



March 25, 2020

CORONAVIRUS UPDATE

Department of Labor Issues Initial Guidance on New Emergency Paid Leave Law

What Employers Need to Know

The Department of Labor (“DOL”) issued FAQs late yesterday on the Families First Coronavirus Response Act (the “Act”), which President Trump signed into law last week. **These FAQs state that the effective date of the Act is April 1, 2020, which is a day earlier than originally anticipated.**

In addition, last Friday, DOL, in partnership with the IRS and the Treasury Department, issued a press release regarding implementation of the DOL should issue more detailed guidance regarding the paid leave requirements of the Act this week, including a model notice that employers will need to post. However, the press release provides a preview of what we can likely expect from that guidance. The press release contains the following highlights:

- Details on refundable payroll tax credits that will fully and promptly reimburse employers for the cost of providing the COVID-19-related paid sick leave and child care leave mandated by the Act;
- DOL will issue emergency guidance with “simple and clear criteria” regarding how small businesses (with fewer than 50 employees) can apply for an exemption from the Act’s leave requirements relating to child care due to school/daycare closures; and
- A 30-day non-enforcement policy regarding violations of the Act so long as employees are acting reasonably and in good faith. DOL clarified in a Field Bulletin that this 30-day period runs 30 days from the law's enactment (March 18th) and not 30 days from the law's effective date (April 1st).

Copies of these DOL publications are available through the links below:

- FAQs: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>
- Press release: <https://www.dol.gov/newsroom/releases/osec/osec20200320>
- Field bulletin: <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fab2020-1.pdf>

The Senate struck a deal on a “Phase 3” bill to address the COVID-19 pandemic, and the Senate aims to take a vote on this multi-trillion dollar bill sometime today. Text of this legislation has not yet been released; thus, it is unclear at this point what employment law-related measures might be coming down the pike. However, it is possible that the Act could be changed. For example, a draft of legislation released by Senate Republicans on Friday proposed a couple of amendments to the Act. We will continue to monitor legislation throughout the pandemic, and

we will provide updates as needed. In the meantime, the employment law team at Estes Thorne & Carr PLLC is here to help you handle any business challenges thrown your way as this pandemic continues.

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