
Expiration of Expanded and Supplemental Leave under Federal Families First Coronavirus Response Act and AB 1867

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FFCRA Leave

In March of 2020, the Families First Coronavirus Response Act (FFCRA) was passed by Congress. The FFCRA provided, among other things, expanded Family and Medical Leave Act (FMLA) leave for child care, and also required employers to provide up to 80 hours of Emergency Paid Sick Leave (EPSL) to employees for COVID-19 related reasons. Our Client News Brief discussing leave provisions granted by the FFCRA can be found here: [2020 Client News Brief Number 17](#). The FFCRA's grant of additional employee leaves for COVID-related reasons expired on December 31, 2020, and was not extended by Congress. Thus, employees are not entitled to expanded FMLA or EPSL leave after December 31, 2020, even if an employee did not exhaust it before that date. That said, an employer *can* grant employees the ability to continue using such leaves if it so chooses, and private employers can take advantage of tax credits for such leaves granted by the FFCRA through March 31, 2021. Unfortunately, public agencies are ineligible for this tax break.

AB 1867 Leave

California passed Assembly Bill (AB) 1867 in 2020 to provide supplemental COVID-19 paid sick leave (CPSL) to food service workers, health care providers, and emergency responders whose employers chose to utilize an exemption from the requirement to provide FFCRA leave. Our Client News Brief discussing leave provisions granted by AB 1867 can be found here: [2020 Client News Brief Number 71](#). AB 1867's grant of additional employee leave for COVID-related reasons also expired on December 31, 2020.

However, one key difference between the CPSL and the FFCRA is that employees taking CPSL as of December 31, 2020, may continue to take the leave even if the entitlement extends past December 31, 2020. For example, an employee who began COVID-19 quarantine on December 28, 2020, may continue to utilize their CPSL entitlement into 2021, and be paid for the time according to the requirements of AB 1867. This does not mean employees who did not take CPSL leave in 2020 can now take the leave—this only applies to employees who started a leave in 2020 and remain on that leave into 2021.

But again, if an employer was subject to the FFCRA, it is not subject to California's CPSL. CPSL only applied to specified employers not covered by the FFCRA or who had the option to opt out of FFCRA and did so.

If you have any questions regarding employee leave or any labor and employment issues in general, please contact one of the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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