

**The Legislature has introduced a new sick leave bill that only addresses sick leave benefits due to COVID-19. The paid sick leave bill that legislators will rush to pass today will provide benefits only to people under quarantine, according to the Governor.**

**S 8091 RAMOS Same as A 10153 Nolan**

**Governor Program # 10**

**ON FILE: 03/18/20 Labor**

**TITLE....Relates to the provision of certain employee benefits when such employee is subject to a mandatory or precautionary order of quarantine or isolation**

This bill is on the Labor Committee in both Houses and will be moving to each houses floor for a likely vote today.

The bill provides sick leave benefits, paid family leave, and benefits due to disability for employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19.

The bill provides protections for employees of private and public employers who are subject to a mandatory or precautionary order of quarantine related to COVID-19.

- For employees working for small employers (1-10 employees), employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 will receive unpaid sick days and the ability immediately to qualify for paid family leave and temporary disability benefits, plus full job protection.
- For employees working for medium sized employers (11-99 employees) and small employers (1-10 employees) with a net income of \$1 million a year, employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 will receive five paid sick days and the ability immediately thereafter to qualify for paid family leave and temporary disability benefits, plus full job protection.
- For employees working for large employers (100 or more employees) and public employees, employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 will receive paid sick days for the entirety of the quarantine (up to 14 days), plus full job protection.

All employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 are given full job protection during time of

absence. Employees will qualify for paid family leave to care for a minor dependent child who is subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19. The Department of Financial Services will implement a risk adjustment pool to assist in the stabilization of claims related to paid family leave and temporary disability benefits.

This law will go into effect immediately.

**Our colleague tom Buchan has done a summary and overview of the NYS COVID-19 Sick Leave Bill:**

### **Summary**

#### **COVID-19 Leave:**

- 10 or fewer employees:
  - Employees placed on mandated or precautionary order of quarantine or isolation in response to COVID-19 by a government entity get *unpaid* sick leave for the duration of the quarantine or isolation.
  - During quarantine/ isolation, the employee is eligible for Paid Family Leave (PFL) and Disability Benefits
  - Employers with more than \$1 million in net income for the previous tax year are responsible to provide **at least 5 days of paid sick leave** in addition to the unlimited unpaid sick leave for the duration of quarantine/ isolation
    - After the 5 days of employer provided paid sick leave, employee is eligible for PFL and Disability Benefits
- 11-99 employees:
  - Employees placed on mandated or precautionary order of quarantine or isolation in response to COVID-19 by a government entity are provided with **at least 5 days of employer provided paid sick leave**
    - After the 5 days of employer provided paid sick leave, employee is eligible for PFL and Disability Benefits
- 100 or more employees:
  - Employees placed on mandated or precautionary order of quarantine or isolation in response to COVID-19 by a government entity are provided with **at least 14 days of employer provided paid sick leave**
- Public Employers:
  - Employees placed on mandated or precautionary order of quarantine or isolation in response to COVID-19 by a government entity are provided with **at least 14 days of employer provided paid sick leave**

## Additional Provisions:

- Leave must be provided without loss of an officer or employee's accrued sick leave  
**(THIS LEAVE IS IN ADDITION TO EXISTING POLICIES)**
- Applies only to mandatory or precautionary orders of quarantine or isolation issued by the State or a government entity.
- An employee's employment must be restored upon return from leave; employer cannot retaliate against an employee for the use of leave
- Statutory leave does not apply to employees traveling for non-business purposes to countries with level 2 or 3 health notices (if travel was not taken as part of employment AND employee was provided with notice of travel of health notice *and limitations of new leave law* prior to travel).
- DOL may promulgate rules and regulations to effectuate this legislation.
- Disability benefits under Workers' Compensation Law arising out of this act are payable on the first day of a disability.
- Includes state issued mandatory or precautionary orders of quarantine or isolation in response to COVID-19 in definition of "family leave" under Article 9 of the Workers' Compensation Law (disability leave)
  - Includes care for minor dependent child
- Disability and Paid Leave Benefits can be collected concurrently – capped at \$840.70/week in paid family leave, and \$2,043.92 in disability benefits
- Claims for Unemployment Insurance Benefits due to a government issued closure of a business due to COVID-19 are not subject to a waiting period for benefits
- Mandated or precautionary order of quarantine or isolation in response to COVID-19 by a government entity is sufficient proof for use of disability leave or PFL usage
- This act does not apply where an employee is deemed asymptomatic or has not been diagnosed with a medical condition and is physically able to work under mandatory or precautionary orders of quarantine or isolation, whether through remote access or other means.
- This law does not affect the ability of employees to collectively bargain, and does not diminish the integrity of existing CBAs.
- By 6/1/2020, the Superintendent of DFS must promulgate regulations (in consultation with the Director of SIF and the WCB Chair) necessary for implementation of the risk adjustment pool, and must provide two reports on the risk adjustment pool (2022 and 2025).
- If the Federal Government enacts similar law or regulation, employees are only eligible to collect NYS benefits to the extent that they exceed Federal law (collect the difference).