

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date November 13, 2020
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Chapter ER 18 - Absences	
4. Subject Absences	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected N/A
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$N/A	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The emergency rule creates a limited exception that allows employees to use sick leave for the care of individuals who require the employee's general care, regardless of whether they are sick or not, for the necessary period of time without requiring prior appointing authority approval. For the exceptions to apply, the individual requiring care must be a member of the employee's immediate family, as defined in s. ER 18.01(4), Wis. Admin. Code, or a child to whom the employee stands in loco parentis, as the term is defined in 29 CFR s. 825.122(d)(3). Furthermore, the reason for care must specifically be related to a public health emergency due to the COVID-19 pandemic, and use of sick leave under this exception may not exceed the period of time required for the confinement of the immediate family member requiring care or the closure of schools or unavailability of child care due to the pandemic.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. N/A	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units were needed to participate in the development of this statement because the administrative codes provisions are applicable solely to state government and its employees.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The rule allowing the use of sick leave to care for individuals for reasons specifically related to a public health emergency due to the COVID-19 pandemic provides no additional leave to employees. Rather, the provision permits	

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another valid reason for use of the employee's earned available sick leave and therefore use does not create any additional economic or fiscal impact to the state.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Permitting the use of available sick leave to be expanded to include the care of an employee's child due to school or daycare closure incurs no additional cost to the state while allowing employees an option to care for their children in this unprecedented circumstance.

16. Long Range Implications of Implementing the Rule

Implementation of this rule has no long range effects.

17. Compare With Approaches Being Used by Federal Government

The Families First Coronavirus Response Act (FFCRA) provided federal Emergency Paid Sick Leave (EPSL) and Expanded FMLA leave (EFMLA) for state employees beginning April 1, 2020 and in effect through December 31, 2020. These leave provisions are in addition to any leave programs offered by the state. The emergency rules are intended to work in conjunction with these federal leave provisions and to provide coverage where gaps in the federal leave may occur or after the federal leave options have expired.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

All states, as required by the FFCRA, have implemented EPSL and EFMLA for employees to provide for paid time off for employees related to COVID-19 reasons, including to care for a child due to school or daycare closures.

The State of Iowa has a current Administrative Rule waiver in place to remove their 40 hour cap on the use of sick leave by an employee to provide care and necessary attention of an immediate family member for the specific purpose of COVID-19. <https://das.iowa.gov/sites/default/files/core/WAIVERS/D2020-5.pdf>

The State of Minnesota does not have any similar administrative rules addressing sick leave for state employees. However, Minnesota Management and Budget, which establishes statewide standards outside of the Administrative Procedures process, has issued two HR/LR policies implementing EPSL and EFMLA as required under the FFCRA. See HR/LR Policy [1440](#) and [1441](#) respectively.

The State of Michigan's State Personnel Director issued emergency amendments to Civil Service Regulation 5.10 on sick leave to allow employees to use sick leave to provide childcare when school or place of care or childcare provider is closed or unavailable, due to COVID-19 precautions or to provide care to a family member who is subject to an isolation order related to COVID-19. See the following official communications of the State Personnel Director for March 13, 2020 ([SPDOC 20-02](#)) and August 31, 2020 ([SPDOC 20-10](#))

At this time the department was unable to identify any similar administrative rules in Illinois that have been drafted or implemented in response to COVID-19.

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