

# American Rescue Plan Includes Changes to COVID-Related Employee Leave



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On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 into law. The Act, which builds in part on certain COVID-19 relief measures enacted in 2020, contains several items that could impact employers' COVID-related leave policies.

In particular, though employers are still not required to continue offering leave under the Emergency Paid Sick Leave Act (EPSLA) or the Emergency Family Medical Leave Expansion Act (EFMLEA) passed in 2020, employers that elect to do so through September 2021 are eligible for tax credits to cover much of the cost.

The American Rescue Plan Act alters the terms of those leave options as follows:

Extends the optional employer tax credits for emergency paid sick leave and emergency family medical leave (which were set to expire on March 31, 2021) through Sept. 30, 2021.

Adds reasons for taking paid leave, including, but not limited to, time taken to obtain a vaccine or recover from the effects of a vaccine.

Restarts employees' eligibility for emergency paid sick leave effective April 1, 2021.

Increases the amount of refundable tax credits available for the EFMLEA from a total of \$10,000 to a total of \$12,000.

Makes state and local governments eligible for the tax credits.

Prohibits employers from discriminating between employees on the basis of job classification, full-time status, or tenure when deciding whether to grant leave requests.

In addition to extending and altering COVID-related leave, the Act includes many other provisions that could impact business operations in the coming months. Among other things, it provides relief for businesses in specific industries; extends COVID-19 related unemployment benefits to Sept. 6, 2021; and provides additional funding and eligibility

requirements for the Paycheck Protection Program. The Act also allocates additional funding to be used by the Occupational Safety and Health Administration (OSHA) for COVID-related enforcement, suggesting that businesses could see increased COVID-19 OSHA activity in the near future.

Employers may want to revisit their COVID-19 leave and workplace policies in light of the changes made by the American Rescue Plan. The implications of these changes will differ significantly depending on the employer's existing leave practices and policies. For assistance in making these decisions and structuring 2021 COVID-19 policies, please contact a Brooks Pierce labor and employment attorney, linked below.

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