

Indiana Legal Services, Inc



Using the law to fight poverty, empower clients, and improve access to justice.

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COVID-19: Employee Protections

This page covers information regarding employment during the COVID-19 pandemic. [Click here](#) for questions about unemployment insurance. If you need further information or if you believe that you are not receiving benefits you are entitled to, we may be able to help. [Click here](#) to find out how to apply for legal assistance.

Am I eligible to take leave if I need to care for my child because of the public health emergency?

- Under the **Emergency Family and Medical Leave Expansion Act**, employers with fewer than 500 employees (and all public employers) must provide up to 12 weeks of job-protected leave for employees who have worked for them for at least 30 days and who are unable to work or telework to care for their children if the children's school or daycare is closed or the childcare provider is unavailable due to COVID-19.
- Exceptions:
 - Employers with less than 50 employees may be exempted.
 - Certain health care providers or emergency responders may also not qualify.
- The first ten days of Emergency FMLA may be unpaid. The employee can take any sick, vacation, or other leave to cover some or all this ten-day period. The employee also may be able to use paid leave for the first ten days if they qualify for it under the Emergency Paid Sick Leave Act (see more below), which provides for two weeks of paid leave.

Can I get paid if I have to take off work because I have or I am suspected of having coronavirus?

- You may be able to take **Emergency Paid Sick Leave** if your employer qualifies (see below) and you are in any of the following situations:
 - You are subject to quarantine or isolation order related to COVID-19
 - You are advised by a healthcare provider to self-quarantine due to COVID-19 concerns
 - You are experiencing COVID-19 symptoms and seeking a diagnosis
 - You are caring for any individual (NOT just family members) who is subject to a quarantine or isolation order or advised by a healthcare provider to self-quarantine due to COVID-19 concerns

- You are caring for your child if the child's school or daycare is closed or the childcare provider is unavailable due to public health emergency
 - You are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services
- **Does my employer qualify?** Employers with less than 500 employees must provide full-time employees with 80 hours of paid sick leave at their regular rate, regardless as to how long they have been employed. There are exemptions for healthcare providers and emergency responders. If the employees are caring for another person or child, they only are entitled to two-thirds of their regular pay.
 - Paid sick leave wages are limited to \$511 per day up to \$5,110 total per employee if they are sick, or \$200 per day up to \$2,000 total per employee if they are caring for another person or child. Emergency paid sick leave does not carry over to the next year. Part-time employees also can receive paid sick leave under the same circumstances based on their average hours worked for the last six months, or their average hours worked for the last two weeks, if they have been employed for less than six months. You generally cannot take emergency paid sick leave intermittently; you must take sick leave for most qualifying reasons in full-day increments. However, if you are taking emergency paid sick leave to care for a child whose school or day care is closed, you can take it intermittently. For example, you could take it two days per week and work the other three days according to your regular schedule. Full-time employees of employers with 500 or fewer employees can request that they receive 80 hours of emergency paid sick leave instead of the initial ten days of unpaid emergency FMLA leave. The Emergency Paid Sick Leave Act went into effect on April 1, 2020 and remains in effect until December 31, 2020.

Can I ask for a reasonable accommodation from my employer so that I can avoid getting sick with the coronavirus?

- You can ask for a reasonable workplace accommodation based on your medical condition, such as performing another job that you can still do based on your restrictions instead of your regular job duties. For instance, you could request to work a different shift or in a position that would limit your exposure to other people. You typically will need to get written restrictions from your primary care physician or specialist to support your request for a reasonable accommodation and provide this recommendation in writing to your employer.
- If there is no way to provide the restrictions that your doctor has recommended, you could request unpaid leave as a reasonable accommodation if your employer is not required to provide FMLA benefits. Otherwise, you might be eligible for FMLA leave (see more on this issue below). However, if your employer cannot accommodate your request without substantial hardships by either allowing you to take unpaid leave or temporary take on different job duties, the employer probably can terminate your employment. However, you still should be able to draw unemployment, since you are involuntarily unemployed due to a

physical disability.

What should I do if I think I should get paid family or sick leave but my employer is not providing it?

You may have a legal claim, we may be able to help or provide you with a referral to a private attorney for assistance. [Click here](#) to find out how to apply.

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<http://www.indianalegalservices.org/node/1032/covid-19-employee-protections>

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