago/doing-business-in-massachusetts/labor-laws-and-public-construction/earned-sick-time/ .	For more information, see https://www.dlir.state.md.us/paidleave/paidleaveposter.shtml .	


 For more information visit A Better Balance (abetterbalance.org)	Michigan	Duluth, MN	Minneapolis, MN
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	Michigan workers who work for an employer with 50 or more employees are covered. The following workers are exempt: government workers; workers whose primary work location is not in Michigan; workers who are exempt from the overtime requirements under the Fair Labor Standards Act; certain railway and air carrier workers; workers who are employed for 25 weeks or fewer in a calendar year for a job scheduled for 25 weeks or fewer; workers who worked, on average, fewer than 25 hours per week during the immediately preceding calendar year; variable hour employees as defined in 26 CFR 54.4980H-1; workers described in section 29(1)(l) of the Michigan Employment Security Act; and workers whose minimum hourly wage rate is determined under section 4b of the Improved Workforce Opportunity Wage Act.	Workers are covered if they are employed within the City of Duluth for more than 50% of their working time in a 12-month period, or if they are based in the City of Duluth and spend a substantial part of their time working in the city and do not spend more than 50% of their work-time in a 12-month period in any other particular place. Independent contractors, student interns, seasonal employees, certain railroad workers, and government workers other than workers employed by the City of Duluth are exempted. Workers who work for a business with fewer than 5 employees (counting employees outside Duluth) are also exempted.	Workers who perform work for an employer within Minneapolis for at least 80 hours in a year for that employer are covered. Independent contractors are exempted.
Can sick time be used to care for loved ones?	Yes: children; spouses; parents; parents of a spouse; grandparents; grandchildren; and siblings.	Yes: children; spouses; domestic partners; siblings; parents; parents-in-law; stepparents; grandchildren; grandparents; and any other individual related by blood or whose close association with the employee is the equivalent of a family relationship.	Yes: children; parents; parents-in-law; spouses; registered domestic partners; grandchildren; grandparents; siblings; and members of the worker's household.
How is "child" defined?	Biological, adopted or foster child, stepchild or legal ward, or a child to whom the employee stands in loco parentis.	Biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee is legal guardian regardless of age.	Biological, adopted, or foster child, stepchild, guardian, or ward.
Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?	Yes, when the worker or the worker's family member is a victim.	Yes, when the worker or the worker's family member is the victim.	Yes, when the worker or the worker's family member is the victim.
Can sick time be used under the law to bond with a new child and/or deal with a family member's death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	No.	No.
Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?	Yes.	No.	Yes. Also includes need to care for family member whose school/place of care is closed due to inclement weather, loss of power/heating/water, or other unexpected closure.
Rate at which workers earn paid sick time?	1 hour for every 35 hours worked.	1 hour for every 50 hours worked.	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below).
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	Yes, workers who work for employers with fewer than 50 employees are exempt.	Yes, workers who work for employers with fewer than 5 employees are exempt.	Yes. Workers in businesses with 6 or more workers can earn up to 48 hours of paid sick time per year. Workers in businesses with 5 or fewer workers can earn up to 48 hours of unpaid, job-protected sick time per year. Further restrictions may apply, as described under "Amount of paid sick time that can be earned under the law per year."
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Up to 40 hours per year.	Workers are entitled to earn up to 64 hours of paid sick time per year. However, employers may cap use of earned paid sick time at 40 hours per year.	Workers in businesses with 6 or more workers: up to 48 hours a year. Workers in businesses with 5 or fewer workers: up to 48 hours of unpaid, job-protected sick time a year. New employers, other than certain chain businesses, only have to provide unpaid, job-protected sick time in their first 12 months after hiring their first worker (this "new business" provision only applies for 5 years after the law's effective date).
When do workers begin to earn paid sick time?	At the commencement of employment, but workers aren't entitled to use earned sick time until the 90th calendar day after commencing employment.	At the commencement of employment, or January 1, 2020, whichever is later, but workers aren't entitled to use paid sick time until after 90 calendar days of employment.	At the commencement of employment, but workers aren't entitled to use sick time until the 90th calendar day after commencement of employment.
Does unused sick time carry forward to the subsequent year?	Workers can carry over to the following year up to 40 hours of unused earned sick time, but employers are not required to allow employees to use more than 40 hours of paid sick time per year.	Workers are entitled to carry forward up to 40 hours of unused paid sick time to the following year.	Workers are entitled to carry forward unused sick time and shall continue to accrue sick time up to a total of 80 hours at any time. There is otherwise no limit on how much earned sick time can be used in a year.
Private Right of Action to go to Court?	No.	Yes, provided the worker exhausts administrative remedies.	No.


 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Michigan	Duluth, MN	Minneapolis, MN
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	The law's provisions do not apply to workers covered by a CBA that is in effect prior to the law's effective date (March 29, 2019). For workers covered by a CBA in effect on March 29, 2019, the law applies beginning on the stated expiration date in the CBA.	An employer may opt to satisfy the law for construction employees by paying at least the State prevailing wage or the rate required in an applicable registered apprenticeship agreement (regardless of whether working on private or public projects).	An employer may opt to satisfy the law for construction employees by paying at least the State prevailing wage or the rate required in an applicable registered apprenticeship agreement (regardless of whether working on private or public projects).
What Agency or Official Enforces the Law?	The Michigan Department of Licensing and Regulatory Affairs	Office of the City Clerk of Duluth, MN	Minneapolis Department of Civil Rights
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	Although this Act does not explicitly address local authority to pass a paid sick time law, a separate Michigan law already preempted—or prohibited—cities from passing their own sick time laws.	N/A	N/A
Statutory Citation(s)	Mich. Comp. Laws § 408.961 et seq.	Duluth City Code Chapter 29E	Minneapolis Code § 40.10 et seq.
Additional Notes	After a comprehensive paid sick time ballot initiative qualified to go to voters in the November 2018 election, the Michigan Legislature bypassed voters on September 6, 2018, and passed the Michigan Earned Sick Time Act itself. However, the Legislature later severely weakened the law in the lame duck session (a move that would have not been possible if voters passed the initiative themselves), renaming it the Paid Medical Leave Act. Governor Rick Snyder approved the amended law on December 13, 2018. The law will take effect on March 29, 2019. Due to the Legislature's efforts to frustrate the ballot initiative process, it is possible that this weakened law could be subject to litigation. The originally passed law was more universal in coverage, while the amended law constricts both coverage and application of the law. A Better Balance will share any news about the Michigan law as it develops.	The law took effect on January 1, 2020. For more information, see http://www.duluthmn.gov/city-clerk/earned-sick-and-safe-time/ .	For more information, see http://sicktimeinfo.minneapolismn.gov/ .


 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Saint Paul, MN	New Jersey	New York
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	Workers who perform work for an employer within Saint Paul for at least 80 hours in a year for that employer are covered. Independent contractors are exempted.	Workers employed in New Jersey are covered. Public employees who are provided with sick leave with full pay pursuant to any other law, rule, or regulation of the State, are exempted. Per diem health care employees are also exempted. Per diem health care employees may include any (1) health care professional licensed in NJ employed by a health care facility licensed by the state; (2) any individual that is in the process of applying to the state for a license to provide health care services who is employed by a state licensed health care facility; or (3) any first aid, rescue or ambulance squad member employed by a hospital system. These individuals are considered "per diem health care employees"—and therefore exempt from the law—if they: (1) work on an as-needed basis to supplement, replace, or substitute for a health care employee; (2) work only when they indicate that they are available to work; and (3) either: (a) have the opportunity for full time or part time employment under that healthcare provider (in their scope of practice) which offers paid time off benefits greater in length than provided under this law; or (b) have waived earned sick leave benefits as provided under this law. Any individual who is certified as a homemaker-home health aide is not exempted from the law as a "per diem health care employee."	The law does not specify a definition of employer or employee. Regulations will be needed to clarify who is covered.
Can sick time be used to care for loved ones?	Yes: children; parents; parents-in-law; spouses; registered domestic partners; grandchildren; grandparents; siblings; and any individual related by blood or affinity whose close association with the worker is the equivalent of a family relationship.	Yes: children; grandchildren; siblings; spouses; registered domestic partners; civil union partners; parents (including parents of an employee's spouse, registered domestic partner, or civil union partner); grandparents; spouses, registered domestic partners, or civil union partners of a parent or grandparent; siblings of a spouse, registered domestic partner, or civil union partner; and any other individual related by blood to the employee or whose close association with the employee is the equivalent of a family relationship.	Yes: children; parents; parents of a spouse or domestic partner; spouses; domestic partners; grandparents, grandchildren, or siblings.
How is "child" defined?	Biological, adopted, or foster child, or a stepchild.	Biological, adopted, or foster child, stepchild, legal ward, child of a registered domestic partner or civil union partner of the employee.	Biological, adopted or foster child, a legal ward, a child of an employee standing in loco parentis, or the child of a spouse or domestic partner.
Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?	Yes, when the worker or the worker's family member is the victim.	Yes, when the worker or the worker's family member is the victim.	Yes, when the worker or the worker's family member is the victim.
Can sick time be used under the law to bond with a new child and/or deal with a family member's death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	No.	No.
Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?	Yes. Also includes need to care for family member whose school/place of care is closed due to inclement weather, loss of power/heating/ water, or other unexpected closure.	Yes. In addition, sick time can be used in connection with a child of the employee to attend a school-related conference, meeting, function, or other event requested or required by a school administrator, teacher, or other professional staff member responsible for the child's education, or to attend a meeting regarding care provided to the child in connection with the child's health conditions or disability.	No.
Rate at which workers earn paid sick time?	1 hour for every 30 hours worked.	1 hour for every 30 hours worked.	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below).
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	No.	No.	Yes. Workers in businesses with 100 or more workers can earn up to 56 hours of paid sick time per year. Workers in businesses with between 5 and 99 workers can earn up to 40 hours of paid sick time per year. Workers in businesses with 4 or fewer workers and a net income of more than 1 million dollars in the previous tax year can earn up to 40 hours of paid sick time per year. Workers in businesses with 4 or fewer workers and a net income of 1 million dollars or less in the previous tax year can earn up to 40 hours of unpaid, job-protected sick time per year.
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Up to 48 hours a year. New employers only have to provide unpaid, job-protected sick time in their first 6 months after hiring their first worker (this "new business" provision only applies until January 1, 2023).	Up to 40 hours a year.	Workers in businesses with 100 or more workers: 56 hours per year. Workers in businesses with between 5 and 99 workers: 40 hours per year. Workers in businesses with 4 or fewer workers and a net income of more than 1 million dollars in the previous tax year: 40 hours per year. Workers in businesses with 4 or fewer workers and a net income of 1 million dollars or less in the previous tax year: 40 hours of unpaid, job-protected sick time per year.
When do workers begin to earn paid sick time?	At the commencement of employment, but workers aren't entitled to use sick time until the 90th calendar day after commencement of employment.	At the commencement of employment. However, workers aren't entitled to use earned sick time until the 120th calendar day after employment commenced.	At the commencement of employment or 180 days after the law is enacted, whichever is later. Earned sick time can be used beginning January 1, 2021.
Does unused sick time carry forward to the subsequent year?	Workers are entitled to carry forward unused paid sick time and shall continue to accrue paid sick time up to a total of 80 hours at any time. There is otherwise no explicit limit on how much paid sick time can be used in a year. Carry forward is not required if the employer provides at least 48 hours of paid sick time following the initial 90 days of employment during the first year and at least 80 hours beginning each subsequent year.	Workers are entitled to carry forward up to 40 hours of unused paid sick time, but employers are not required to allow use of more than 40 hours of paid sick time a year.	Workers are entitled to carry forward unused sick time, but employers aren't required to allow annual use of more than: 56 hours of paid sick time per calendar year (for businesses with 100 or more workers); or 40 hours of sick time per calendar year (for businesses with fewer than 100 workers).
Private Right of Action to go to Court?	Yes.	Yes.	Regulations will be needed to specify the enforcement of the law.


 For more information visit A Better Balance (abetterbalance.org)	Saint Paul, MN	New Jersey	New York
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	An employer may opt to satisfy the law for construction employees by paying at least the State prevailing wage or the rate required in an applicable registered apprenticeship agreement (regardless of whether working on private or public projects).	The law does not apply to employees performing service in the construction industry that are under contract pursuant to a CBA. All or any part of the law may be waived during the negotiation of a CBA. No provision of the law applies until the stated expiration of the collective bargaining agreement in effect before October 29, 2018.	CBAs entered into on or after the effective date of the law may provide comparable benefits in lieu of the leave provided by the sick time law or parties to a CBA may negotiate the terms and conditions of sick leave different from those in the sick time law, but only if the CBA acknowledges the sick time law.
What Agency or Official Enforces the Law?	Saint Paul Department of Human Rights and Equal Economic Opportunity	Department of Labor and Workforce Development	Department of Labor Commissioner
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	N/A	No. New Jersey's law preempts—or prohibits—cities from passing their own sick time laws, and nullifies all previously enacted local sick time laws in New Jersey.	Yes - cities with a population of 1 million or more can enact and enforce local laws or ordinances that meet or exceed the minimum hour and use standards or requirements of this law as determined by the Commissioner of Labor. Any local law providing sick leave benefits in effect at the time of the effective date of this statute cannot be diminished.
Statutory Citation(s)	Saint Paul Code § 233.01 et seq.	N.J. Stat. Ann. § 34:11D-1 et seq.	(to be codified in N.Y. Lab. Law § 196-b)
Additional Notes	For more information about Saint Paul's sick time law, see https://www.stpaul.gov/departments/human-rights-equal-economic-opportunity/contract-compliance-business-development/earned .	Once New Jersey's statewide sick time law took effect on October 29, 2018, previously enacted local sick time laws were no longer effective in the following New Jersey cities: Newark, Passaic, East Orange, Paterson, Irvington, Trenton, Montclair, Bloomfield, Jersey City, Elizabeth, Plainfield, Morristown, and New Brunswick.	


 <p>For more information visit A Better Balance (abetterbalance.org)</p>	New York City, NY	Westchester County, NY	Oregon
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	Workers who have worked within NYC for more than 80 hours in a calendar year are covered. Domestic workers will receive some paid sick time. Work-study students, certain hourly speech/physical/occupational therapists, independent contractors, and government employees are exempted.	Any person employed for hire by an employer in any employment within Westchester County for more than 80 hours in a calendar year. Domestic workers will receive some paid sick time. The following workers are excluded: government workers, except employees of Westchester County government not subject to a collective bargaining agreement; work study students.	Workers employed in Oregon are covered. Independent contractors, certain work study students, certain railroad workers, and individuals employed by their parent, spouse, or child are exempted.
Can sick time be used to care for loved ones?	Yes: children; spouses; registered domestic partners; parents; grandchildren; grandparents; siblings; the children or parents of a spouse or registered domestic partner; any other individual related by blood to the worker; and any other individual whose close association with the worker is the equivalent of a family relationship.	Yes: children; spouses; domestic partners; parents; siblings; grandchildren or grandparents; and children or parents of an employee's spouse, domestic partner or certain household members.	Yes: children; spouses; same-sex domestic partners; parents; parents of a spouse or same-sex domestic partner; grandparents; and grandchildren.
How is "child" defined?	Biological, adopted, or foster children, legal wards, or the child of a worker standing in loco parentis to the child.	A biological, adopted, foster child, legal ward or person to whom the employee stood in loco parentis or to whom the employee stood in loco parentis when that person was a minor.	Biological, adopted, or foster child, or a child of a worker standing in loco parentis to the child. According to current regulations in Oregon, this definition of child also includes a stepchild or the child of a same-sex domestic partner.
Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?	Yes, when the worker or the worker's family member is the victim (of a family offense matter, sexual offense, stalking, or human trafficking).	No. However, the Westchester County Safe Time Leave Law (effective October 30, 2019) grants workers an additional 40 hours of paid leave per year for safe time purposes.	Yes, but only when the worker or the worker's minor child or dependent is the victim.
Can sick time be used under the law to bond with a new child and/or deal with a family member's death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	No.	Yes: 1) to bond with a newborn, newly adopted, or newly placed foster child under age 18; or 2) to deal with the death of a family member (including to attend the funeral, grieve, make arrangements).
Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?	Yes.	Yes.	Yes.
Rate at which workers earn paid sick time?	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below).	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below).	1 hour for every 30 hours worked or 1 and 1/3 hours for every 40 hours worked (for both paid and unpaid sick time, as described below).
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	Yes. Workers in businesses with 5 or more workers can earn up to 40 hours of paid sick time per year. Workers in businesses with fewer than 5 workers can earn up to 40 hours of unpaid, job-protected sick time per year.	Yes. Workers in businesses with 5 or more workers can earn up to 40 hours of paid sick time per year. Workers in businesses with fewer than 5 workers can earn up to 40 hours of unpaid, job-protected sick time per year.	Yes. Workers in businesses with at least 10 workers (or at least 6 workers, for businesses located in Portland) can earn up to 40 hours of paid sick time per year. Workers in businesses with fewer than 10 workers (or fewer than 6 workers for businesses located in Portland) can earn up to 40 hours of unpaid, job-protected sick time per year.
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Workers in businesses with 5 or more workers: up to 40 hours a year. Workers in businesses with fewer than 5 workers up to 40 hours of unpaid, job-protected sick time a year. All workers in certain chain businesses or franchises will be counted together to determine size.	Workers who work for employers with 5 or more employees can earn up to 40 hours of paid sick time per year. Workers who work for employers with fewer than 5 employees can earn up to 40 hours of unpaid, job-protected sick time per year.	Larger businesses: Workers in businesses with at least 10 or more workers: up to 40 hours of paid sick time a year. Employers located in Portland: If a business is located in Portland (including maintaining any office, store, restaurant, or establishment in the city) and has at least 6 workers anywhere in Oregon, workers have the right to earn up to 40 hours of paid sick time a year. Smaller businesses: Workers in businesses with fewer than 10 workers (or fewer than 6 workers if the business is located in Portland): up to 40 hours of unpaid, job-protected sick time a year. Special rule for some home care workers: Certain home care workers who are hired directly by the client but whose compensation is funded in whole or part by payments from the State, county, or a public agency must receive up to 40 hours of paid time off a year (including but not limited to sick time).
When do workers begin to earn paid sick time?	At the commencement of employment, but workers aren't entitled to use sick time until the 120th calendar day following commencement of employment.	At the commencement of employment. New employees can be required to wait 90 days before using sick time.	At the commencement of employment. Workers aren't entitled to use earned sick time until the 91st calendar day of employment with the employer.
Does unused sick time carry forward to the subsequent year?	Workers are entitled to carry forward up to 40 hours of unused sick time, but employers aren't required to allow use of more than 40 hours of sick time a year. Carry forward is not required if a worker is paid for unused sick time at the end of the year and the employer provides the worker with an amount of paid sick time that meets or exceeds the law's requirement on the first day of the subsequent year.	Workers can carry over to the following year unused earned sick time but workers can only use up to 40 hours in a year.	Workers are entitled to carry forward up to 40 hours of unused sick time. An employer may adopt a policy: limiting the amount of sick time that can be earned to no more than 80 hours; or limiting use of sick time to no more than 40 hours a year. Carry forward is not required if the following elements are met: 1) the worker and the employer mutually agree not to carry forward the time; 2) the employer credits the worker with an amount of sick time that meets the law's requirements up front at the start of the subsequent year; and 3) if the employer has 10 or more workers in OR, the employer pays the worker for all unused paid sick time at the end of the year in which it is earned.

 <p>For more information visit A Better Balance (abetterbalance.org)</p>	New York City, NY	Westchester County, NY	Oregon
Private Right of Action to go to Court?	No.	Yes.	Yes.
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	If an employee is subject to a collective bargaining agreement that is in effect on April 1, 2014, the employee becomes covered under the law beginning on the date that the agreement terminates. However, the law's provisions won't apply to workers in the construction or grocery industry covered by CBA if the law's provisions are expressly waived in the CBA. The law's provisions won't apply to other workers covered by a CBA if the provisions are expressly waived in the CBA and the CBA provides a comparable benefit.	Any provisions of the law may be waived in a CBA as long as the waiver is explicitly stated in the CBA and as long as a comparable benefit is provided in the form of leave, additional compensation or a combination. The effective date of the law for those covered by a CBA is not until the stated expiration date of the CBA.	The law exempts workers whose terms and conditions of employment are covered by a CBA if their employment-related benefits are provided by a joint multi-employer-employee trust or benefit plan and they are employed through a hiring hall or similar referral system operated by the labor organization or third party.
What Agency or Official Enforces the Law?	New York City Department of Consumer Affairs	Westchester County Department of Weights and Measures—Consumer Protection	The Oregon Bureau of Labor and Industries
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	N/A	N/A	No. The Oregon law preempts—or prohibits—cities from passing their own paid sick time laws. However, in response to Portland's more generous paid sick time law (in effect when the state bill was passed), the statewide paid sick time law requires that employers located in Portland with at least 6 workers (anywhere in Oregon) must provide paid sick time to their workers.
Statutory Citation(s)	NYC Code § 20-911 et seq.	Laws of Westchester County, Chapter 585	Or. Rev. Stat. §§ 653.256 et seq., 659A.885
Additional Notes	New York City's law will continue to be in effect even after New York State passed a statewide sick time law. However, beginning on January 1, 2021, Westchester County's paid sick time law will be preempted—or prohibited—by the New York State law. For more information about New York City's sick time law, see http://www.nyc.gov/PaidSickLeave and A Better Balance's web site https://www.abetterbalance.org/resources/paid-sick-time-for-workers-in-nyc/ .	Beginning on January 1, 2021, the Westchester County sick time law will be preempted—or prohibited—by New York State's statewide sick time law. However, New York City's sick time law will remain in effect.	Oregon's Legislature passed a statewide paid sick time law on June 12, 2015, and the law went into effect on January 1, 2016. The law preempts—or prohibits—local governments from passing paid sick time laws. As a result, Eugene's paid sick time law—passed in July 2014 and originally scheduled to go into effect on July 1, 2015—did not take effect. On the other hand, Portland passed a paid sick time law in March 2013, and it went into effect on January 1, 2014, prior to passage of the statewide law. Although Oregon's paid sick time law blocked localities from passing paid sick time laws and preempted Portland's law, the Portland law influenced a key provision of the statewide law. As described in this chart, the employer size threshold for providing paid sick time is lower for employers who are located in Portland (including maintenance of any office, store, restaurant, or establishment in the city). As described in the chart, an employer located in Portland that employs at least six workers anywhere in Oregon must provide its workers with paid sick time, and smaller employers located in Portland must provide unpaid sick time. For employers who are not located in Portland, the size threshold for providing paid sick time is 10 or more workers (with smaller employers providing unpaid sick time). Eugene and Portland have been removed from this comparison chart. For more information about Oregon's sick time law, see http://www.oregon.gov/BOLI/TA/pages/index.aspx .


 For more information visit A Better Balance (abetterbalance.org)	Philadelphia, PA	Pittsburgh, PA	Rhode Island
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	Workers employed in Philadelphia for at least 40 hours in a calendar year are covered. The following workers are exempted: independent contractors; seasonal workers (hired for a temporary period of not more than 16 weeks a year); adjunct professors; interns (students working for the institution where enrolled); workers hired for a term of less than 6 months; and health care professionals who only work when indicating they are available and have no obligation to work when they do not indicate availability.	Workers employed in Pittsburgh are covered. Independent contractors and seasonal workers (those hired for a temporary period of not more than 16 weeks and given written notification at time of hire that employment is limited to beginning/end of seasonal dates as determined by employer) are exempted.	Workers employed in Rhode Island are covered. Independent contractors, subcontractors, work study participants, apprenticeships and interns, certain employees licensed to practice nursing, and state and municipal workers are exempted. Workers exempt from the state minimum wage law are also exempt from the paid sick time law. See http://webserver.rilin.state.ri.us/Statutes/TITLE28/28-12/28-12-2.HTM for a detailed list of exemptions.
Can sick time be used to care for loved ones?	Yes: children; parents; parents-in-law; spouses; grandparents; spouses of grandparents; grandchildren; siblings; spouses of siblings; and a life partner (a long-term committed relationship between two unmarried individuals of the same sex or gender identity who meet certain, specified requirements).	Yes: children; parents; parents of a spouse or domestic partner; spouses; domestic partners; grandchildren; grandparents; spouses or domestic partners of grandparents; siblings; and any individual for whom the worker received oral permission from the employer to care for at the time of the worker's request to make use of sick time.	Yes: children; parents; spouses; parents-in-law; grandparents; grandchildren; domestic partners (broadly defined); siblings; care recipients; and members of the worker's household. A "care recipient" is any person for whom the worker is responsible for providing or arranging health or safety related care.
How is "child" defined?	Biological, adopted or foster children, stepchildren, legal wards, or the child of a worker standing in loco parentis to the child.	Biological, adopted, or foster child, stepchild, legal ward, child of a domestic partner, or child of a worker standing in loco parentis to the child.	Biological, adopted, or foster child, stepchild, legal ward, a child of a domestic partner, or a child of a worker standing in loco parentis to the child.
Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?	Yes, when the worker or the worker's family member is the victim.	No.	Yes, when the worker or the worker's family member is the victim.
Can sick time be used under the law to bond with a new child and/or deal with a family member's death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	No.	No.
Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?	No.	Yes.	Yes.
Rate at which workers earn paid sick time?	1 hour for every 40 hours worked (for both paid and unpaid sick time, as described below).	1 hour for every 35 hours worked.	1 hour for every 35 hours worked (for both paid and unpaid sick time, as described below).
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	Yes. Workers in businesses with 10 or more workers can earn up to 40 hours of paid sick time per year. Workers in businesses with fewer than 10 workers can earn up to 40 hours of unpaid, job-protected sick time per year. Certain chain establishments must provide paid sick time regardless of the number of workers in an establishment.	Yes. Workers in businesses with 15 or more workers can earn up to 40 hours of paid sick time per year. Workers in businesses with fewer than 15 workers can earn up to 24 hours of paid sick time per year.	Yes. As of 2019, workers in businesses with 18 or more workers can earn up to 32 hours of paid sick time; workers in businesses with fewer than 18 workers can earn up to 32 hours of unpaid, job-protected sick time. Each year after 2019, workers in businesses with 18 or more workers can earn up to 40 hours of paid sick time; workers in businesses with fewer than 18 workers can earn up to 40 hours of unpaid, job-protected sick time.
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Workers in businesses with 10 or more workers: up to 40 hours a year. Workers in businesses with fewer than 10 workers: up to 40 hours of unpaid, job-protected sick time a year. Certain chain establishments must provide paid sick time regardless of the number of workers in an establishment.	Workers in businesses with 15 or more workers: up to 40 hours a year. Workers in businesses with fewer than 15 workers: up to 24 hours a year, although in the first year after the law goes into effect, this time will be unpaid (thereafter it will be 24 hours of paid sick time a year for workers in these small businesses).	As of 2019, workers in businesses with 18 or more workers can earn up to 32 hours of paid sick time; workers in businesses with fewer than 18 workers can earn up to 32 hours of unpaid, job-protected sick time. Each year after 2019, workers in businesses with 18 or more workers can earn up to 40 hours of paid sick time; workers in businesses with fewer than 18 workers can earn up to 40 hours of unpaid, job-protected sick time.
When do workers begin to earn paid sick time?	At the commencement of employment, but workers aren't entitled to use sick time until after 90 calendar days of employment.	At the commencement of employment, but workers aren't entitled to use sick time until the 90th calendar day after employment commenced.	At the commencement of employment (for both paid and unpaid sick time). However, workers aren't entitled to use sick time until after 90 days of employment. Temporary workers are entitled to use sick time beginning on the 180th calendar day following commencement of their employment. Seasonal workers are entitled to use sick time beginning on the 150th calendar day following commencement of their employment.
Does unused sick time carry forward to the subsequent year?	Workers are entitled to carry forward unused sick time, but employers are not required to allow use of more than 40 hours of sick time per year. Carry forward isn't required if the employer chooses to provide at least 40 hours of sick time at the beginning of each calendar year.	Workers are entitled to carry forward unused sick time, but employers aren't required to allow use of more than 40 hours of paid sick time a year (for businesses with 15 or more workers) or more than 24 hours of sick time a year (for businesses with fewer workers). Carry forward is not required if the employer provides the worker with an amount of paid sick time that meets or exceeds the law's requirement on the first day of the subsequent year.	Workers are entitled to carry forward unused paid sick time, but employers aren't required to allow use of more than 24 hours of paid sick time in 2018, 32 hours of paid sick time in 2019, and 40 hours of paid sick time each year after 2019. In lieu of carryover of unused earned paid sick time from one year to the next, an employer may pay a worker for unused paid sick time at the end of a year and provide the worker with an amount of paid sick time that meets or exceeds the law's requirements that is available for the worker's immediate use at the beginning of the subsequent year.


 For more information visit A Better Balance (abetterbalance.org)	Philadelphia, PA	Pittsburgh, PA	Rhode Island
Private Right of Action to go to Court?	Yes. Can go directly to court in the first 120 days after May 13, 2015, the law's effective date. After that, workers may go to Court only after receiving a final decision from the agency or 180 days after filing a complaint, whichever is earlier.	No.	Yes.
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	The law's provisions do not apply to workers covered by a bona fide CBA.	Members of a construction union covered by a collective bargaining unit are exempted.	No specific waivers or exemptions for workers covered by a CBA.
What Agency or Official Enforces the Law?	The Philadelphia Managing Director's Office	The Office of the City Controller or a Department or entity designated by the Mayor's Office	The Rhode Island Department of Labor and Training
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	N/A	N/A	No. The Rhode Island law preempts—or prohibits—cities from requiring employers to provide sick time benefits in excess of those required by the state law.
Statutory Citation(s)	Philadelphia Code § 9-4101 et seq.	Pittsburgh Code § 626 et seq.	28 R.I. Gen. Laws § 28-57-1 et seq.
Additional Notes	For more information, see http://www.phila.gov/MDO/Pages/PaidSickLeave.aspx .	On August 3, 2015, the Pittsburgh City Council passed a paid sick time law by a vote of 7-1. Opponents challenged its legality in court, temporarily blocking it from taking effect. In July 2019, after nearly four years of litigation, the Pennsylvania Supreme Court upheld the law. The law took effect on March 15, 2020. For more information on Pittsburgh's law, see https://pittsburghpa.gov/mayor/paidsickleave .	For more information on Rhode Island's law, see http://www.dlt.ri.gov/ls/SickSafeFAQs.htm .


 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Austin, TX	San Antonio, TX	Vermont
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	<p>*Important note: This law is not currently in effect due to a pending court challenge.*</p> <p>Private sector workers who have worked within the City of Austin for at least 80 hours in a calendar year are covered. Workers employed by the City of Austin are also effectively covered, per a separate resolution passed by the City Council. Independent contractors and unpaid interns are exempted.</p>	<p>*Important note: This law is not currently in effect due to a pending court challenge.*</p> <p>Private sector workers who work within the City of San Antonio. Workers based outside of San Antonio for more than half of their work hours are covered if they work at least 240 hours within the city in a year. Independent contractors, paid and unpaid interns in established internship programs, and government workers are exempted.</p>	Workers employed by an employer in Vermont for an average of no less than 18 hours per week during a year are covered. The following individuals are exempted: workers under 18 years of age; workers employed for 20 or fewer weeks in a year in a job scheduled to last 20 or fewer weeks; certain State workers excluded from the State classified service; certain employees who work on a per diem or intermittent basis at a health care or long-term care facility; certain per diem or intermittent workers who only work when indicating availability, have no obligation to accept the work, and have no expectation of continued employment; certain substitute educators for a school district or supervisory district/union if under no obligation to work a regular schedule or period of long-term (30 or more consecutive school days) substitute coverage; and certain sole proprietors/partner owners of an unincorporated business.
Can sick time be used to care for loved ones?	Yes: children; spouses; parents; and any other individuals related by blood or whose close association with the employee is the equivalent of a family relationship.	Yes: spouses, domestic partners, and significant others (regardless of gender); any other family member within the second degree of consanguinity or affinity; or a member of the worker's household. This includes the worker's or worker's spouse's parent, child, sibling, grandparent, or grandchild.	Yes: children; parents; parents-in-law; grandparents; spouses; grandchildren; and siblings.
How is "child" defined?	Undefined.	Undefined, although the law states that parenthood is liberally construed without limitation to include foster parents, same-sex parents, step-parents, those serving in loco parentis, and other persons operating in caretaker roles.	Undefined. The law specifically covers care of a child or foster child.
Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?	Yes, when the worker or the worker's family member is the victim.	Yes, when the worker or the worker's family member is the victim.	Yes, when the worker or the worker's family member is the victim.
Can sick time be used under the law to bond with a new child and/or deal with a family member's death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	No.	No.
Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?	No.	No.	Yes, for public health or safety reasons.
Rate at which workers earn paid sick time?	1 hour for every 30 hours worked.	1 hour for every 30 hours worked.	1 hour for every 52 hours worked.
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	Yes, workers' rights differ based on whether an employer has: 5 or fewer workers; 6-15 workers; or more than 15 workers, as described below.	No.	No.
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Workers who work for employers with more than 15 employees can earn up to 64 hours of paid sick time per year. Workers who work for employers with fewer than 15 employees can earn up to 48 hours of paid sick time per year. The ordinance is effective for employers with 5 or more workers on October 1, 2018, but for smaller employers the effective date is October 1, 2020.) Note that the law has been temporarily stayed pending litigation.	All covered workers can earn up to 56 hours of earned sick time per year.	From 1/1/2017 to 12/31/2018: Up to 24 hours a year. After 12/31/2018: Up to 40 hours a year. Note: new businesses will not be subject to the paid sick time law for a period of one year after hiring their first worker.
When do workers begin to earn paid sick time?	For workers who work for employers with more than 5 employees, at the commencement of employment or October 1, 2018, whichever is later. For workers who work for employers with 5 or fewer employees, at the commencement of employment or October 1, 2020, whichever is later. New employees can be required to wait 60 days before using sick time, if the employer establishes that the employee's term of employment is at least one year. Note that the law has been temporarily stayed pending litigation.	Workers will begin earning sick time at the commencement of employment or December 1, 2019, whichever is later. Under an employer's benefits eligibility period, new employees can be required to wait up to 90 days before using earned sick time.	At the commencement of employment or when their employer becomes covered by the law, whichever is later, but workers can be required to wait up to 1 year before using their accrued paid sick time.


 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Austin, TX	San Antonio, TX	Vermont
Does unused sick time carry forward to the subsequent year?	Workers can carry over to the following year unused earned sick time up to the applicable yearly cap based on the size of their employer. Carry forward is not required if the employer makes at least the yearly cap of earned sick time available at the beginning of the year.	Workers can carry over to the following year up to 56 hours of unused earned sick time. Carry forward is not required if the employer makes at least 56 hours of earned sick time available at the beginning of the year.	Workers are entitled to carry forward unused paid sick time and shall continue to accrue paid sick time, but employers aren't required to allow use of more than 24 hours (from 1/1/2017 to 12/31/2018) or 40 hours (after 12/31/2018) a year. However, employers are not required to carry it forward if they choose to pay a worker for unused paid sick time at the end of the year. If an employer offers a paid time off (PTO) policy or is party to a CBA that provides at least the full amount of PTO required by the paid sick time law at the beginning of each year and it can be used for the law's purposes at any time during the year, it shall not carry forward.
Private Right of Action to go to Court?	No.	No.	Yes.
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	A CBA may modify the yearly cap as long as the modification is explicitly stated in the CBA.	Yes, workers covered by a CBA are exempt from this ordinance.	No specific waivers or exemptions for workers covered by a CBA.
What Agency or Official Enforces the Law?	City of Austin Equal Employment Opportunity/Fair Housing Office	San Antonio Metropolitan Health District	Vermont Department of Labor
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	N/A	N/A	Not explicitly addressed in the paid sick time law.
Statutory Citation(s)	Austin Code § 4-19-1 et seq.	San Antonio City Code, Chapter 15, Article XI	Vt. Stat. Ann. tit. 21, § 481 et seq.
Additional Notes	On February 16, 2018, the City Council in Austin, Texas voted to pass a paid sick time ordinance covering private sector employees. On March 1, 2018, the City Council passed a resolution to effectively expand the ordinance to cover all City employees as well. Note: the law has been temporarily stayed pending litigation. For more information about Austin's sick time law, see http://www.austintexas.gov/EarnedSickTime . *Important note: This law is not currently in effect due to a pending court challenge.*	On August 16, 2018, the San Antonio City Council voted 9-2 to pass a paid sick time ordinance. Implementation of the original ordinance was delayed because of a lawsuit filed in July 2019. The Paid Sick Leave Commission submitted a revised ordinance for review. On October 3, 2019, the San Antonio City Council voted 8-3 to pass the Sick and Safe Leave Benefits ordinance with the amendments reflected in this chart. The effective date of the ordinance is December 1, 2019. *Important note: The law is not currently in effect due to a pending court challenge.*	For more on Vermont's paid sick time law, see the resources at https://labor.vermont.gov/ .

 For more information visit A Better Balance (abetterbalance.org)	Washington	Seattle, WA	Tacoma, WA
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	Workers employed by an employer in Washington are covered. Workers exempt from the state minimum wage law are also exempt from the paid sick time law. See http://www.lni.wa.gov/workplacerrights/files/policies/esa1.pdf for a detailed list of exemptions.	Workers who work in Seattle are covered. Independent contractors and government workers other than those employed by the City of Seattle are exempted.	Workers employed in Tacoma are covered, as long as there is a reasonable expectation that they will perform work in Tacoma for more than 80 hours within a benefit year. Independent contractors, single-person businesses, and Federal government workers are exempted.
Can sick time be used to care for loved ones?	Yes: children; parents; parents of a spouse or registered domestic partner; spouses; registered domestic partners; grandparents; grandchildren; and siblings.	Yes: children; parents; parent of a spouse or registered domestic partner; spouses; registered domestic partners; grandparents; grandchildren; and siblings.	Yes: children; parents; grandparents; grandchildren; siblings; spouses; and registered domestic partners (local or state registries).
How is "child" defined?	Biological, adopted, or foster children, stepchildren, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.	Biological, adopted, or foster children, stepchildren, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.	Biological, adopted or foster children, stepchildren, legal wards, or a child to whom the worker stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.
Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?	Yes, when the worker or the worker's family member (for safe time purposes: a child, spouse, parent, parent of a spouse or registered domestic partner, grandparent, or person with whom the worker has a dating relationship) is the victim.	Yes, when the worker, the worker's family member (for safe time purposes: a child, spouse, registered domestic partner, parent, parent of a spouse or registered domestic partner, grandparent, or person with whom the employee has a dating relationship) or certain members of the worker's household (defined under Washington State law) is the victim.	Yes, when the worker or the worker's family member (for safe time purposes, also includes a parent-in-law or a person with whom the worker has a dating relationship, per Washington State law) is the victim.
Can sick time be used under the law to bond with a new child and/or deal with a family member's death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	No.	Paid sick time can be used to deal with a family member's death.
Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?	Yes, when closed for any health-related reasons (not only public health emergencies).	Yes, when closed for any public health reason (not only public health emergencies).	Yes.
Rate at which workers earn paid sick time?	1 hour for every 40 hours worked.	In businesses with 250 or more employees, at least 1 hour for every 30 hours worked. In businesses with fewer than 250 employees, at least 1 hour for every 40 hours worked.	1 hour for every 40 hours worked.
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	No.	Yes. Both the rate at which employees earn paid sick time and the amount of paid sick time that employees are entitled to carry forward to the following year vary based on the size of their employer. Accrual Rate Workers in businesses with 250 or more full-time workers/equivalents accrue paid sick time at a rate of 1 hour for every 30 hours worked. Workers in businesses with fewer than 250 full-time workers/equivalents accrue paid sick time at a rate of 1 hour for every 40 hours worked. Carry-Forward Workers in businesses with 1-49 employees are entitled to carry forward up to 40 hours of paid sick time to the following year. Workers in businesses with 50-249 employees are entitled to carry forward up to 56 hours of paid sick time to following year. Workers in businesses with 250 or more employees are entitled to carry forward up to 72 hours of paid sick time to the following year.	No.
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	No explicit cap on how much sick time can be earned or used in a year. However, as described below, employers are not required to allow a worker to carry over more than 40 hours of unused paid sick time a year.	No explicit cap on how much sick time can be earned or used in a year. However, as described below, employers may cap the amount of unused sick time workers may carry over to the subsequent year.	No explicit cap on how much sick time can be earned or used in a year. However, as described below, employers are not required to allow a worker to carry over more than 40 hours of unused paid sick time a year.
When do workers begin to earn paid sick time?	Although not specified, reads as if accrual begins at the commencement of employment. Workers are entitled to use accrued paid sick time beginning on the 90th calendar day after the commencement of employment.	At the commencement of employment, but workers aren't entitled to use paid sick time until the 90th calendar day after employment commenced.	At the commencement of employment, but workers aren't entitled to use paid sick time until the 90th calendar day after employment commenced.
Does unused sick time carry forward to the subsequent year?	Workers are entitled to carry forward unused paid sick time, except that an employer is not required to allow a worker to carry over paid sick time in excess of 40 hours.	Workers are entitled to carry forward the following amount of unused paid sick time: for businesses with at least one and fewer than 50 employees: up to 40 hours; for businesses with at least 50 and fewer than 250 employees: up to 56 hours; for businesses with 250 or more employees: up to 72 hours.	Workers are entitled to carry forward 40 hours of unused paid sick time to the following benefit year.
Private Right of Action to go to Court?	Yes.	Yes.	No.

 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Washington	Seattle, WA	Tacoma, WA
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	No specific waivers or exemptions for workers covered by a CBA.	Workers covered by a valid CBA may waive the law's requirements that are more generous than Washington's statewide paid sick time law (such as accrual and carry over rates). Such requirements must be expressly waived in clear and unambiguous terms in the CBA, or in an addendum to an existing CBA including an agreement that is open for negotiation. This limited waiver is only allowed for agreements ratified or expiring by December 31, 2018. CBA waivers are not permitted on the later of January 1, 2019, or the expiration date of a CBA in existence on December 31, 2018.	All or any part of the law doesn't apply to workers covered by a CBA to the extent that the CBA explicitly waives the requirements in clear and unambiguous terms.
What Agency or Official Enforces the Law?	Washington Department of Labor and Industries	Seattle Office of Labor Standards	The Finance Director or his or her designee
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	Yes. Therefore, the local paid sick time laws in Seattle, Tacoma (and a law only applying to certain industries in SeaTac) remain in effect, and other localities in Washington may continue to pass broader paid sick time laws. Note that following passage of the statewide sick time law, the City of Spokane amended its sick time law, passed by the Spokane City Council in January 2016, to sunset on December 31, 2017.	N/A	N/A
Statutory Citation(s)	Wash. Rev. Code § 49.46.005 et seq.	Seattle Code § 14.16.010 et seq.	Tacoma Code § 18.10.010 et seq.
Additional Notes	For more on Washington's paid sick time law, see https://lni.wa.gov/workers-rights/leave/paid-sick-leave/ .	For more information, see http://www.seattle.gov/laborstandards/paid-sick-and-safe-time .	For more information about Tacoma's sick time law, see http://www.cityoftacoma.org/cms/one.aspx?objectId=75860 .

 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Colorado	Dallas, TX
Who is covered? Note: City/county paid sick time laws cannot cover state government workers, and city, county, and state paid sick time laws cannot cover federal government workers.	Workers employed in Colorado are covered.	<p>*Important note: This law is not currently in effect due to a pending court challenge.*</p> <p>Individuals who perform at least 80 hours of work for pay within the City of Dallas, Texas in a year for an employer, including work performed through the services of a temporary or employment agency. Independent contractors, unpaid interns, and employees of the federal, state, or city government are not covered.</p>
Can sick time be used to care for loved ones?	Yes: a person who is related by blood, marriage, civil union, or adoption; a child to whom the worker stands in loco parentis; a person who stood in loco parentis to the employee when the employee was a minor; and a person for whom the employee is responsible for providing or arranging health- or safety-related care.	Yes: spouses; children; parents; any other individual related by blood, or any other individual whose close association to an employee is the equivalent of a family relationship.
How is “child” defined?	Any child who is related to the worker by blood, marriage, civil union, or adoption is covered, as well as a child to whom the worker stands in loco parentis.	Undefined.
Can sick time be used for specific “safe time” purposes (related to domestic violence, sexual assault, or stalking)?	Yes, when the worker or the worker’s family member is the victim.	Yes, when the worker or the worker’s family member is the victim.
Can sick time be used under the law to bond with a new child and/or deal with a family member’s death? Note: It is possible that other laws, such as the Family and Medical Leave Act or a state equivalent, could provide eligible workers with unpaid leave for these purposes.	No.	No.
Can sick time be used when a worker’s place of work or child’s school/place of care is closed by public health officials for a public health emergency?	Yes.	No.
Rate at which workers earn paid sick time?	1 hour for every 30 hours worked; supplemental paid sick time during a declared public health emergency, as described below, is not accrued but rather is provided on the date the public health emergency is declared.	1 hour for every 30 hours worked.
Do workers have different sick time-related rights based on the size of their employer? If so, based on what employer-size threshold(s)?	Not once fully implemented. There is a one year delayed effective date for employers with fewer than 16 employees. Employers with 16 or more employees are required to provide accrued paid sick time beginning on January 1, 2021, while all employers regardless of size must provide paid sick time beginning on January 1, 2022.	Yes. Workers in businesses with more than 15 workers can earn up to 64 hours of paid sick time per year. Workers in businesses with 15 or fewer workers can earn up to 48 hours of paid sick time per year. The size of an employer also determines when workers begin to earn paid sick time. Workers who work for employers with more than 5 employees begin earning paid sick time at the commencement of employment or August 1, 2019, whichever is later. Workers who work for employers with 5 or fewer employees begin earning paid sick time at the commencement of employment or August 1, 2021, whichever is later.

 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Colorado	Dallas, TX
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Up to 48 hours per year. On the date a public health emergency is declared, each employer must supplement an employee's accrued paid sick time to ensure that the worker may take the following amounts of paid sick leave: for workers who normally work 40 or more hours per week, up to 80 hours of paid sick time; for employees who work fewer hours, an amount equal to the amount they work on average or are scheduled to work (whichever is greater) in a 14-day period of time.	Workers who work for employers with more than 15 employees can earn up to 64 hours of paid sick time per year. Workers who work for employers with 15 or fewer employees can earn up to 48 hours of paid sick time per year. (Note that the ordinance is effective for employers with 5 or more workers on August 1, 2019 but for smaller employers the effective date is August 1, 2021.)
When do workers begin to earn paid sick time?	On the law's effective date for accrued paid sick time (January 1, 2021 for those employed by employers with 16 or more employees; January 1, 2022 for those employed by employers with fewer than 16 employees) or at the commencement of employment, whichever is later. Earned paid sick time can be used as it is accrued.	For workers who work for employers with more than 5 employees, at the commencement of employment or August 1, 2019, whichever is later. For workers who work for employers with 5 or fewer employees, at the commencement of employment or August 1, 2021, whichever is later. New employees can be required to wait 60 days before using sick time, if the employer establishes that the employee's term of employment is at least one year.
Does unused sick time carry forward to the subsequent year?	Workers are entitled to carry forward up to 48 hours of unused paid sick, but employers are not required to allow workers to use more than 48 hours of paid sick time in a year (unless during a declared public health emergency, when workers receive supplemental paid sick time as described above).	Workers can carry over to the following year unused earned sick time up to the applicable yearly cap based on the size of their employer. Carry forward is not required if the employer makes at least the yearly cap of earned sick time available at the beginning of the year.
Private Right of Action to go to Court?	Yes. Before commencing a civil action, an individual must first submit a complaint to the Colorado Division of Labor and Employment or make a written demand for compensation and/or other relief to the employer, and the employer has 14 days to respond.	No.
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	Workers covered by a CBA in effect on the law's effective date aren't covered if the CBA provides for equivalent or more generous paid sick leave; employees covered by a CBA negotiated after the law's effective date aren't covered if the CBA both expressly waives the law's requirements and provides for equivalent or more generous paid sick leave. An employer signatory to a multi-employer CBA may fulfill the law's obligations by making contributions to a multi-employer fund/plan/program based on the hours of paid sick time each of its workers accrue under the law, as long as the fund/plan/program allows workers to collect paid sick time from it based on hours worked under the CBA and for the purposes specified in the law.	A CBA may modify the yearly cap as long as the modification is explicitly stated in the CBA.
What Agency or Official Enforces the Law?	The Colorado Department of Labor and Employment's Division of Labor Standards and Statistics	The city manager is authorized to designate a department to implement, administer, and enforce the Ordinance.
For the statewide paid sick time laws: can cities in the state pass paid sick time laws that are broader than the state law?	Yes	N/A
Statutory Citation(s)	Colo. Rev. Stat. Ann. § 8-13.3-401 et seq.	Ch. 20, Dallas City Code.

 <p>For more information visit A Better Balance (abetterbalance.org)</p>	Colorado	Dallas, TX
Additional Notes		<p>On April 24, 2019, the Dallas City Council voted 10-4 to pass a paid sick time law, making it the third jurisdiction in Texas to do so. Although the law's effective date was August 1, 2019 (except for employers that did not employ more than 5 employees at any time in the preceding 12 months, for whom the law's effective date is August 1, 2021), the law is not currently in effect since it has been stayed pending litigation. *Important note: The law is not currently in effect due to a pending court challenge.*</p>



the work and family legal center

Overview of Paid Family & Medical Leave Laws in the United States

Eight U.S. states and the District of Columbia have paid family and medical leave laws on the books. This document provides an overview of these laws.

	RI ¹	CA ²	NJ ³	NY ⁴	D.C. ⁵	WA ⁶	MA ⁷	CT ⁸	OR ⁹
What purposes can leave be used for?	Temporary disability insurance (TDI) can be used for a worker's own serious off-the-job illness or injury. Temporary caregiver insurance (TCI) can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; or (2) care for a family member with a serious health condition.	Disability insurance (DI) can be used for a worker's own serious off-the-job illness or injury. Paid family leave (PFL) can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; or (2) care for a family member with a serious health condition. <i>Beginning on January 1, 2021, PFL can also be used to address certain military family needs.</i>	Temporary disability insurance (TDI) can be used for a worker's own serious off-the-job illness or injury. ¹⁰ Family leave insurance (FLI) can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; (2) care for a family member with a serious health condition; or (3) address certain non-medical needs arising from domestic or sexual violence, also known as "safe time."	Temporary disability insurance (TDI) can be used for a worker's own serious off-the-job illness or injury. Paid family leave (PFL) can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; (2) care for a family member with a serious health condition; or (3) address certain military family needs. ¹¹	Universal paid leave (UPL) can be used (1) for a worker's own serious health condition; (2) to bond with a child within one year of the child's birth or placement for foster care or adoption; or (3) to care for a family member with a serious health condition.	Medical leave can be used for a worker's own serious health condition. Family leave can be used to (1) bond with a child within one year of the child's birth or placement; (2) care for a family member with a serious health condition; or (3) address certain military family needs.	Medical leave can be used for a worker's own serious health condition. Family leave can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; (2) care for a family member with a serious health condition; or (3) address certain military family needs. <i>Benefits begin on January 1, 2021, except for benefits for family caregiving, which will begin on July 1, 2021.</i>	Medical leave can be used for a worker's own serious health condition. ¹² Family leave can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; (2) care for a family member with a serious health condition; (3) address certain military family needs; or (4) address certain medical and non-medical needs arising from domestic violence, also known as "safe time." <i>Benefits begin between January 1 and February 1, 2022.</i>	Medical leave can be used for a worker's own serious health condition. Family leave can be used to (1) bond with a child within one year of the child's birth or placement for foster care or adoption; or (2) care for a family member with a serious health condition. Safe leave can be taken to address certain medical and nonmedical needs arising from domestic violence, harassment, sexual assault or stalking. <i>Benefits begin January 1, 2023.</i>

	RI₁	CA₂	NJ₃	NY₄	D.C.₅	WA₆	MA₇	CT₈	OR₉
Who is covered? ¹³	Employees covered by the state unemployment insurance law, except for public employees, are covered.	Employees covered by the state unemployment insurance law, except for most public employees, are covered.	Employees covered by the state unemployment insurance law are covered, with some exceptions for public sector employees.	Most private sector employees are covered. ¹⁴	Most private sector employees are covered.	All employees are covered.	Employees covered by the state unemployment insurance law, except for some public employees, are covered.	All private sector and many public sector employees are covered.	Almost all employees are covered.
Are public sector workers automatically covered? ¹⁵	No. Public employers can opt in to coverage, as can some unions covering public sector workers through the collective bargaining process.	No, with a few exceptions. Many public employers can opt in to coverage, but may need to do so through a negotiated agreement with an authorized bargaining unit.	Own health: No, with a few exceptions. Public employers can opt in to coverage. Paid family leave: Yes.	No. Public employers can opt in to coverage and unions covering public sector workers can opt in to paid family leave through the collective bargaining process.	No.	Yes.	State employees are automatically covered. Local government employees are not automatically covered. Public sector employers not covered by the law can opt in to coverage.	State employees are covered if their collective bargaining unit has negotiated coverage or if they are not in a collective bargaining unit. Municipal employees and employees of a local or regional board of education are covered if their collective bargaining unit has negotiated coverage or if they are not in a collective bargaining unit and their employer has negotiated coverage for members of any collective bargaining unit.	Yes, except employees of federal and tribal governments. Tribal governments may opt in to coverage.

	RI₁	CA₂	NJ₃	NY₄	D.C.₅	WA₆	MA₇	CT₈	OR₉
Are domestic workers covered?	Yes, subject to a low minimum payment requirement.	Yes, subject to a low minimum payment requirement.	Yes, subject to a low minimum payment requirement.	Full-time domestic workers (those who work at least 40 hours per week for a single employer) are covered.	Yes, subject to a low minimum payment requirement.	Yes.	Yes.	Yes.	Yes.
Can self-employed workers opt in to coverage?	No.	Yes.	No.	Yes.	Yes.	Yes.	Yes. <i>Certain self-employed workers may be covered automatically.</i>	Yes.	Yes.
What are the requirements to qualify for benefits?	Workers must have earned wages in 1 quarter of the base period of at least 200 times the minimum wage (currently, \$2,100), must have earned income across the base period of at least 1.5 times the worker's highest earning quarter, and must have earned at least 400 times the minimum wage (currently, \$4,200) over the	Workers must have earned at least \$300 during the base period. The base period is the first 4 of the 5 most recently completed quarters <i>or</i> may include earlier quarters if the worker was unemployed during part of the base	Workers must have either earned at least 20 times the minimum wage (currently, \$172) in at least 20 weeks <i>or</i> earned at least 1,000 times the minimum wage (currently, \$8,600) during the base year. The base year is the first 4 of the 5 most recently completed quarters <i>or</i> the 4 most recent completed quarters	Own health: Workers generally must have been employed for at least 4 consecutive weeks by a single employer; ¹⁷ previously qualified workers qualify immediately upon the start of employment with a new covered employer. Paid family leave: Workers generally must have been employed by their current employer for at least 26 consecutive weeks; those who	While there are no formal eligibility requirements specified in the statute, workers who have worked for covered D.C. employers for less than 1 year may receive a prorated benefit amount. <i>Regulations will provide additional guidance on</i>	Workers must have worked at least 820 hours in the qualifying period. The qualifying period means the first 4 of the 5 most recently completed quarters or the 4 most recent completed quarters. This can combine hours worked at more than one employer.	Workers must have earned a minimum amount (currently, \$4,700) during the base period and must meet an earnings requirement tied to the worker's average earnings that, in effect, means the worker must have worked at least 15 weeks. The base period is the last 4 completed quarters <i>or</i> the 3 most recent	Workers must have earned at least \$2,325 during the highest earning quarter within the base period. The base period is the first 4 of the 5 most recently completed quarters. This can combine income from more than one employer.	Workers must have earned at least \$1,000 during the base year. The base year is the first 4 of the last 5 completed quarters or the 4 most recently completed quarters. This can combine income from more than one employer.

	RI ¹	CA ²	NJ ³	NY ⁴	D.C. ⁵	WA ⁶	MA ⁷	CT ⁸	OR ⁹
	<p>entire base period.</p> <p>The base period is the first 4 of the 5 most recently completed quarters <i>or</i> the 4 most recent completed quarters.</p> <p>This can combine income from more than one employer.</p>	<p>period.¹⁶</p> <p>This can combine income from more than one employer.</p>	<p><i>or</i> the 3 most recent completed quarters and the portion of the current quarter that has already occurred.</p> <p>This can combine income from more than one employer.</p>	<p>work less than 20 hours per week must have worked at least 175 days for their current employer.</p>	<p><i>specific eligibility requirements.</i></p>		<p>completed quarters and the portion of the current quarter that has already occurred.</p> <p>This can combine income from more than one employer.</p>		
What family members are covered?	<p>A family member includes a worker's child, parent, parent-in-law or parent of the worker's registered domestic partner, grandparent, spouse, or registered domestic partner.</p>	<p>A family member includes a worker's child, parent, grandparent, grandchild, sibling, spouse, registered domestic partner, or the parent of a worker's spouse or registered domestic partner.¹⁸</p>	<p>A family member includes a worker's child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, registered domestic partner, civil union partner, any other person related to the worker by blood, and any other person that the worker shows to have a close association with the worker which is the equivalent of a family relationship.</p>	<p>A family member includes a worker's child, parent, parent-in-law, spouse, grandchild, grandparent, or domestic partner.¹⁹ The law's definition of domestic partner is flexible and does not require registration.²⁰</p>	<p>A family member includes a worker's child, parent, parent-in-law, spouse, grandparent, sibling, or registered domestic partner.</p>	<p>A family member includes a worker's child, grandchild, grandparent, parent, parent-in-law or parent of the worker's registered domestic partner, sibling, spouse, or registered domestic partner.</p>	<p>A family member includes a worker's spouse, domestic partner, child, parent, parent of a spouse or domestic partner, grandchild, grandparent, or sibling. The law's definition of domestic partner is flexible and does not require registration.²¹</p>	<p>A family member includes a worker's spouse, sibling, son or daughter, grandparent, grandchild parent, parent-in-law, or an individual related to the employee by blood or affinity whose close association the employee shows to be the equivalent of those family relationships.²²</p>	<p>A family member includes a worker's spouse or registered domestic partner, sibling, child, child-in-law, grandparent, grandchild, parent, parent-in-law or parent of the worker's registered domestic partner, or any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.²³</p>

	RI ¹	CA ²	NJ ³	NY ⁴	D.C. ⁵	WA ⁶	MA ⁷	CT ⁸	OR ⁹
How is the program funded?	Workers cover the full cost of both TDI and TCI. Both programs are funded by a single payroll deduction, currently set at 1.3% of wages. This deduction does not apply to wages above \$72,300/year.	Workers cover the full cost of both DI and PFL. Both programs are funded by a single payroll deduction, currently set at 1.0% of wages. This deduction does not apply to wages above \$122,909/year.	Workers and employers share the cost of TDI. Workers contribute 0.26% of their wages. Employers contribute a percentage of workers' wages ranging from 0.10% to 0.75%. The percentage contribution for employees does not apply to a worker's wages above \$134,900/year; the percentage contribution for employers does not apply to a worker's wages above \$35,300/year. Workers cover the full cost of FLI. The program is funded by a payroll deduction, currently set at 0.16% of wages. This deduction does not apply to wages above \$134,900/year. ²⁴	Workers and employers share the cost of TDI. Employers can withhold 0.5% of workers' wages to pay for coverage, up to \$0.60/week; employers cover the remaining cost. Workers cover the full cost of PFL. The program is funded by a payroll deduction, currently set at 0.270% of wages. This deduction does not apply to wages above an average of \$1,401.17/ week.	Employers cover the full cost of UPL. Employers contribute 0.62% of the wages of covered employees.	Workers and employers share the cost of medical leave. Employers can withhold up to 45% of the premium from workers' wages; employers cover the remaining cost. Employers with fewer than 50 employees in Washington State are not required to pay the employer portion. ²⁵ Initially, the <i>total</i> premium for medical leave will be about 0.27% of wages. Workers cover the full cost of family leave. Initially, the premium will be about 0.13% of wages. ²⁶ Premiums do not apply to wages above the Social Security contribution base.	Workers and employers share the cost of medical leave. Employers can withhold up to 40% of the premium from workers' wages; employers cover the remaining cost. Employers with fewer than 25 employees in Massachusetts are not required to pay the employer portion. ²⁷ Workers cover the full cost of family leave. Initially, the <i>total</i> premium for family and medical leave will be 0.75% of wages. Premiums do not apply to wages above the Social Security contribution base.	Workers cover the full cost of all leave. Workers contribute a percentage of wages set by the state, which will not exceed 0.5% of wages. Contributions do not apply to wages above the Social Security contribution base. <i>Contributions begin between January 1 and February 1, 2021.</i>	Workers and employers share the costs of all leave. Employers can withhold up to 60% of the contribution from workers' wages; employers cover the remaining costs. Employers with fewer than 25 employees are not required to pay the employer contribution. ²⁸ The total premium will not exceed 1% of wages. Premiums do not apply to wages above \$132,900/year. <i>Contributions begin January 1, 2022.</i>

	RI ¹	CA ²	NJ ³	NY ⁴	D.C. ⁵	WA ⁶	MA ⁷	CT ⁸	OR ⁹
What percentage of wages do workers receive?	About 60% of a worker's average weekly wage (formally, 4.62% of a worker's wages in the highest earning quarter of the base year) ²⁹	Between 60% and 70% of a worker's average weekly wage, depending on their income ³⁰	85% of a worker's average weekly wage	Own health: 50% of a worker's average weekly wage Family leave: 60% of a worker's average weekly wage <i>When the program is fully phased in in 2021, workers will receive 67% of their average weekly wage for family leave.</i>	90% of a worker's average weekly wage up to an amount equal to 40 times 150% of the D.C. minimum wage and 50% of a worker's average weekly wage above an amount equal to 40 times 150% of the D.C. minimum wage ³¹	90% of a worker's average weekly wage up to an amount equal to 50% of the statewide average weekly wage and 50% of a worker's average weekly wage above an amount equal to 50% of the statewide average weekly wage	80% of a worker's average weekly wage up to an amount equal to 50% of the statewide average weekly wage and 50% of a worker's average weekly wage above an amount equal to 50% of the statewide average weekly wage	95% of a worker's average weekly wage up to an amount equal to 40 times the state minimum wage and 60% of a worker's average weekly wage above an amount equal to 40 times the state minimum wage	100% of a worker's average weekly wage up to an amount equal to 65% of the statewide average weekly wage and 50% of a worker's average weekly wage above an amount equal to 65% of the statewide average weekly wage

	RI ₁	CA ₂	NJ ₃	NY ₄	D.C. ₅	WA ₆	MA ₇	CT ₈	OR ₉
What is the maximum weekly benefit?	85% of the statewide average weekly wage <i>Current: \$887/week</i>	About 100% of the statewide average weekly wage <i>Current: \$1,300/week</i>	70% of the statewide average weekly wage <i>Current: \$881/week</i>	Own health: \$170/week Family leave: 60% of the statewide average weekly wage <i>Current: \$840.70/week</i> <i>When the program is fully phased in in 2021, the cap for family leave will be 67% of the statewide average weekly wage.</i>	\$1,000 per week, adjusted annually based on inflation	\$1,000 per week initially, adjusted annually after the first year to 90% of the statewide average weekly wage	\$850 per week initially, adjusted annually after the first year to 64% of the statewide average weekly wage	60 times the state minimum wage <i>When benefits begin in 2022, the maximum weekly benefit will be \$780.</i>	120% of the statewide average weekly wage.

	RI ¹	CA ²	NJ ³	NY ⁴	D.C. ⁵	WA ⁶	MA ⁷	CT ⁸	OR ⁹
For how long can a worker receive benefits?	<p>Own health: Up to 30 weeks in a 52-week period.³²</p> <p>Family leave: Up to 4 weeks in a 52-week period.</p> <p>Total: Up to 30 weeks in a 52-week period.</p>	<p>Own health: Up to 52 weeks for any period of disability.³³</p> <p>Family leave: Up to 8 weeks in a 12-month period.</p> <p><i>California does not specify a cumulative limit.</i></p>	<p>Own health: Up to 26 weeks for any period of disability.³⁴</p> <p>Family leave: Up to 12 weeks in a 12-month period.</p> <p><i>New Jersey does not specify a cumulative limit.</i></p>	<p>Own health: Up to 26 weeks for any period of disability or in any 52-week period.</p> <p>Family leave: Up to 10 weeks in a 52-week period.</p> <p>Total: Up to 26 weeks in a 52-week period.</p> <p><i>When the program is fully phased in in 2021, workers will be able to take up to 12 weeks of family leave.³⁵</i></p>	<p>Own health: Up to 2 weeks in a 52-week period.</p> <p>Caring for a seriously ill relative: Up to 6 weeks in a 52-week period.</p> <p>Bonding with a new child: Up to 8 weeks in a 52-week period.</p> <p>Total: Up to 8 weeks in a 52-week period.</p>	<p>Own health: Up to 12 weeks in a 52-week period.³⁶</p> <p>Family leave: Up to 12 weeks in a 52-week period.³⁷</p> <p>Total: Up to 16 weeks in a 52-week period.³⁸</p> <p><i>Workers with certain pregnancy-related health needs may receive up to an additional 2 weeks of benefits, which can be combined with other uses up to a total of 18 weeks in a 52-week period.</i></p>	<p>Own health: Up to 20 weeks in any benefit year.</p> <p>Family leave: Up to 12 weeks in any benefit year.</p> <p>Total: Up to 26 weeks in any benefit year.</p> <p><i>Military caregivers can receive up to 26 weeks of family leave in any benefit year.</i></p>	<p>Own health: Up to 12 weeks in a 12-month period.</p> <p>Family leave: Up to 12 weeks in a 12-month period.</p> <p>Total: Up to 12 weeks in a 12-month period.</p> <p><i>Workers with certain pregnancy-related health needs may receive up to an additional 2 weeks of benefits, which can be combined with other uses up to a total of 14 weeks in a 12-month period.</i></p>	<p>Own health: Up to 12 weeks in any benefit year.</p> <p>Family leave: Up to 12 weeks in any benefit year.</p> <p>Safe leave: Up to 12 weeks in any benefit year.</p> <p>Total: Up to 12 weeks in any benefit year.</p> <p><i>Workers with certain pregnancy- and childbirth-related health needs (including lactation) may receive up to an additional 2 weeks of benefits, which can be combined with other uses up to a total of 14 weeks in any benefit year.</i></p>

	RI ¹	CA ²	NJ ³	NY ⁴	D.C. ⁵	WA ⁶	MA ⁷	CT ⁸	OR ⁹
Is there an unpaid waiting period?	No.	Own health: Yes—there is a 7-day unpaid waiting period. Family leave: No.	Own health: Yes—there is a 7-day unpaid waiting period. ³⁹ However, if a worker is eligible for benefits during each of 3 consecutive weeks after the waiting period, that worker can also be paid benefits for the waiting period. Family leave: No.	Own health: Yes—there is a 7-day unpaid waiting period. Family leave: No.	Yes—there is a 1-week unpaid waiting period.	Own health and family leave other than bonding leave: Yes—there is a 7-day unpaid waiting period. Bonding leave: No.	Yes—there is a 7-day unpaid waiting period.	No.	No.
Are workers entitled to have their jobs back when they return?	Own health: No. Family leave: Yes. ⁴⁰ <i>Workers may have protections under other laws, such as the FMLA or the Rhode Island Parental and Family Medical Leave Act.</i>	No. <i>Workers may have protections under other laws, such as the FMLA or the California Family Rights Act.</i>	<i>The law was recently amended to add additional anti-retaliation provisions, which may be clarified by regulation.</i> <i>Workers may have protections under other laws, such as the FMLA or the New Jersey Family Leave Act.</i>	Own health: No. Family leave: Yes. ⁴¹ <i>Workers may have protections under other laws, such as the FMLA.</i>	No. <i>Workers may have protections under other laws, such as the FMLA or the D.C. Family & Medical Leave Act.</i>	Yes, but only for workers who meet specific eligibility criteria similar to those for the FMLA. ⁴² <i>Workers may have protections under other laws, such as the FMLA.</i>	Yes. ⁴³ <i>Workers may have protections under other laws, such as the FMLA or the Massachusetts Parental Leave Act.</i>	Yes, if they have been employed by their employer for at least 3 months before requesting leave, except for leaves taken for safe time. ⁴⁴ <i>Workers may also have protections under other laws, such as the FMLA or Connecticut's family violence leave law.</i>	Yes, if they have been employed by their employer for at least 90 days before taking leave. ⁴⁵ <i>Workers may also have protections under other laws, such as the FMLA or the Oregon Family Leave Act.</i>

	RI ¹	CA ²	NJ ³	NY ⁴	D.C. ⁵	WA ⁶	MA ⁷	CT ⁸	OR ⁹
How is the insurance provided?	All covered workers are covered through the state fund.	By default, workers are covered through the state fund. Employers can apply for approval of a voluntary plan, which must provide benefits greater than those available through the state.	By default, workers are covered through the state fund. Employers can apply for approval of a private plan, which must provide benefits at least equivalent to those available through the state.	Employers can provide coverage by purchasing insurance (either from the state fund or a private insurer) or by becoming an approved self-insurer.	All covered workers are covered through the district fund.	By default, workers are covered by the state fund. Employers can apply for approval of a voluntary plan, which must provide benefits at least equivalent to those available through the state.	By default, workers are covered by the state fund. Employers can apply for approval of a private plan, which must provide benefits at least equivalent to those available through the state.	By default, workers are covered by the state fund. Employers can apply for approval of a private plan, which must provide benefits at least equivalent to those available through the state.	By default, workers are covered by the state fund. Employers can apply for approval of an equivalent plan, which must provide benefits at least equivalent to those available through the state.

Hawaii also has a temporary disability insurance (TDI) program, which provides benefits to most workers for up to 26 weeks (save for a 1-week waiting period) for any period of serious off-the-job illness or injury. To be eligible for benefits, workers must have been employed for at least 14 weeks, during each of which the worker worked at least 20 hours and earned at least \$400 in wages, during the 52 weeks immediately prior to the start of disability. This can combine income from more than one employer. Under the program, a worker receives 58% of a worker’s average weekly wage up to a cap of about 70% of the statewide average weekly wage. Hawaii does not provide paid family leave.⁴⁶

¹ R.I. Gen. Laws § 28-39-1 *et seq.*

² Cal. Unemp. Ins. Code § 2601 *et seq.* San Francisco has enacted a municipal law that grants additional benefits for parental leave for many workers.

³ N.J. Stat. Ann. § 43:21-25 *et seq.*

⁴ N.Y. Workers’ Comp. Law § 200 *et seq.* For more information on New York’s paid family leave law, visit [FamilyLeaveWorks.org](https://familyleaveworks.org).

⁵ D.C. Code Ann. § 32-541.01 *et seq.*

⁶ Wash. Rev. Code *et seq.* 50A.04.005.

⁷ The law is only partially codified. For the full text of the law, see <https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter121>.

⁸ Conn. Legis. Serv. P.A. 19-25 (S.B. 1). The law is only partially codified. For the full text of the law, see <https://www.cga.ct.gov/2019/lcoamd/pdf/2019LCO09302-R00-AMD.pdf>.

⁹ See Or. Enrolled House Bill 2005 (HB 2005-B). The law is only partially codified. For the full text of the law, see <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2005/Enrolled>.

- ¹⁰ In 2020, New Jersey’s law was amended to specify that TDI and FLI can be used in the event of a state of emergency declared by the Governor (or when the Commissioner of Health or other public health authority has indicated that one is needed) when a worker or a family member has an illness caused by an epidemic of a communicable disease, has a known or suspected exposure to the communicable disease, or is taking efforts to prevent spread of the communicable disease, the worker or family member requires in-home care or treatment due to the issuance of a determination by a healthcare provider or a public health authority that the worker’s or family member’s presence in the community may jeopardize the health of others, and said healthcare provider or public health authority recommends or directs the worker or family member to isolate or quarantine as a result of suspected exposure to a communicable disease.
- ¹¹ Under an emergency law, special TDI and/or paid family leave benefits may be available to certain workers when they or their minor child is subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19. For more information, consult our fact sheet <https://www.abetterbalance.org/resources/fact-sheet-new-york-states-paid-sick-leave-legislation/>.
- ¹² Connecticut’s law also specifies that leave can be taken to be an organ or bone marrow donor. This purpose may also be covered under other paid family and medical leave laws.
- ¹³ California, New Jersey, and Rhode Island also provide some coverage for previously covered workers who have a qualifying need for family or medical leave while they are unemployed, while New York and Hawaii also provide some coverage for previously covered workers who have a qualifying need related to the worker’s own health. Details vary by state. States that aren’t currently implementing their programs will also likely provide some coverage for previously covered workers during unemployment, though final regulations will be needed to specify details.
- ¹⁴ For a list of exceptions, visit http://www.wcb.ny.gov/content/main/offthejob/WhoCovered_DB.jsp.
- ¹⁵ Note that no state law covers federal employees.
- ¹⁶ If a worker was unemployed and actively seeking work for at least 60 days of a quarter or quarters during the base period, that quarter or quarters is excluded from the base period and an equal number of quarters from the period immediately prior to the base period are substituted.
- ¹⁷ Employees who are regularly in the employment of a single employer on a work schedule that is less than the employer’s normal work week become eligible for disability leave benefits on the 25th day of such employment.
- ¹⁸ This list covers family members for whom a worker can take leave to care for when they are seriously ill. Starting January 1, 2021, paid family leave can also be used to address certain needs arising from the active duty military service of a worker’s spouse, domestic partner, child, or parent.
- ¹⁹ This list covers family members a worker can take leave to care for when they are seriously ill. Paid family leave can also be used to address certain needs arising from the active duty military service of a worker’s spouse, domestic partner, child, or parent.
- ²⁰ The definition of domestic partner includes any person who is at least 18 years old and “is dependent upon the employee for support as shown by either unilateral dependence or mutual interdependence, as evidenced by a nexus of factors including, but not limited to, common ownership of real or personal property, common householding, children in common, signs of intent to marry, shared budgeting, and the length of the personal relationship with the employee”
- ²¹ The definition of domestic partner includes any person who is at least 18 years old and “is dependent upon the covered individual for support as shown by either unilateral dependence or mutual interdependence that is evidenced by a nexus of factors including, but not limited to: (A) common ownership of real or personal property; (B) common householding; (C) children in common; (D) signs of intent to marry; (E) shared budgeting; and (F) the length of the personal relationship with the covered individual”
- ²² This list covers family members a worker can take leave to care for when they are seriously ill. Paid family leave can also be used to address certain needs arising from the active duty military service of a worker’s spouse, child, parent, or next of kin. Note that safe time can only be used when the worker, not a family member, is a victim of domestic violence.
- ²³ Workers can also take leave to care for the spouse or registered domestic partner of the worker’s parent, sibling, grandparent, and grandchild. This list covers family members a worker can take leave to care for when they are seriously ill. Paid leave under the law can also be used as safe leave to address certain medical and non-medical needs arising out of the worker or the worker’s minor child or dependent being a victim of domestic violence, harassment, sexual assault, or stalking.
- ²⁴ These percentages are based on participation in the state plan. If an employer chooses a private plan, employees can only be required to contribute as much as they would have contributed to the state plan; these employees can only be required to contribute if a majority of employees agree to the private plan before it goes into effect. See <https://myleavebenefits.nj.gov/labor/myleavebenefits/employer/index.shtml?open=PrivatePlan>.
- ²⁵ Employers with 50-150 employees who must pay all of the premiums or employers with fewer than 50 employees who choose to cover the employee portion of the premium may apply to receive certain grants from the state.
- ²⁶ The initial total premium for both family and medical leave will be set at 0.4% of employees’ wages, one third of which shall be associated with family leave and two thirds of which shall be associated with medical leave. The state will set the premium in subsequent years based on a formula set by statute. In addition, the state will set the maximum wages subject to premium contributions based on the maximum wages subject to social security taxation. Employers may choose to cover all or part of employees’ share of the premium for family and/or medical leave.
- ²⁷ For purposes of determining the number of employees, self-employed people who are part of the employer’s workforce are considered employees if self-employed people make up more than fifty percent of the employer’s workforce.

28 Employers with less than 25 employees may apply to receive certain grants if they elect to pay the employer contribution.

29 In addition, workers may also be entitled to a dependency allowance for minor children or adult children who are incapacitated due to physical or mental illness.

30 Very low-wage workers receive a fixed benefit amount set by statute, which may result in higher wage replacement rates.

31 Workers with less than a year of total covered employment will receive a smaller benefit, pro-rated based on the numbers of weeks the worker has worked in covered employment.

32 While technically there is no time limit on receiving benefits, workers cannot receive benefits worth more than 30 times their weekly benefit rate in a year, in effect limiting workers to 30 weeks per year.

33 While technically there is no time limit on receiving benefits, workers cannot receive benefits worth more than 52 times their weekly benefit rate for any continuous period of disability, in effect limiting workers to 52 weeks per continuous period of disability.

34 In addition, no worker can receive benefits worth more than 26 times their weekly benefit amount in a year.

35 Workers may take up to a cumulative total of 26 weeks of TDI and PFL in a 52-week period.

36 Technically, workers are entitled to medical leave benefits for up to 12 times their typical workweek hours. As noted above, medical leave may be extended by an additional 2 weeks (2 times a worker's typical workweek hours) if the worker experiences a serious health condition with a pregnancy that results in incapacity.

37 Technically, workers are entitled to family leave benefits for up to 12 times their typical workweek hours.

38 Technically, workers are entitled to up to a cumulative 16 times the worker's typical workweek hours of family and medical leave in a 52-week period or up to a cumulative 18 times the worker's typical workweek hours of family and medical leave in a 52-week period if the worker experiences a serious health condition with a pregnancy that results in incapacity.

39 The 7-day unpaid waiting period will not apply when a worker uses TDI in the event of a state of emergency declared by the Governor (or when the Commissioner of Health or other public health authority has indicated that one is needed) because the worker has an illness caused by an epidemic of a communicable disease, has a known or suspected exposure to the communicable disease, or is taking efforts to prevent spread of the communicable disease, the worker requires in-home care or treatment due to the issuance of a determination by a healthcare provider or a public health authority that the worker's presence in the community may jeopardize the health of others, and said healthcare provider or public health authority recommends or directs the worker to isolate or quarantine as a result of suspected exposure to a communicable disease.

40 A worker returning from TCI leave must be restored to the worker's prior position or "a position with equivalent seniority, status, employment benefits, pay, and other terms and conditions of employment including fringe benefits and service credits that the employee had been entitled to at the commencement of leave." Workers who receive health insurance through their employers are entitled to continuation of those benefits while on TCI.

41 A worker returning from PFL must be restored to the worker's prior position or "a comparable position with comparable employment benefits, pay and other terms and conditions of employment." Workers who receive health insurance through their employers are entitled to continuation of those benefits while on PFL.

42 Workers are entitled to job protection under the state paid family and medical leave law only if they work for an employer with at least 50 employees, have been employed by that employer for at least 12 months, *and* have worked for that employer for at least 1,250 hours during the 12-month period immediately preceding leave. A worker entitled to job protection under the law must be restored to the worker's prior position or "an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment." Some highly paid employees may be subject to a very narrow exception. Workers who receive health insurance through their employers are entitled to continuation of those benefits while on leave *if* their employers would be required to continue benefits under the Family and Medical Leave Act.

43 A worker returning from paid family or medical leave must be restored to the worker's prior position or "an equivalent position, with the same status, pay, employment benefits, length of service credit and seniority as of the date of leave." Workers who receive health insurance through their employers are entitled to continuation of those benefits while on paid family and medical leave.

44 Through the law creating its paid leave program, Connecticut amended the Connecticut Family and Medical Leave Act (CTFMLA), which provides job protection, to cover essentially all employees entitled to paid leave benefits except those receiving benefits for safe time purposes. Note that CTFMLA does not protect workers' health insurance. Workers receiving benefits for safe time purposes may be have employment protections under Connecticut's family violence leave law.

45 A worker returning from leave under Oregon's law must be restored to the worker's prior position or "any available equivalent position with equivalent employment benefits, pay and other terms and conditions of employment." If a worker's employer has fewer than 25 employees and the worker's prior position no longer exists, the worker's "employer may, at the employer's discretion based on business necessity, restore the eligible employee to a different position with similar job duties and with the same employment benefits and pay." Workers who receive health insurance through their employers are entitled to continuation of those benefits while on paid family and medical leave.

46 See Haw. Rev. Stat. § 392-1 *et seq.* For more information, visit <https://labor.hawaii.gov/dcd/home/about-tdi/>. For a list of exceptions to covered workers, visit http://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0392/HRS_0392-0005.htm.