



# Stimulus Bill Does NOT Mandate Continuation of EPSL and EFMLA

POOL/PACT HR is publishing this important Alert on the status of EPSL and EFMLA. If you have any questions about how this may impact your employment policies or practices, please contact your HR Business Partner for more information.

On December 27, 2020, President Trump signed the “Consolidated Appropriations Act, 2021” (the “Bill”) which extends tax credits for both the Emergency Paid Sick Leave Act (EPSLA) and Emergency Family and Medical Leave Expansion Act (EFMLEA) (EPSLA and EFMLEA together, the “Acts”) until March 31, 2021. However, **the Bill does not mandate the continuation of paid leave beyond December 31, 2020**. Rather, the intent appears to be to incentivize employers to voluntarily provide leave under the Acts by allowing them to attain tax credits, but since **public sector does not have access to the tax credits, there is no incentive for public sector to extend the paid leave**.

Our initial review of the Bill does not indicate further changes to the paid leave Acts. POOL/PACT HR will continue to examine the Bill and will alert members if there is further impact.

*What this means:*

Employers may elect to:

- discontinue paid leave under EPSL and EFMLA,
- continue leave under the Acts, or
- create a new program with similar benefits.

Employers who elect not to continue EPSL and EFMLA will terminate eligible employees’ paid leave entitlements under the Acts on December 31, 2020, regardless of whether employees have exhausted the statutory leave allotment or not. The job restoration requirements under these Acts also ends on that date.

Employers who elect to continue EPSL and EFMLA or create a new program with similar benefits should confer with legal counsel.



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### *What employers should do:*

Employers who elect not to continue EPSL and EFMLA should contact employees who are on leave to discuss expectations about returning to work and/or continued leave options.

Eligible employees who need continued leave due to their own or a family member's COVID-related condition may be eligible to take leave under the regular FMLA if the condition qualifies as a serious health condition, or they may be able to use their accrued paid leave. Employers should also consider their obligations under the Americans with Disabilities Act (ADA) to provide reasonable accommodations to qualified employees whose impairment substantially limits one or more major life activities.

Employees who are taking leave under the Acts to care for their children whose school or place of care was closed due to COVID-19 will also lose protection. Employers should also contact these employees to discuss return to work and/or leave options.

Please feel free to contact your HR Business Partner with any questions you may have.



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