

The information below is based on the federal law as of March 18, 2020, and is not intended to provide legal advice and should not be used as a substitute for legal guidance. Consult your city attorney for advice concerning specific situations.

MUNICIPAL ORDER. _____

MUNICIPAL ORDER PROVIDING FOR LEAVE UNDER THE FAMILIES FIRST
CORONAVIRUS RESPONSE ACT

WHEREAS, the President signed into law the “Families First Coronavirus Response Act” to assist with the impact of COVID-19, employees may be eligible for additional leave under the law;

WHEREAS, to comply with the temporary leave requirements, the City of _____ is altering its leave policy for city employees **effective April 1, 2020**;

NOW, THEREFORE, BE IT ORDERED AS FOLLOWS:

1. Pursuant to the Emergency Paid Sick Leave Act, all employees are eligible for two weeks of paid leave at their regular rate of pay for the following reasons. Eligible full-time employees will receive up to eighty (80) hours of paid sick leave. Eligible part-time employees will receive pay based on the average number of hours worked over the last six months. The Act allows the employers to exclude healthcare providers and emergency responders from the definition of employees who are allowed to take such leave.
 - a. Subject to a federal, state or local quarantine or isolation order related to COVID-19;
 - b. Advised by a healthcare provider to self-quarantine due to COVID-19 concerns;
 - c. Experiencing COVID-19 symptoms and seeking medical diagnosis;
 - d. Caring for an individual subject to a federal, state or local quarantine or isolation order or advised by a healthcare provider to self-quarantine due to COVID-19 concerns (caring for another who is subject to an isolation order or advised to self-quarantine as described above is not limited to only family members).
 - e. Caring for the employee’s child if the child’s school or place of care is closed or the child’s care provider is unavailable due to COVID-19 precautions; or
 - f. Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Commented [CRS1]: Unless your city has declared a state of emergency under KRS 39B, it must be adopted by municipal order (or ordinance) since paid leave provisions must go through the legislative authority. If the city has declared a state of emergency locally under KRS 39B then the provision can be adopted by executive order.

- g. Paid sick leave wages are limited to \$511 per day up to \$5,110 total per employee for their own use and to \$200 per day up to \$2,000 total to care for others and any other substantially similar condition.
2. Pursuant to the Emergency Family Medical Leave Expansion Act (EFMLEA), an employee that has been employed for thirty (30) days or more is eligible for up to twelve (12) weeks of job-protected leave to allow the employee, who is unable to work or telework, to care for the employee's child (under 18 years of age) if the child's school or place of care is closed or the childcare provider is unavailable due to a public health emergency. The Act allows the employers to exclude healthcare providers and emergency responders from the definition of employees who are allowed to take such leave.
- a. The first 10 days of EFMLEA-qualified leave are unpaid. An employee may either be eligible for Emergency Paid Sick Leave as outlined in paragraph 1. or may take other paid leave concurrently with the EFMLEA.
 - b. Beginning the third week of EFMLEA, an eligible employee shall be paid according to the following:
 - i. Full-time employees at two-thirds the employee's regular rate for the number of hours the employee would otherwise be normally scheduled. The EFMLEA limits this pay entitlement to \$200 per day and \$10,000 in the aggregate per employee.
 - ii. Employees who work a part-time or irregular schedule are entitled to be paid at two-thirds the employee's regular rate, based on the average number of hours the employee worked for the six months prior to taking Emergency FMLA. Employees who have worked for less than six months prior to leave are entitled to the employee's reasonable expectation at hiring of the average number of hours the employee would normally be scheduled to work. The EFMLEA also limits this pay entitlement to \$200 per day and \$10,000 in the aggregate per employee.
 - c. The city will make reasonable attempts to return the employee to their prior position for up to one (1) year following the leave.

OR

The city will return the employee to their prior position in accordance with the restoration requirements of the FMLA.

Commented [CRS2]: For cities with fewer than 25 employees.

Commented [CRS3]: For cities with 25 or more employees

d. The city's FMLA leave is otherwise unchanged and employees are not eligible for FMLA leave except as outlined, above, under the EFMLEA.

Commented [CRS4]: For cities with fewer than 50 employees

OR

The city's FMLA leave is otherwise unchanged and any EFMLEA leave will count toward the employee's total twelve (12) weeks of job-protected FMLA leave.

Commented [CRS5]: For cities with 50 or more employees

3. The executive authority shall determine which employees are eligible for continued work or telework based on the needs and capacity of the city.

All other Employee Manual rules shall remain in force.

This order will become effective April 1, 2020 and terminate at the expiration of the Families First Coronavirus Relief Act, currently set for December 31, 2020.

On motion of _____, seconded by _____, that the foregoing Municipal Order be adopted, the vote was called. On roll call the vote stood:

Commented [AS6]: Unless your city has declared a state of emergency under KRS 39B, it must be adopted by municipal order (or ordinance) since paid leave provisions must go through the legislative authority. If the city has declared a state of emergency locally under KRS 39B then the provision can be adopted by executive order.

INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON ONE READING, this the ____ day of March, 2020.

Mayor

Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY THIS ____ DAY OF

MARCH, 2020.

By: _____
City Attorney

Commented [CR57]: The city attorney signature is not required and can be removed. However, you will need to make sure your city attorney reviews the order.