

Legal Update Article

# **Delaware Paid Family and Medical Leave Law Signed**

By Kathleen A. McGinley

May 11, 2022

## Meet the Authors



### Kathleen A. McGinley

(She/Her)

Principal and Office Litigation  
Manager

410-415-2085

Kathleen.McGinley@jacksonlewis.com

## Related Services

Disability, Leave and Health  
Management

On May 10, 2022, Delaware Governor John Carney signed the [Healthy Delaware Families Act](#), which provides up to 12 weeks of leave and benefits to covered employees for certain parental, family caregiving, and medical reasons.

The related Family and Medical Leave Insurance Program will be funded by employer and employee contributions. Contributions will begin on January 1, 2025. Employees will be able to utilize the job-protected paid leave beginning on January 1, 2026.

The new law provides benefits to replace up to 80 percent of a covered individual's average weekly wage and job-protected leave for the following reasons:

- To care for a child during the first year after the child's birth, adoption, or placement of the child through foster care;
- To care for a family member with a serious health condition;
- Because the covered individual has a serious health condition that results in the covered individual being unable to perform the functions of the covered individual's position; or
- Because the covered individual has a qualifying exigency, as defined under the federal Family and Medical Leave Act.

The maximum amount of leave benefits a covered individual may take is 12 weeks per year for parental leave and an aggregate of six weeks in any 24-month period for other qualifying reasons, for a cumulative total of up to 12 weeks of benefits per year.

Any employee, primarily reporting for work in Delaware, who has worked for one year for their employer and at least 1,250 hours in the previous 12 months is eligible to utilize the benefits and leave provided by the new law.

Employers with at least 10 employees in Delaware must contribute to the Program and provide parental leave. Employers with at least 25 employees *also* must provide family caregiving and medical leave. The law includes an exemption for employers that are closed for at least 30 consecutive days during the year.

Employees who take leave are entitled to continued employee health benefits during leave and to reinstatement to the position previously held by the employee, or an equivalent position, following leave.

Employers that violate the law, including by not providing required leave or engaging in retaliation for taking leave, may be subject to damages. Damages may include lost wages, actual damages caused by leave denied, liquidated damages, attorneys' fees, and reinstatement.

Delaware's new law is part of a continuing [trend in the mid-Atlantic region](#). Maryland adopted a similar family and medical leave and insurance benefit program, known as the Time to Care Act this spring. Virginia enacted a voluntary program. The District of Columbia also has a mandatory family and medical leave and insurance benefit program for employees of private employers.

For more information about the Delaware law or other leave laws that may affect your business, please contact a Jackson Lewis attorney.

©2022 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 1000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.