The Families First Coronavirus Response Act (H.R. 6201), became law on March 18, 2020. The Act guarantees free testing for the novel coronavirus (COVID-19), establishes emergency paid sick leave, expands family and medical leave, enhances unemployment insurance, expands food security initiatives, and increases federal Medicaid funding.

The Act includes up to 80 hours of emergency paid sick leave for workers who are unable to work while they are sick or complying with COVID-19 restrictions or caring for school age children due to the closure of schools or child care facilities, as well as paid family and medical leave that employees will be able to use to care for family members (not for personal illness) for up to 12 weeks. The first 10 days of emergency family and medical leave may be unpaid, unless employees opt to use accrued paid time off for those days.

The mandatory paid leave provisions apply to employers with fewer than 500 employees and government employers, with exceptions for health care workers and first responders. Self-employed individuals would be eligible for the new benefits provided under the Act. It is not clear if individuals who have self-employment income from their partnership or limited liability company would be eligible for the new self-employed benefits, as the Act does not specifically address those situations. Employers with 500 or more employees would not be subject to those rules. Employers who are required to provide paid time off would need to initially bear the costs of paying their employees, but the federal government would provide payroll tax credits to help cover those costs.

**Background.** Currently, the federal Family Medical Leave Act of 1993 (FMLA) provides eligible employees up to 12 work weeks of **unpaid** leave a year and requires group health benefits to be maintained during the leave as if employees continued to work instead of taking leave. Employees are also entitled to return to their same or an equivalent job at the end of their FMLA leave. Special rules apply to military personnel.

To be eligible for FMLA, an employee is required to have been employed by their employer for a year, worked for 1,250 hours, and worked in a location where there are 50 other employees within a 75-mile radius. The FMLA applies to all private sector employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year (including joint employers and successors of covered employers). Many states have enacted laws that are similar to federal FMLA, which apply to smaller employers who may be exempt from federal FMLA. The FMLA also applies to federal, state and local employers. These current provisions remain available for qualifying employees.