

The Emergency Family and Medical Leave Act and the Emergency Paid Sick Leave Act were signed into law March 18, part of a package of measures designed to combat the coronavirus (COVID-19) pandemic.

These measures, which expire Dec. 31, 2020, create or expand existing leave entitlements for certain employees. This chart compares what is offered by Washington's Paid Family and Medical Leave program, Washington State paid sick leave laws, and the new federal laws. It is intended to be a guide and highlight the potential impact the federal leave may have on employees and their usage of paid sick leave available through state laws. Employees may also have access to sick leave or paid time off provided by their employers under the Washington Family Care Act. For information about [Family Care Act provisions](#), see the Washington State Department of Labor & Industries' guidance on that topic.

Please note the information below is subject to change, as the U.S. Secretary of Labor will issue regulations surrounding these legislative developments.

	WA Paid Family and Medical Leave Program (As it relates to COVID-19)	WA State Paid Sick Leave (PSL) (RCW 49.46.200 and RCW 49.46.210)	Emergency FMLA Expansion Act (until 12/31/2020) <i>H.R. 6201 Division C (signed by the president 3/18/2020)</i>	Emergency Paid Sick Leave Act (until 12/31/2020) <i>H.R. 6201 Division E (signed by the president 3/18/2020)</i>
Employers	Washington Employers (with exceptions)	Any employer defined under RCW 49.46.010(4) .	All Employers with fewer than 500 employees <i>US DOL guidance, employers with fewer than 50 employees may be exempt.</i>	
Qualifying conditions	<ul style="list-style-type: none"> Leave needed due to the employee’s own serious health condition (recovery or treatment for your own serious health condition or injury); or Time needed to care for a qualified family member with a serious health condition Certification of the serious health condition is required from a health care provider. <p>See: RCW 50A.05.010(20) definition of “Serious health condition,” RCW 50A.05.010(10) definition of “Family member,” WAC 192-610-015, WAC 192-610-020</p>	<ul style="list-style-type: none"> For a mental or physical illness, injury, health condition, or if you need a medical diagnosis or preventative medical care. If a family member needs care for a mental or physical illness, injury, or health condition, or needs a medical diagnosis or preventative medical care. If your workplace or your child’s school or place of care has been closed for any health reason by order of a public official. If you are absent from work for reasons that qualify for leave under the state’s Domestic Violence Leave Act. <p>See RCW 49.46.210(1)(b) and (c)</p>	A “qualifying need related to” COVID-19, specifically for an employee who is unable to work or telework while their child’s school or childcare arrangements are unavailable due to COVID-19.	Employees unable to work for any of the following reasons related to COVID-19: (1) Government quarantine or isolation order; (2) A healthcare provider advised self-quarantine; (3) Experiencing symptoms of COVID-19 and seeking a medical diagnosis; (4) Caring for someone advised or ordered to quarantine; (5) Caring for a son or daughter whose school or place of care has closed, or whose childcare provider is unavailable, because of COVID-19 precautions; or (6) Experiencing any other substantially similar condition specified by Health and Human Services.
Employee eligibility	820 hours worked in employment in Washington in the first 4 of the previous 5 completed quarters. If 820 hours is not met in the first 4 quarters, then eligibility can be established in the last 4 completed calendar quarters. See: RCW 50A.05.010(18) definition of “Qualifying period,” RCW 50A.15.010	90 calendars days after your first day of work with your employer. See RCW 49.46.210(1)(d) and WAC 296-128-630 . Note: Your employer may allow you to use your accrued paid sick leave prior to the 90th calendar day.	30 days of employment with their current employer; no minimum hours worked. Your employer may require you to provide documentation to support your need for leave under these circumstances, such as notice of school closures, or medical leave for COVID-19 related reasons that extends beyond 2 weeks and rises to the level of serious health condition.	Available immediately, regardless of how long employed.
What is the maximum duration?	<ul style="list-style-type: none"> Medical Leave: Up to 12 weeks in claim a year for your own serious health condition Family Leave: Up to 12 weeks in a claim year to care for a family member with a serious health condition Up to a combined 16 weeks in a claim year if an individual experience 	<ul style="list-style-type: none"> You are allowed to use all paid sick leave available to you for any of the authorized purposes. The maximum duration of leave is based on how much accrued paid sick leave you have available. You accrue paid sick leave for all hours worked, and must accrue at least one hour of this leave for 	Up to 12 weeks <i>It is important to note that if the employee has already exhausted FMLA job protected leave, the full 12 weeks of job protected leave would not be available.</i>	<ul style="list-style-type: none"> Full-time employees: 80 hours of paid sick time. Part-time employees: paid sick time equal to the number of hours that the employee works, on average, over a 2-week period. Example: An employee who works an average of 15 hours/week can take 30 hours of sick time.

	<p>both family and medical leave qualifying events. See: RCW 50A.15.020</p>	<p>every 40 hours worked. See WAC 296-128-620(1) and (2)</p> <ul style="list-style-type: none"> Employers must carry over paid sick leave balances of 40 hours or less to the next year. See WAC 296-128-620(4) Employers can require verification for your absence if the absence exceeds three days, but only if your employer has a written policy requiring verification for such an absence. See WAC 296-128-660 	<p>Leave provisions are effective 04/01/2020 and apply to leave taken between 04/01/2020 – 12/31/2020</p>	<p>Leave provisions are effective 04/01/2020 and apply to leave taken between 04/01/2020 – 12/31/2020</p>
<p>Is the leave protected?</p>	<p>An employee has job protected leave if the employee:</p> <ul style="list-style-type: none"> Works for an employer with 50 or more employees, Has been employed 12 months or more for that employer, and Worked for the employer at least 1250 hours prior to taking leave. <p>See: Chapter 50A.35 RCW</p>	<p>Yes. You are protected from retaliation for using paid sick leave or exercising other rights under the Minimum Wage Act (RCW 49.46). Filing a complaint under the Minimum Wage Act is also a protected activity. See RCW 49.46.210(4) and WAC 296-128-770 through 296-128-840</p>	<p>Yes</p>	<p>Yes</p>
<p>Interaction with other leave</p>	<ul style="list-style-type: none"> Leave under Paid Family and Medical Leave must run concurrently with FMLA when it can. Leave under Paid Family and Medical Leave is in addition to any other leave provided for sickness or temporary disability because of pregnancy or childbirth. <p><i>Circumstances under the Emergency FMLA Expansion Act that allow leave for quarantine without illness or to care for a child who does not have a serious health condition are not considered qualifying events for Paid Family and Medical Leave.</i> See: RCW 50A.15.110</p> <ul style="list-style-type: none"> Employers may designate PTO/vacation/sick leave as supplemental to Paid Family and Medical leave benefits. If designated as supplemental, it is not required to be reported on a weekly claim and 	<ul style="list-style-type: none"> You have the right to choose when to use your state paid sick leave. Your employer may not require you to use this leave before accessing other lawfully required leave benefits. Employers may not offset other required leave (such as that required under the Emergency Paid Sick Leave Act) with the paid sick leave required by Washington law, and they may not require you to use this leave before using the emergency leave. Paid sick leave provided under the Emergency Paid Sick Leave Act is a separate pool of leave provided to certain covered employees when they have a qualifying event. 	<ul style="list-style-type: none"> The first 10 days of the employee’s leave are unpaid under this provision, but an employee may use accrued paid leave from their employer or Emergency Paid Sick Leave. Following that 10-day period, an employer must provide paid leave for each additional day of leave (for up to 10 weeks, and at no less than two-thirds of the employee’s regular rate of pay). An employee may elect to use, or an employer may require that an employee use accrued leave under the employer’s policies such as vacation or personal leave or paid time off, concurrently with Expanded Family and Medical Leave. If an employee elects, or an employer requires, concurrent leave, the employer must pay the employee the full amount to which the employee is entitled under the 	<p>Employers cannot require employees to use other forms of paid leave before using EPSLA paid sick leave.</p> <p>Leave can be taken concurrently with other types of leave, such as the first 10 days of unpaid FMLA, or as a supplement to Paid Family and Medical Leave.</p>

	<p>will not reduce a weekly benefit amount. See: RCW 50A.15.060 WAC 192-620-030</p>		<p>employer’s preexisting paid leave policy for the period of leave taken.</p>	
<p>How much money does the employee get?</p>	<p>Progressive benefit calculation, with a maximum of \$1,000 a week. See RCW 50A.15.020</p> <p><i>Estimate your weekly benefit amount here</i></p>	<p>You must be paid your “normal hourly compensation” for each hour of paid sick leave used. See WAC 296-128-670.</p>	<ul style="list-style-type: none"> • Calculated based on a rate of not less than two-thirds of the employee’s regular rate of pay and the number of hours the employee is normally scheduled to work. • Capped per employee at \$200/day or \$10,000/aggregate for up to 10 weeks. 	<p>Depends on the reason why the leave is needed.</p> <ul style="list-style-type: none"> • For reasons 1 - 3 listed above, the paid sick time is capped at \$511/day and \$5,110/aggregate. <p>For any other reason, the paid sick time is capped at \$200/day and \$2,000/aggregate.</p>
<p>Employer Assistance Tax credits/grants</p>	<p>Grants of up to \$3,000 may be available to businesses with 150 or fewer employees for costs related to filling behind an employee on paid family and medical leave or significant wage-related costs resulting from an employee being on leave.</p> <p>Employers with fewer than 50 employees that apply for the grant will be required to pay the employer share of the premiums for a minimum of 3 years after the grant is received.</p> <p>See: RCW 50A.24.010 Chapter 192-560 WAC</p>	<p>N/A</p>	<p>Under emergency paid leave, there is a refundable tax credit against payroll taxes for each calendar quarter for 100 percent of the qualified sick leave wages paid in that calendar quarter.</p> <p>Also, there is an allowance of credit for certain health plan expenses.</p> <p><i>H.R. 6201 Division G</i></p>	<p>Refundable tax credit against payroll taxes for each calendar quarter for 100 percent of the qualified sick leave wages paid in that calendar quarter.</p> <p><i>H.R. 6201 Division G</i></p>