

# Sick Leave for Employees



## Background

SB 20-205 creates the Healthy Families and Workplace Act, which requires employers to provide paid sick leave to employees. Thirteen other states have enacted paid sick time laws requiring private sector employers to provide employees with a certain amount of paid sick time. In addition to Colorado's new law, the federal Families First Coronavirus Response Act expands the U.S. Family and Medical Leave Act of 1993 to allow certain employees to take leave to care for their child while school or childcare is closed due to COVID-19. The federal law applies to employers with 500 or fewer employees, though those with 50 or fewer employees may qualify for an exemption. Employers are eligible for certain tax credits based on leave wages paid. These federal provisions are in effect through Dec. 31, 2020.

## What You Need to Know

Beginning Jan. 1, 2021, all employers in Colorado must provide one hour of paid sick leave for every 30 hours worked, up to a maximum of 48 hours per year.

- Employees begin accruing paid sick leave when employment begins and may use that leave as it is accrued.
- Employees are permitted to carry accrued sick leave forward to use in the future, but the employer is not required to allow employees to accrue or take more than 48 hours in a 12-month period.
- An employee may use paid sick leave in hourly increments.
- The employee must make a good faith effort to provide notice of any paid sick leave. Employers may request documentation for absences longer than four consecutive days.

**Use of leave:** Paid sick leave may be used for:

- The employee's own health or health care or that of a member of the employee's family (which is expanded to include another person related by blood, marriage, civil union or adoption; foster or legal guardianship; or any person whom the employee is responsible for providing or arranging health-related care);
- Absences related to specified incidences of domestic abuse, sexual assault or harassment; or
- When a public official has ordered the closure of the employee's workplace, or the school or childcare facility of the employee's child, due to a public health emergency. Employers are not required to pay out unused sick leave balances. However, if a terminated employee returns to work with the same employer within a six-month period, that employer is required to reinstate any uncompensated, accrued sick leave balances for that employee.

**Paid sick leave during a public health emergency:** Employees may only use the leave once during a declared public health emergency, and employees may use this additional leave for up to a month after the end or suspension of a public health emergency. Employers must provide this additional sick leave for specified absences; however, employers may require employees to use other available paid sick leave provided by the employer before using public health emergency paid sick leave.

- Employers must provide employees who normally work 40 or more hours a week with at least 80 hours of additional paid sick leave.
- For employees that work less than 40 hours a week, employers must provide additional paid sick leave in the amount of time the employee is scheduled to work in a 14-day period or the amount of time the employee actually works on average in a 14-day period.
- The bill makes paid sick leave available to seasonal and temporary employees who are currently ineligible under state leave policies.

**Notice:** Employers are required to notify employees of the amount of paid sick leave to which they are entitled and the terms of its use. The Colorado Department of Labor and Employment (CDLE) is required to create and make available posters and notices outlining the paid sick leave policy for use by employers. An employer who willfully violates these requirements is subject to a civil fine not to exceed \$100 per separate violation.

**Employee rights and civil actions:** Employees are not required to disclose the details of medical conditions or absences related to abuse. An employer is prohibited from retaliating against any attempt by an employee to exercise his or her rights under the bill or from counting paid sick leave used by an employee as an absence that may lead to or result in disciplinary action. Employers may take disciplinary action against employees that use sick leave for anything other than the purposes outlined in the bill.

**Enforcement:** CDLE compliance investigator staff will implement and manage the program, analyze and investigate complaints and handle appeals. Employers are required to retain records documenting hours worked, paid sick leave accrued and paid sick leave used for each employee for a three-year period. Employers are to provide reasonable access to records for monitoring by the CDLE. The CDLE is also provided with rulemaking authority and is given jurisdiction over enforcement of the bill's requirements. Any findings, awards or orders issued by the CDLE are subject to judicial review.

**COVID-19 related sick leave:** Through Dec. 31, 2020, every Colorado employer must provide paid sick leave as required under the federal Families First Coronavirus Response Act.

## Additional Resources

- SB 20-205: [Final Bill](#) and [Fiscal Note](#)
- Effective Date: July 14, 2020
- Colorado Legislative Council Staff's issue brief on Family, Medical and Sick Leave Laws: [http://leg.colorado.gov/sites/default/files/paid\\_family\\_leave\\_laws\\_issue\\_brief\\_-\\_march\\_2020\\_up\\_date.pdf](http://leg.colorado.gov/sites/default/files/paid_family_leave_laws_issue_brief_-_march_2020_up_date.pdf)
- Colorado Legislative Council Staff's memorandum on recent federal legislation (Families First Coronavirus Response Act): <http://leg.colorado.gov/publications/updated-summary-federal-legislation-passed-response-covid-19-20-11>

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