

**RESOLUTION  
ROCK COUNTY BOARD OF SUPERVISORS**

County Administrator Josh Smith  
INITIATED BY



Corporation Counsel Richard Greenlee  
DRAFTED BY

County Board Staff Committee  
SUBMITTED BY

December 9, 2020  
DATE DRAFTED

**CONTINUING CORONAVIRUS RESPONSE EMPLOYEE LEAVE PROGRAMS**

1 **WHEREAS**, in March of 2020, the United States Congress passed H.R. 6201, known as the Families  
2 First Coronavirus Response Act, (P.L. 116-127) which among other items, established two leave  
3 programs that certain employers, including units of local government, were required to establish and  
4 administer for their employees; and

5  
6 **WHEREAS**, the first leave program was the Emergency Paid Sick Leave program (“EPSL”), under  
7 which, employees were provided with 80 hours of paid sick leave if they experienced one of six  
8 qualifying events related to the coronavirus: (1) The employee is subject to a Federal, State, or local  
9 quarantine or isolation order related to COVID-19; (2) The employee has been advised by a  
10 health care provider to self-quarantine due to concerns related to COVID-19; (3) The employee is  
11 experiencing symptoms of COVID-19 and seeking medical diagnosis; (4) The employee is caring for  
12 an individual who is subject to an order as described in subparagraph (1) or has been advised as described  
13 in subparagraph (2); (5) The employee is caring for a son or daughter of the employee, if the son or  
14 daughter’s school or place of care has been closed, or the child care provider of the employee’s son or  
15 daughter is unavailable, due to COVID-19 precautions; or (6) The employee is experiencing any  
16 other substantially similar condition specified by the Secretary of Health and Human Services in  
17 consultation with the Secretary of the Treasury and the Secretary of Labor; and

18  
19 **WHEREAS**, employees who take EPSL for qualifying reasons (1)-(4) are paid their regular base wage  
20 for those hours, and employees who take EPSL for qualifying reasons (5) & (6) are paid two-thirds of  
21 their base wage and may be supplemented with other leave available to the employee such as vacation,  
22 holiday, or comp time; and

23  
24 **WHEREAS**, the second leave program was the Emergency Family Medical Leave program (“EFMLA”)  
25 under which employees were provided 12 weeks of job protected leave if they employee is unable to  
26 work (or telework) due to a need for leave to care for child because their child’s school or place of care  
27 has closed or unavailable due to the coronavirus; and ,

28  
29 **WHEREAS**, under the EFMLA, employees can receive up to 10 weeks of paid leave, paid at two-thirds  
30 of the employees normal base wage, and may supplement with other leave available to the employee such  
31 as vacation, holiday or compensatory time; and

32  
33 **WHEREAS**, both the EPSL and the EFMLA expire on December 31, 2020 and without extension or  
34 replacement by Congress, the leave established by both programs will be unavailable to Rock County  
35 Employees after that date.

36  
37 **NOW, THEREFORE, BE IT RESOLVED** that the Rock County Board of Supervisors duly assembled  
38 this 17th day of December, 2020 establishes the following Coronavirus Related Employee  
39 Leave Policy to supplement the other employee leave programs available to Rock County Employees  
40 and which shall begin on January 1, 2021:

**Definitions**

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44 *Eligible Employees:* For the purposes of taking leave under the Emergency Family Leave pursuant to  
45 this Resolution, ‘eligible employees’ are employees who have been employed by the County for at  
46 least 30 calendar days. Consistent with prior decision made by the County pursuant to section 3105  
47 of the Families First Coronavirus Response Act the County, the County continues to exclude health  
48 care providers and first responders as eligible employees.

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*Child Care Provider:* the term ‘child care provider’ means a provider who receives compensation for providing child care services on a regular basis.

*First Responder:* The term ‘first responder’ means any employee who works for the following departments: Rock County Communications Center (911), Rock County Medical Examiner’s Office, or the Rock County Youth Services Center. ‘First responder’ also includes the following personnel the Rock County Sheriff’s Office: Employees who are members of the collective bargaining units represented by the Correctional Officers Association, the Deputy Sheriffs Association, and the Deputy Sheriff Supervisors Association; all employees in the Emergency Management Bureau; the Chief Deputy; and all employees holding the rank of commander or captain.

*Health Care Provider:* The term ‘health care provider’ means any employee who works for the following departments: Rock Haven Nursing Home, and Rock County Public Health Department.

*Public Health Emergency:* The term ‘public health emergency’ means an emergency with respect to COVID-19 declared by a Federal, State, or local authority.

*Qualifying Need Related to a Public Health Emergency:* The term ‘qualifying need related to a public health emergency’ means the employee is unable to work (or telework) due to a need for leave to care for their son or daughter under 18 years of age of the employee because the employee’s son or daughter’s school or place of care has closed, or the child care provider of the employee’s son or daughter is unavailable due to a public health emergency.

*School:* the term ‘school’ means an elementary school or secondary school as such terms are defined in section 1801 of the Elementary School and Secondary Education Act of 1965 (20 U.S.C. § 7801).

#### **Temporary COVID Related Paid Sick Leave**

##### **Generally**

In addition to the sick leave provided under Section 18.515 of the Rock County Code of Ordinances, all employees, except as provided below, immediately upon the start of employment shall be provided Temporary COVID Related Paid Sick Leave under this Resolution. Temporary COVID Related Paid Sick Leave may be used by an employee under this Resolution to the extent that the employee is unable to work (or telework) due to a need for leave because:

- (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- (3) The employee is experiencing symptoms of COVID-19 and seeking medical diagnosis;
- (4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in subparagraph (2); or
- (5) The employee is caring for a son or daughter of the employee, if the son or daughter’s school or place of care has been closed, or the child care provider of the employee’s son or daughter is unavailable, due to COVID-19 precautions.

For the purposes this Resolution, health care providers and first responders are only considered eligible employees for the purposes of taking Temporary COVID Related Paid Sick Leave under subparagraphs (1), (2), (3), & (4). The terms ‘health care provider’ and ‘first responder’ shall have the same meaning as those terms are defined under the definitions section of this Resolution above.

##### **Hours of Leave Available and Compensation**

An employee shall be entitled to Temporary COVID Related Paid Sick Leave in the amount of 80 hours for 1.0 FTE employees and, for less than 1.0 FTE employees, a number of hours equal to the number of hours that such employee works, on average, over a 2-week period. In the case of an employee whose schedule varies from week to week to such an extent that the County is unable to determine with certainty the number of hours the employee would have worked during a standard pay period if such employee had not taken leave under the Temporary COVID Related Paid Sick Leave pursuant to this Resolution, compensation shall be calculated as follows:

- 112 (6) A number of hours in a standard pay period equal to the number of hours that the employee was  
 113 scheduled per day over the 6-month period ending on the date on which the employee takes  
 114 Temporary COVID Related Paid Sick Leave, including hours for which the employee took any  
 115 type of leave; or  
 116 (7) If the employee did not work for a 6-month period, the reasonable expectation of the employee  
 117 at the time of hiring of the average number of hours per day during a standard pay period that  
 118 the employee would normally be scheduled to work.

119  
 120 If Temporary COVID Related Paid Sick Leave is used in accordance with subparagraphs (1), (2), or  
 121 (3) of this Resolution, then the employee's pay during such leave shall be paid at the employee's  
 122 regular rate of pay except that such payment shall be limited to \$511 per day and \$5,110 in the  
 123 aggregate. If Temporary COVID Related Paid Sick Leave is used in accordance with subparagraphs  
 124 (4), or (5) of this Resolution, then the employee's pay during such leave shall be paid at two thirds of  
 125 the employees regular rate of pay, except that such payment shall be limited to \$200 per day and  
 126 \$2,000 in the aggregate.

127  
 128 Employees may, at their election, supplement their Temporary COVID Related Paid Sick Leave with  
 129 the use of any accrued paid leave to which the employee may otherwise be eligible to take under the  
 130 Rock County Personnel Ordinance, or the Administrative Policy and Procedure Manual to increase  
 131 their compensation to an amount equal to the compensation the employee would have received if  
 132 such employee had not used Temporary COVID Related Paid Sick Leave.

### 133 134 **Order of Use and Carry Over**

135  
 136 Temporary COVID Related Paid Sick Leave under this Resolution shall not carry over from 1 year to  
 137 the next and shall not be eligible for pay-out under section 18.515 of the Rock County Code of  
 138 Ordinances.

139  
 140 Temporary COVID Related Paid Sick Leave provided to employees under this Resolution shall cease  
 141 beginning with the employee's next scheduled work shift immediately following the termination of  
 142 the need for paid sick leave under subparagraphs (1)-(5) above. Upon cessation of Temporary  
 143 COVID Paid Sick Leave, the employee must return to work, or if qualified, use other available paid  
 144 or unpaid benefit time under the Rock County Personnel Ordinance or the Administrative Policy and  
 145 Procedure Manual.

### 146 147 **COVID Related Family Leave**

#### 148 149 **Generally**

150  
 151 Eligible employees are entitled to take COVID Related Family Leave because of a qualifying need  
 152 related to a public health emergency. Such leave shall be taken in the same manner leave provided  
 153 under the Family Medical Leave Act in accordance with Policy 5.12 of the Administrative Policy and  
 154 Procedure Manual, except as provided under this Resolution. Leave under this Resolution shall be in  
 155 addition to any leave available under Policy 5.12.

#### 156 157 **Relationship to Paid Leave:**

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 159 The first 10 days for which an employee takes leave because of a qualifying need related to a public  
 160 health emergency shall be unpaid. An employee may elect to substitute any accrued paid leave to  
 161 which the employee may otherwise be eligible to take under the Rock County Personnel Ordinance,  
 162 or the Administrative Policy and Procedure Manual for unpaid leave.

163  
 164 After taking leave because of a qualifying need related to a public health emergency under this  
 165 Resolution for 10 days, the employee shall be paid as follows:

- 166  
 167 (1) An amount that is equal to two-thirds of the employee's regular rate of pay; and  
 168 (2) For the number of hours the employee would otherwise be normally scheduled to work during  
 169 a standard pay period (or the number of hours calculated for a varying schedule employee  
 170 below).  
 171 (3) Capped at \$200 per day and a maximum of \$10,000 in the aggregate.

172  
 173 In the case of an employee whose schedule varies from week to week to such an extent that the  
 174 County is unable to determine with certainty the number of hours the employee would have worked

## CONTINUING CORONAVIRUS RESPONSE EMPLOYEE LEAVE PROGRAMS

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FISCAL NOTE:

Based on the usage of the federal EPSL and EFMLA programs in 2020, the County program is estimated to cost approximately \$300,000 in 2021. Transfers may be needed throughout the year in various departmental budgets to cover the cost of this program.

*/s/ Sherry Oja*

Sherry Oja  
Finance Director

LEGAL NOTE:

The County Board is authorized to take this action pursuant to secs. 59.22(2), Wis. Stats.

*/s/ Richard Greenlee*

Richard Greenlee  
Corporation Counsel

ADMINISTRATIVE NOTE:

COVID-19 will remain present in the community into 2021, and federally required leave benefits will expire at the end of 2020. Providing a supplemental leave program that provides incentive for COVID-positive or -exposed staff to not bring the virus into the workplace and to care for ill family members is a reasonable step to help control the spread. Providing a leave option to staff who are challenged with child care due to school or day care closures and who are otherwise unable to work remotely would support employee families in a difficult time.

*/s/ Josh Smith*

Josh Smith  
County Administrator

### Executive Summary

In March of 2020, the United States Congress passed H.R. 6201, known as the Families First Coronavirus Response Act (FFCRA), which among other items, established two leave programs that certain employers, including units of local government, were required to establish and administer for their employees.

The first leave program was the Emergency Paid Sick Leave program (EPSL), under which employees were provided with 80 hours of paid sick leave if they experienced one of six qualifying events related to the Coronavirus. The second leave program was the Emergency Family Medical Leave (EFMLA) program, under which employees were provided 12 weeks of job protected leave if they employee is unable to work (or telework) due to a need for leave to care for child because their child's school or place of care has closed or unavailable due to the coronavirus. Both the EPSL and the EFMLA expire on December 31, 2020, and without extension or replacement by Congress, the leave established by both programs will be unavailable to Rock County Employees after that date.

This resolution establishes a Rock County-specific Coronavirus Related Employee Leave Policy, which largely mirrors the current federally required leave programs, to supplement the other employee leave programs available to Rock County Employees. The policy would begin on January 1, 2021.

#### Temporary COVID Related Paid Sick Leave

The first of two programs under this policy, referred to as Temporary COVID Related Paid Sick Leave, may be used by an employee under this Resolution to the extent that the employee is unable to work (or telework) due to a need for leave because:

- (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- (3) The employee is experiencing symptoms of COVID-19 and seeking medical diagnosis;
- (4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in subparagraph (2); or
- (5) The employee is caring for a son or daughter of the employee, if the son or daughter's school or place of care has been closed, or the child care provider of the employee's son or daughter is unavailable, due to COVID-19 precautions.

Temporary COVID Related Paid Sick Leave would provide up to 80 hours (pro-rated for part-time staff) of paid leave.

#### COVID Related Family Leave

The second program under this policy, referred to as COVID Related Family Leave, would provide an additional 10 weeks of job-protected leave to employees who must care for a child due to a school or day care closure.

The amount an employee would be paid under both programs can vary, is subject to limits, and can be supplemented by an employee's own accrued paid leave balances for which they would otherwise be eligible to take.

When the County implemented the federally required programs earlier in 2020, it made a decision to exclude first responders and health care providers from being able to access child care-related leave due to concerns about staffing shortages in critical response areas. This resolution would continue that decision.

Any leave program established by this resolution would expire upon a determination made by the County Board Staff Committee that a leave program has been established by the State of Wisconsin or federal government that would adequately substitute any leave program created pursuant to this resolution such that employees would not be substantially disadvantaged by the discontinuance and replacement of the leave programs established by this resolution, or upon October 1, 2021, whichever comes first.