



CITY OF BILLINGS
OFFICE OF CITY ADMINISTRATOR
Chris A. Kukulski
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Administrative Order No. 143

From: Chris A. Kukulski, City Administrator

Date: March 31, 2020

Re: Family First Coronavirus Response Act (FFCRA): Emergency Family and Medical Leave Act Expansion

The novel coronavirus (COVID-19) pandemic has developed into a public health emergency throughout the United States and in Montana. The health and well-being of our employees and community members is our top priority.

The U.S. Senate passed the Families First Coronavirus Response Act ([H.R. 6201](#)) on March 18, 2020, and the law is effective April 1, 2020. This law provides for an expansion in benefits under the Family and Medical Leave Act (FMLA).

The following describes the expanded benefits and process for applying the new law, EFMLA.

Eligible Employees

All permanent employees, who have worked for the City for 30 calendar days prior, in an active assignment status at the time of the qualifying need are eligible, unless otherwise excluded.

Emergency Responders

Employers of an employee who is a healthcare provider or an emergency responder may elect to exclude such employee from the EFMLA. To ensure our essential services are operational, the *City of Billings* emergency responders listed below are not eligible for the new Qualifying Need Related to a Public Health Emergency under FMLA. *All other FMLA requirements still apply in accordance with the City's FMLA Policy.*

- Police Department
- Airport Police
- Fire Department
- Airport Fire (ARFF)
- 911 Dispatchers
- Solid Waste Division
- Water Reclamation Facility
- Water Treatment Plant
- Distribution and Collection Division

Added Qualifying Event

The FFCRA has added a Qualifying Need Related to a Public Health Emergency to the FMLA list of qualifying events or needs:

- "The employee is unable to work (or telework) due to the need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the childcare provider of such son or daughter is unavailable, due to a public health emergency."

Paid Leave

The first 10 days (80 hours) of EFMLA leave under the new qualifying need are unpaid. The employee may elect to use other accrued leave (sick, vacation, comp, or personal day) to receive pay during those 10 days. *However, employee may take their 80 hours of EPSL for the first 10 days of EFMLA – they run concurrently if used for school/childcare closures under EPSL.*

After the first 10 days (80 hours) of EFMLA leave under the new qualifying need, an employee will receive employer paid leave in an amount equal to 2/3 of the employee's regular hourly rate. Pay is capped at \$200 per day and \$10,000 in aggregate per employee. Part-time employee's pay is based on the average number of hours employee would normally be scheduled to work per week.

Intermittent Leave

Intermittent leave may be allowed; however, leave needs to be taken in full day increments.

Notice and Documentation

Employees who meet the qualifying need should complete the EFMLA - Request Form. Email the completed form and any supporting documentation to: FMLA@billingsmt.gov and to your supervisor. The eligibility and administration of the EFMLA is determined and managed by Human Resources. Human Resources will respond by email to the employee and the supervisor listed on the form regarding approval status and how to code for payroll.

Interplay with regular FMLA

At the time of this writing, this is not an additional 12 weeks of FMLA. Your rights under FMLA and the *City of Billings* policy allow 12 weeks of job-protected leave in a "rollback" 12-month period.

Expiration

Unless extended, this policy expires on December 31, 2020, in accordance with the Families First Coronavirus Response Act (FFCRA).

This Administrative Order and EFMLA - Request Form will be available on the City website:

<https://ci.billings.mt.us/417/Forms-and-Resources>

This Administrative Order shall be effective on April 1, 2020.

Dated this 31st day of March 2020.



Chris A. Kukulski, City Administrator
City of Billings