



Note: The COVID-19 (Coronavirus) situation is developing very rapidly. Employers should continue to monitor the [U.S. Centers for Disease Control and Prevention COVID-19 website](#), the [World Health Organization COVID-19 website](#), and Ogletree's [Coronavirus \(COVID-19\) Resource Center](#) for the latest developments. State laws may vary, and state government agencies may issue further orders and guidance that should be considered. Employers should carefully review and discuss these materials with their Ogletree counsel to tailor the materials and guidance to their particular situation.

FAMILY AND MEDICAL LEAVE LAWS

- FEDERAL AND STATE-

[RELEVANT TO CORONAVIRUS/COVID-19]

Updated August 2, 2021 – 4 p.m. Eastern*

*This document is no longer being updated. Please reach out to your Ogletree attorney if you would like to develop a customized version of this chart.

- To learn more about [OD Comply: State Leaves](#), the source of the information in this document, please visit us [here](#).

Overview and Scope

The table below summarizes the relevant reasons for leave under (a) the **federal Emergency Family and Medical Leave Expansion Act**, and (b) the various **state family and medical leave laws** that may be implicated by a COVID-19-related absence. It does not cover every qualifying reason for family and medical leave provided in those state statutes. For example, it does not include parental bonding leave, which is covered by several state family and medical leave laws. It also is limited to family and medical leave laws—and does not cover all leave laws that may apply to a particular situation involving COVID-19—for example, some states provide protected leave if an employee serves as a first responder (e.g., to respond to a COVID-19 outbreak). This document **does not cover COVID-19 vaccine-specific leave laws**; those summaries may be found in the [OD Comply: State Leaves](#) Portal (see link above).

COVID-19-Specific Family and Medical Leave Laws & Rules

This section provides an overview of federal and state laws or rules that have been implemented as a direct result of COVID-19—first the federal FFCRA (the only federal law described in this state resource), followed by states (alphabetically).

FEDERAL EMERGENCY COVID-19 FAMILY & MEDICAL LEAVE. On March 18, 2020, Congress passed the “Families First Coronavirus Response Act” (“FFCRA”) which includes the **Emergency Family and Medical Leave Expansion Act**—requiring covered employers (i.e., **those with fewer than 500 employees, government entities, and schools**) to provide **emergency family and medical leave (“EFML”)** to eligible employees (i.e., those who have worked for the employer for at least 30 calendar days). The Act was effective beginning April 1, 2020, with **mandated leave expiring on December 31, 2020 (please see updates below)**. Shortly after it was passed, the U.S. Department of Labor (“DOL”) promulgated its *original* [Final Rule](#) interpreting and implementing the FFCRA.

***Update (9/16/20):** In response to the DOL's Final Rule, the State of New York filed a lawsuit challenging four provisions of the regulations. On **August 3, 2020**, the U.S. District Court for the Southern District of New York ("SDNY") **struck down those portions of the regulations**—specifically, those regarding (a) the requirement that employers actually have work available for employees in order to be eligible for leave; (b) the broad definition of "health care provider" under the Final Rule; (c) the requirement that employees obtain employer approval for intermittent leave; and (d) the requirement that employees provide documentation prior to taking FFCRA leave. *We have noted the changes from this ruling below in blue where applicable.* On September 11, 2020, the DOL issued a **new rule ("New Rule")—effective September 16, 2020 and available [here](#)**—in response to the SDNY's ruling described above. *The DOL's positions on the above four issues, as confirmed and explained in its New Rule, are noted below in purple.*

***UPDATE (12/22/20):** On December 21, 2020, Congress passed** a stimulus bill that **ends mandated FFCRA leave** for employers as of the original expiration date (December 31, 2020), but extends (through March 31, 2021) the availability of the refundable payroll tax credit for employers who choose to provide FFCRA paid sick leave or paid family leave after December 31. Therefore, **employers will still obtain the tax credit if they continue to provide paid leave under the FFCRA through March 31, 2021, but they will no longer be required to provide such leave after December 31, 2020.** Note that the number of hours of leave to which an eligible employee is entitled under the FFCRA does not reset in the new year. (The entire text of the bill can be found [here](#); see section 286.) **Then-President Trump signed the legislation on December 27, 2020.

***UPDATE (3/23/21 & 4/30/21):** On March 11, 2021, President Biden signed into law the **American Rescue Plan Act of 2021 (ARPA)**, which will be **effective on April 1, 2021**. Notably, the ARPA extends the tax credits available to employers with fewer than 500 employees who choose to provide FFCRA paid sick leave or paid family leave **through September 30, 2021** (i.e., past the original extension of March 31, 2021 as described above).

The ARPA also expands the paid leave entitlements provided under the FFCRA – including providing **new qualifying reasons for FFCRA sick and family leave**. In addition to the permitted FFCRA emergency sick and family leave reasons, tax credits will be available for FFCRA sick leave or family leave wages paid to an employee when:

- a) the "employee is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19 and such employee has been exposed to COVID-19 or the employee's employer has requested such test or diagnosis"; or
- b) the employee is **obtaining a COVID-19 vaccination**; or
- c) the employee is **recovering** from any injury, disability, illness, or condition related to the **COVID-19 vaccine**.

Therefore, under the ARPA, tax credits for **emergency family leave** can be taken not only for leave granted when an employee cannot work or telework as a result of having to care for a child whose school has been closed due to the pandemic (*see summary below*), but **also for the existing six FFCRA sick leave reasons**, and for the **two additional testing and immunization reasons** listed above.

An employer also can receive up to a **\$12,000 tax credit per employee** for qualifying FFCRA paid family leave absences. This maximum cap has been increased from its prior ceiling of \$10,000 per employee. Correspondingly, the ARPA has removed the initial 2-week (10-day) unpaid period of family leave under the FFCRA. The tax credit for qualifying paid family leave wages, which includes covered absences under the FFCRA's original paid family leave mandate and expanded absences based on the ARPA (see above), is calculated at 2/3 of the employee's regular rate of pay, capped at a daily maximum of \$200. Please note that in order for an employer to receive tax credits for voluntarily providing FFCRA paid leave, the employer generally must comply with the FFCRA's substantive requirements.

IRS Guidance about the employer tax credits for COVID-19 paid leave under the ARPA, including instructions for employers to claim the credit, can be found [here](#).

FFCRA Emergency Family and Medical Leave Summary (the below summarizes the Act as originally passed and as enforced **in 2020**; *please see above for 2021 updates and developments*):

- **Summary.** Covered employers must provide employees with **12 weeks of job-protected, (mostly) paid EFML** when an employee cannot work (or telework) for the COVID-19-related reason(s) described below.
- **Initial Period of Leave May be Unpaid.** The **first 10 days of leave may be unpaid**. However, an employee may choose to substitute any accrued vacation leave, personal leave, or other medical or sick leave during this period.
- **Paid Leave for Subsequent Days.** After the 10 days of unpaid leave, employers must provide **paid FMLA** leave for each day of leave at a rate of no less than (subject to caps) **2/3 of the employee's regular rate of pay** (as determined by the FLSA) for the normally scheduled number of hours (assuming leave is necessary for one of the below purposes). Paid leave is **capped at \$200 per day and \$10,000 in the aggregate**. Each quarter, employers (other than governmental employers) subject to these requirements are entitled to a fully refundable tax credit equal to 100% of the mandated paid FMLA wages paid by the employer (i.e., any payments greater than the capped amounts would not receive the tax credits).
- **Reasons for Leave.** An eligible employee* is entitled to leave under this expanded FMLA provision if the employee is unable to work (or telework) due to the need to **care for the employee's son or daughter under 18 whose school or place of care is closed or normally paid childcare provider is unavailable** due to a public health emergency. "Son or daughter" means a biological, adopted, or foster child, stepchild, legal ward, or child standing in loco parentis who is under 18, or 18 or older and incapable of self-care. "Public health emergency" means an emergency with respect to COVID-19 declared by a federal, state, or local authority.
 - * *The DOL's New Rule reaffirmed its position (as articulated in the original Final Rule) that leave under the FFCRA may be taken "only if the employee has work from which to take leave." In other words, an employee may not "take FFCRA paid leave if the employer would not have had work for the employee to perform, even if the qualifying reason did not apply." This work availability requirement applies to all 6 reasons for leave. (The SDNY's 8/3/20 ruling attempted to invalidate this "work availability" requirement.)*
 - ** **RETURN TO SCHOOL/REMOTE LEARNING DOL GUIDANCE.** On **August 27, 2020**, the DOL issued new guidance, in the form of additional FAQs, addressing FFCRA paid leave in the context of the various school reopening models (e.g., all in-person; all virtual/remote; or a hybrid of the two). The new guidance clarifies that a child's school is effectively "closed" on days when the child is not permitted to attend in person for COVID-19-related reasons—including when a child must engage in remote learning on certain days of the week, even if the child may attend in person on other days (as in a hybrid schooling model). As such, an eligible employee **may take paid leave under the FFCRA on each of his or her child's remote-learning days or while the school remains closed to in-person attendance**, as long as the employee needs the leave to care for the child during that time and no other suitable person is available to do so. However, FFCRA leave is **not available** for an employee whose child's school provides a choice between in-person and remote learning, and the employee chooses remote learning for his or her child, as the school is not deemed "closed." (The Return to School FAQs are available [here](#).)

- Verification. Documentation of the need for leave is required as soon as practicable. *(The original Final Rule required that employees submit documentation including the reason for and duration of the requested leave and, when relevant, isolation or quarantine orders, prior to taking leave. In its 8/3/20 decision, the SDNY held that this requirement was inconsistent with the FFCRA, which only requires employees to provide notice of the need for leave as soon as practicable. Thus, employers may not require employees to provide documentation before taking leave or as a precondition to leave. The New Rule agreed with the SDNY and affirmed that an employee need not give documentation prior to taking leave, but rather “as soon as practicable,” which “in most cases will be when the employee provides notice” to the employer.)*
- Job Protection. Following EFML, employers must **restore** the employee to the same position or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. Employers with **fewer than 25 employees** may be exempted from this requirement if certain conditions exist (i.e., the employee’s position does not exist following the period of leave due to economic conditions or other changes in operating conditions which affect employment and are caused by a public health emergency during the leave period, where the employee is offered a substantially equivalent position, or where the employer could not provide a substantially equivalent position but the employee remains on a recall list for a year).
- Employer Notice. Employers must post and keep posted, in conspicuous places on the premises where employee notices are usually posted, a notice prepared by the Secretary of Labor that sets forth the leave requirements (including family and medical leave and paid sick leave) of the FFCRA. The notice is now available [here](#) or on the DOL Wage and Hour Division’s “COVID-19 and the American Workplace” website [here](#) (under “Posters”).
- Employee Notice. For EFML that is **foreseeable**, employees must provide notice as soon as practicable. *The DOL’s New Rule confirms that for EFML, advance notice is required as soon as practicable and, for foreseeable EFML, that generally means providing notice before taking leave. For unforeseeable EFML, the employee may begin to take leave without giving prior notice but still must give notice as soon as practicable.*
- Exemptions. Employers of employees who are **health care providers** (as [defined](#) by the current FMLA and in the DOL’s New Rule*, including individuals who are capable of providing health care services) or **emergency responders** (no definition was provided) may elect to exclude such employees from the paid leave. Additionally, the DOL is empowered to exempt small businesses with fewer than 50 employees in certain circumstances; employers with fewer than 50 employees also appear exempt from private suits brought by employees, but they are still subject to enforcement actions by the DOL. **The New Rule adopts the FMLA’s definition of “health care provider” and expands on that definition by including any other employee “who is capable of providing health care services, meaning he or she is employed to provide diagnostic services, preventive services, treatment services, or other services that are integrated with and necessary to the provision of patient care and, if not provided, would adversely impact patient care.” (The original Final Rule’s definition of “health care provider” was broader and looked at whether the employer itself provides health care services. In its 8/3/20 decision, the SDNY concluded this definition was too expansive, improperly focusing on the employer’s identity rather than the employee’s job duties.)*

EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT, H.R. 6201, §§ 3101-3106. Of note, as explained in the chart below, other types of FMLA may apply to COVID-19 situations, such as the employee’s own serious health condition and an employee family member’s serious health condition requiring the employee to seek leave to provide care. Also of note, the Families First Coronavirus Response Act also provided for paid sick leave in situations similar

to the reasons for leave described below, as well as other situations involving the pandemic. *This table does not address paid sick leave; paid sick leave is addressed in our separate “Paid Sick, School & Workplace Closure, and Quarantine Leaves Possibly Implicated by COVID-19” document.*

***PLEASE NOTE: 2021 UPDATES OR OTHER NOTES REGARDING THE STATUS AND/OR EXPIRATION OF THE BELOW STATE AND LOCAL LAWS OR ORDINANCES ARE NOTED BELOW IN RED WHERE APPROPRIATE.**

DISTRICT OF COLUMBIA: COVID-19 Family and Medical Leave. ***2021 Update:** The CSEA is set to expire when the declared public health emergency ends. The May 21, 2021 [Mayor's Order 2021-069](#) extends the public health emergency “for so long as District of Columbia law extends the emergency.” According to the **D.C. Office of Human Rights [Public Health Emergency leave website](#)** (last updated on June 8, 2021), the CSEA is “**currently set to expire once the declared public health emergency ends or approximately September 30, 2021**”. We will continue to monitor for any potentially clarifying developments and update this summary accordingly; however, employers should assume that the public health emergency leave obligations will remain in place until September 30, 2021.

The Coronavirus Support Emergency Amendment Act of 2020 and the Coronavirus Support Clarification Emergency Amendment Act of 2020 (collectively “CSEA”) temporarily expands the D.C. Accrued Sick and Safe Leave Act (“ASSLA”) and **the D.C. Family and Medical Leave Act (“DCFMLA”)** to provide additional COVID-19-related leave benefits. The CSEA’s amendments to the DCFMLA require **employers of all sizes** to provide **COVID-19 family and medical leave (“CFML”)**. *These amendments replace prior versions of D.C.’s COVID-19-related leave laws.*

- Eligibility and Reasons for Leave. An employee who has worked for at least 30 days for an employer of any size is eligible for CFML for the following reasons:
 - **Care for self:** a recommendation by a health care provider that the employee isolate or quarantine, including because the employee or an individual in the employee’s household is at high risk for a serious illness from COVID-19.
 - **Care for family or household member:** a need to care for a family member or an individual in the employee’s household who is under a government or health care provider’s order to quarantine or isolate.
 - **Childcare closure:** a need to care for a child whose school or place of care is closed, or whose childcare provider is unavailable to the employee.
- Leave Benefits and Duration. Eligible employees are entitled to up to **16 workweeks of CFML**. **The right to CFML expires on the date the COVID-19 public health emergency expires (see note above).** CFML may be **unpaid**, but is **job-protected** as is traditional DCFMLA leave.
- Verification. Employers may require an employee to provide certification of the need for CFML, including a signed, dated letter from a health care provider, including the probable duration of the CFML, or a statement by a childcare provider or printed statement from the childcare provider’s website.

- Employer Notice. Employers must inform employees of their expanded rights under the DCFMLA as created by the CSEA. Employers must post a notice in a conspicuous place and notify an eligible employee about CFML as soon as the employee becomes or may become eligible. **The poster (updated June 8, 2021) may be found [here](#).**
- Employer Offset/Other Leave. An employer may elect, but may not be required, to use CFML before using any other leave to which the employee is entitled under the employer's policies or applicable law. Any paid leave provided by an employer that the employee chooses to use for CFML may count against the 16 workweeks of CFML. Other DCFMLA provisions apply. An employer and employee may mutually agree to a teleworking arrangement in lieu of the employee taking unpaid leave under the DCFMLA.

(D.C. Code § 32.501(1), section 3a, as added and amended by the Coronavirus Support Emergency Amendment Act of 2020, D.C. Act 23-326 §105, available [here](#); summary and resources available on the D.C. Office of Human Rights website [here](#).)

NEW JERSEY: Expanded Leave Usage for COVID-19. On April 14, 2020, New Jersey Governor Phil Murphy signed into law Senate Bill 2374 (S2374), **permanently** amending the state's **Family Leave Act ("FLA") and Temporary Disability Insurance ("TDI")/Family Leave Insurance ("FLI") laws** to provide job-protected leave benefits for employees who cannot work due to circumstances caused by COVID-19. The new provisions were retroactively effective as of March 25, 2020 (the date a prior similar bill (S2304) was passed, which now has been superseded/corrected by S2374).

In general, the FLA provides an eligible employee with up to 12 weeks of unpaid, job-protected leave for the birth of a child of the employee, the adoption or placement of a child in foster care, or the care of a family member with a serious health condition. S2374 **amends the FLA** by:

- Expanding the definition of allowable **"family leave"** under the FLA to include—in the event of a state of emergency declared by the Governor or when indicated to be needed by a public health authority—an epidemic of a communicable disease, a known or suspected exposure to a communicable disease, or efforts to prevent spread of a communicable disease, which requires a covered employee to:
 - care for a **child whose school or childcare facility is closed** by order of a public official due to an epidemic or public emergency;
 - care for a **family member that is subject to a mandatory quarantine order** as a result of an illness caused by an epidemic where the family member's exposure would jeopardize the health of others; or
 - care for a **family member who is in voluntary self-quarantine recommended by a health care provider or public authority** as a result of suspected exposure to a communicable disease;
- Defining "health care provider" as "a duly licensed health care provider or other health care provider deemed appropriate by the director [of the Division on Civil Rights]" (while prior to this amendment, the NJFLA had not defined the term "health care provider");
- Eliminating the ability of employers to deny family leave in certain circumstances (e.g., to highly compensated individuals, when the family leave is due to the above expanded reasons);
- Allowing employers to seek certification when the leave is due to these above expanded reasons; and

- Allowing employees to take intermittent leave when the leave is due to the above reasons, so long as the employee meets certain notification requirements.

Additionally, S2374 amends the **TDI/FLI** laws by:

- Expanding the definition of compensable **“family temporary disability leave”** under the FLI law to include leave taken ***to care for a family member in mandatory or self-quarantine*** relating to COVID-19. Specifically, the law provides that in the event of a state of emergency declared by the Governor or an indication by a health authority that one is needed, an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent the spread of the communicable disease, family temporary disability leave includes leave to *provide in-home care or treatment of the family member of the employee* required due to:
 - the issuance by a healthcare provider or the commissioner or other public health authority of a determination that the presence in the community *of the family member* may jeopardize the health of others; and
 - the recommendation, direction, or order of the provider or authority that *the family member* be isolated or quarantined as a result of suspected exposure to a communicable disease.
- Expanding the definition of an employee’s own compensable **“disability”** under the TDI program to include—in the event of a state of emergency declared by the governor or an indication by a health authority that one is needed—an illness caused by an epidemic of a communicable disease, a known or suspected exposure to a communicable disease, or efforts to prevent the spread of the communicable disease, which requires in-home care or treatment *of an employee* due to:
 - the issuance by a health care provider or the commissioner or other public health authority of a determination that the presence in the community *of the employee* may jeopardize the health of others; and
 - the recommendation, direction, or order of the provider or authority that *the employee* be isolated or quarantined as a result of suspected exposure to a communicable disease; and
- Eliminating the 7-day waiting period for disability benefits eligibility when benefits are requested for an employee’s own disability, if it falls within the newly amended definition above.

Please note that although these amendments are in response to the current COVID-19 pandemic, they are **permanent amendments to the statute**—not temporary measures. (A copy of S2374 can be found [here](#); Information about TDI/FLI benefits in connection with COVID-19 can be found on the NJDOL’s website [here](#).)

NEW YORK: Statewide Emergency Paid Quarantine Leave. On March 18, 2020, New York Governor Andrew Cuomo signed a new **“Emergency COVID-19 Paid Sick Leave”** law requiring employers to provide paid (with narrow exceptions) and job-protected sick leave to employees who are subject to mandatory or precautionary **orders of quarantine or isolation** due to COVID-19. A qualifying quarantine under the law must be a mandatory or precautionary quarantine order issued by a government agency or board of health. Employees who are quarantined but able to work from home are **not eligible** for these benefits. **The New York quarantine leave law has no expiration or sunset date; instead, it is tied to the issuance of COVID-19-**

related quarantine or isolation orders. Please note, also, that accrued paid leave benefits provided under the new general (permanent) New York State Sick Leave Law are available for employees to use as of January 1, 2021.

*On **January 20, 2021**, Governor Cuomo issued updated "**Guidance on Use of COVID-19 Sick Leave**" (available [here](#)) that seeks to clarify the benefits available to employees under the NY COVID-19 sick/quarantine leave law. Relevant information is incorporated below in blue.

- Please note: An April 19, 2020 Order issued by the City allows qualifying individuals who either live or work in **New York City** to **self-certify** their qualification for leave under this statewide quarantine leave law (as opposed to providing a qualifying quarantine or isolation order). Such employees must complete and sign one of three appendices (available at the end of the Order), depending upon the type of employee. The Order applies to those employees who (a) have tested positive for COVID-19; (b) have symptoms of COVID-19 *and* were in contact with someone who tested positive; or (c) meet another qualification or mandatory isolation by the NYC health department, the NY State health department, or the CDC. It does not apply to employees who must quarantine or isolate for other reasons. (Such employees may still qualify for quarantine leave but should request an individual quarantine order to obtain leave, per the Order.)

The quarantine leave available to an employee will depend on the size and income of the employer, as follows:

- **Employers with 100 or more employees (as of January 1, 2020) and public employers**: must provide employees at least **14 days of paid quarantine leave** (which, the Governor's Office has stated, "should cover the period of mandatory or precautionary quarantine or order of isolation").
- **Employers with (i) 10 or fewer employees (as of January 1, 2020) and net income of greater than \$1 million** in the previous tax year, or (ii) **between 11 and 99 employees (as of January 1, 2020)**: must provide eligible employees (a) at least **5 days of paid quarantine leave**; and (b) **unpaid leave** for the remainder of the period of quarantine, with guaranteed access to New York State Paid Family Leave and short-disability benefits, including wage replacement for their salaries up to \$150,000.
- **Employers with 10 or fewer employees and a net income of less than \$1 million**: must provide employees **unpaid leave** for the period of quarantine, with guaranteed access to New York State Paid Family Leave and short-term disability benefits, including wage replacement for their salaries up to \$150,000.

The **January 20, 2021 Guidance** states that if an employer requires an employee who is not otherwise subject to a quarantine order to remain out of work due to COVID-19 exposure or potential exposure, **the employer must continue to pay the employee** at the regular rate of pay until the employer allows the employee to return to work or until the employee becomes subject to a quarantine order, at which time the employee would receive sick leave as required by the law.

The **January 20, 2021 Guidance** also notes that "in no event" may an employee qualify for sick leave under the COVID-19 sick leave law for more than 3 orders or quarantine or isolation. The second and third orders must be based on a positive COVID-19 test.

Job Protection. Quarantine leave is protected insofar as the law requires employees returning from such leave to be **restored** to the same position, pay, and terms and conditions of employment as prior to such leave.

Under the **January 20, 2021 Guidance**, other than nursing home staff, employees returning to work following a period of quarantine do not need to be tested for COVID-19 - but an employee who subsequently receives a positive test result may not report to work. If an employee continues to test positive after the end of a quarantine order, the employee is deemed to be subject to a **second mandatory isolation order** and is entitled to sick leave under the COVID-19 quarantine/sick leave law for the second period of isolation. However, unless the employer tested the employee, the employee must submit proof of the positive test.

Waiting Period. There is no waiting period for benefits claimed as a result of a mandatory or precautionary quarantine or order of isolation.

Other Leave. Employers may not require employees to use existing accrued paid sick leave or other accrued leave, such as PTO, for a COVID-19 quarantine order. This new law is effective immediately, but the leave is available retroactively for employees already under a qualifying mandatory or precautionary order of isolation.

Exceptions. Employees who are quarantined but are able to work remotely are not eligible for leave benefits under this statute.

(Information and FAQs about the New York Emergency COVID-19 Paid Sick Leave law can be accessed [here](#); **COVID-19 Paid Leave Employer Guidance** is available [here](#) and includes a COVID-19 Paid Leave [Fact Sheet](#) for employers.)

OREGON: School/Child Care Closure Leave. Under a new **permanent** administrative order (BLI 7-2020), effective **September 14, 2020** (initially temporary and effective March 18, 2020 through September 13, 2020), employers must allow employees to use **protected “sick child leave” under the Oregon Family Leave Act (OFLA)** to care for their child whose **school or child care provider has been closed** in conjunction with a statewide public health emergency declared by a public health official (including, but not limited to, out of concerns related to COVID-19).

A child’s school/place of care closure previously was not a qualifying reason for leave under the OFLA (as it is under the Oregon sick leave law, as indicated in the below table). The order expanding OFLA employee rights means a longer absence for school/place of care closure is protected: under the OFLA, employees generally are eligible for **12 weeks of unpaid, job-protected leave** for a qualifying reason if they work for an employer with 25 or more employees, and if they have worked 180 days prior to the leave and at least 25 hours per week. OFLA leave is unpaid, but employees may elect to use any paid leave that they have available—including accrued paid sick leave. The OFLA’s job restoration requirements apply to employees returning from leave.

(Permanent Administrative Order BLI 7-2020 can be found [here](#); see OARD 839-009-0230, available [here](#); Oregon Sick Time FAQs, available [here](#).) A child’s school/place of care closure previously was not a qualifying reason for leave under the OFLA (as it is under the Oregon sick leave law). *(Additional information about the OFLA amendments and other jurisdictions providing leave under paid sick leave statutes due to a child’s school/place of care closure can be found in the separate “Paid Sick, School & Workplace Closure, and Quarantine Leaves Possibly Implicated by COVID-19” table.)*

Table: Family and Medical Leave Laws
Types of Leave and Reasons for Use Potentially Relevant to COVID-19

Jurisdiction (Federal / State)	TYPE OF LEAVE + REASONS FOR LEAVE		
	Unpaid Family and Medical Leave ¹	Paid Family and Medical Leave (State-Run Insurance Programs)	Other
FEDERAL	✓ Family and Medical Leave Act (FMLA) Serious health condition of employee or qualifying family member.		✓ EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT² <i>Paid leave for COVID-19-related school/childcare closure needs. Please see introductory section for details.</i>
California	✓ CA Family Rights Act (CFRA) Serious health condition ³ of employee, child, parent, grandparent, grandchild, sibling, spouse, or domestic partner.	✓ Paid Family Leave Insurance Program Family care leave: to care for a seriously ill child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner.	
Connecticut	✓ CT Family Medical Leave Act (CFMLA) Serious health condition of employee, child, parent, spouse.	✓ <i>Paid Family and Medical Leave Insurance Program⁴</i> <i>Serious health condition of employee or qualifying family member.</i>	

¹ Like the (pre-COVID-19 expansion) federal Family and Medical Leave Act (FMLA), state unpaid family and medical leave laws generally offer job protection for employees using this type of leave. Please note: Employers with 500 or more employees not covered by the federal paid FMLA expansion law (*see introductory section*), but who are covered by the original federal FMLA, should keep in mind that an eligible employee may qualify for unpaid, job-protected FMLA leave if the employee or a qualifying family member has a serious health condition, whether resulting from COVID-19 or otherwise.

² Part of the federal Families First Coronavirus Response Act (temporary amendment/expansion of federal Family and Medical Leave Act (FMLA)). *See introductory section.*

³ The definition of “**serious health condition**” is generally the same or similar in all family and medical leave statutes: a physical or mental illness, injury, or impairment that involves: (a) inpatient care in a hospital, hospice, or residential health care facility; or (b) continuing treatment by a health care provider.

⁴ *Effective January 1, 2022 (premium withholding begins 2021).*

Jurisdiction (Federal / State)	TYPE OF LEAVE + REASONS FOR LEAVE		
	Unpaid Family and Medical Leave ¹	Paid Family and Medical Leave (State-Run Insurance Programs)	Other
District of Columbia	✓ D.C. Family and Medical Leave Act (DCFMLA) Serious health condition of employee or qualifying family member; Self care, family or household member care, and childcare closures related to COVID-19. ⁵	✓ Paid Family Leave Insurance Program⁶ Serious health condition of employee or qualifying family member.	
Georgia			✓ Georgia Family Care Act⁷ <i>If employer provides paid sick leave: must allow employees to use earned and available paid sick leave for the care of an immediate family member.</i>
Hawaii	✓ Family Leave Serious health condition of a qualifying family member.		
Maine	✓ Family Medical Leave Serious health condition of employee, child, parent, domestic partner, sibling, spouse, or domestic partner's child.		✓ Family Leave <i>If employer provides paid leave: must allow employees to use this leave to care for immediate family members who are ill.</i>

⁵ The Coronavirus Support Emergency Amendment Act of 2020 (CSEA) expands the DCFMLA to provide additional leave benefits for COVID-19-related reasons. The CSEA is retroactive to March 11, 2020 and is set to expire when the public health emergency ends. The CSEA's amendments to the DCFMLA require **employers of all sizes** to provide **COVID-19 family and medical leave ("CFML")**. *Please see introductory section for additional information.*

⁶ Effective July 1, 2020.

⁷ Expired July 1, 2020.

Jurisdiction (Federal / State)	TYPE OF LEAVE + REASONS FOR LEAVE		
	Unpaid Family and Medical Leave ¹	Paid Family and Medical Leave (State-Run Insurance Programs)	Other
Maryland			✓ Family Leave Employers must allow employees to use paid leave for their immediate family members' illness.
Massachusetts		✓ Paid Family and Medical Leave Insurance Program⁸ Serious health condition of employee or qualifying family member.	
New Jersey	✓ NJ Family Leave Act (FLA) Serious health condition of family member (including, during a state of public emergency, a child's school closure; family member's mandatory or self-quarantine; and family member's suspected exposure to a communicable disease). ⁹	✓ NJ Temporary Disability Insurance (TDI)/ NJ Family Leave Insurance (FLI) Employee's sickness, injury, or other disability / Family caregiver leave: Serious health condition of qualifying family member. ¹⁰	
New Mexico			✓ Paid Family Leave If employers provide paid sick leave: must allow employees to use accrued leave to care for family members.

⁸ Effective January 1, 2021 (wage withholding began October 2019).

⁹ On April 14, 2020, New Jersey Governor Phil Murphy signed into law Senate Bill 2374 (S2374) amending the FLA and TDI/FLI laws to provide job-protected, paid leave benefits for employees who cannot work due to circumstances caused by COVID-19 (including by expanding the definitions of "family leave," "family temporary disability leave," and an employee's own compensable "disability"). *Please see introductory section for additional information.*

¹⁰ See above footnote.

Jurisdiction (Federal / State)	TYPE OF LEAVE + REASONS FOR LEAVE		
	Unpaid Family and Medical Leave ¹	Paid Family and Medical Leave (State-Run Insurance Programs)	Other
New York		✓ Paid Family Leave Insurance Program Serious health condition of qualifying family member; Mandatory or precautionary orders of quarantine or isolation due to COVID-19. ¹¹	
Oregon	✓ Oregon Family Leave Act (OFLA) Serious health condition of employee or family member; Non-serious illness or health condition of employee's child; Closure of child's school/place of care due to public health emergency declared by public health official. ¹²	✓ <i>Paid Family and Medical Leave Insurance Program</i> ¹³ <i>Serious health condition of employee or qualifying family member.</i>	
Rhode Island	✓ Parental and Family Medical Leave Act Serious illness of employee or employee's parent, child, spouse, mother-in-law, or father-in-law.	✓ Temporary Caregiver Leave Insurance (TCI) Serious health condition of child, parent, parent-in-law, grandparent, spouse, or domestic partner. Temporary Disability Insurance (TDI) Temporary disability or injury of employee.	

¹¹ Under the New York State “**Emergency COVID-19 Paid Sick Leave**” law, signed March 18, 2020, employers must provide paid (with narrow exceptions) and job-protected sick leave, plus (in many cases) guaranteed access to New York State Paid Family Leave and short-term disability benefits, to employees who are subject to mandatory or precautionary **orders of quarantine or isolation** due to COVID-19. *Please see introductory section for additional information.*

¹² Oregon’s new permanent administrative order, effective September 14, 2020, allows employees to use **protected leave under the OFLA** to care for their child whose **school or child care provider has been closed** in conjunction with a statewide public health emergency declared by a public health official. A child’s school/place of care closure previously was not a qualifying reason for leave under the OFLA (as it is under the Oregon sick leave law). *Please see introductory section for additional information.*

¹³ *Effective January 1, 2023 (payroll contributions begin January 2022).*

Jurisdiction (Federal / State)	TYPE OF LEAVE + REASONS FOR LEAVE		
	Unpaid Family and Medical Leave ¹	Paid Family and Medical Leave (State-Run Insurance Programs)	Other
Vermont	<p>✓</p> <p>Family Leave Serious illness of employee or qualifying family member.</p> <p>✓</p> <p>Short Term Family Leave Accompany qualifying family member to medical appointments or respond to a medical emergency.</p>		
Washington		<p>✓</p> <p>Paid Family and Medical Leave Insurance Program Serious health condition of employee or qualifying family member.</p>	<p>✓</p> <p>Family Care Act (FCA) If employer provides paid sick leave or other paid time off: must allow employee to use any or all of that leave for (1) employee's child with a health condition requiring treatment or supervision; or (2) spouse, parent, parent-in-law, or grandparent with serious health condition or emergency health condition.</p>
Wisconsin	<p>✓</p> <p>Family and Medical Leave Serious health condition of employee or qualifying family member.</p>		

42101730.18