

Employment Matters Alert

Major Changes in Connecticut's FMLA Law Become Effective January 1, 2022 | May 2021

BACKGROUND

Connecticut Public Act 19-25, *An Act Concerning Paid Family and Medical Leave* (the "Act"), made several significant changes to the eligibility and coverage requirements of the Connecticut FMLA, **and** added an FMLA compensation benefit, to be administered and paid by the state's new Paid Family and Medical Leave Insurance Authority (the "Authority").

Beginning January 1, 2021, Connecticut employers and employees became subject to a new payroll tax of up to 0.5% of employee earnings, paid to the Authority, to fund the new FMLA compensation benefit. However, most of the changes under the Act will become effective on January 1, 2022.

Here is what is coming next, in 2022:

1. **All** private Connecticut employers will be required to provide Connecticut FMLA leave to eligible employees. *Currently, Federal FMLA applies to employers of at least 50 employees within 75 miles, and Connecticut FMLA applies to employers with at least 75 employees.*
2. Employees will be eligible for Connecticut FMLA after completing 3 months of service with an employer. *Currently, employees are eligible if they have completed 12 months of service and have worked at least 1,000 hours in the previous 12 months.*
3. The Connecticut FMLA entitlement will be 12 weeks per year for most FMLA qualifying reasons. *Currently, the leave entitlement is 16 weeks every 2 years for most qualifying reasons.*
4. One of the permitted reasons to use FMLA leave is to care for a family member with a serious health condition. The family members for whom such leave can be taken will be expanded to include grandparents, grandchildren, siblings and other blood relatives or individuals related to the employee by affinity equivalent to a family relationship. *Currently, an employee may use FMLA leave to care for a spouse, child, parent or parent-in-law.*
5. Employees eligible for FMLA leave may apply directly to the Authority for compensation during leave. To be eligible for FMLA compensation, an employee must have earned at least \$2,325 during his or her highest earning quarter in the base period (the first 4 of the 5 most recently completed calendar quarters). The weekly FMLA compensation benefit is derived from a formula using the employee's base weekly earnings, with a cap equal to 60 times the Connecticut minimum wage. In 2022, the Connecticut minimum wage will be \$13 per hour and the weekly compensation cap will be \$780.

6. Employers subject only to Connecticut FMLA are **not** required to pay employees (except to the extent that employees wish to use their accrued paid leave) or to continue health insurance benefits for employees on FMLA leave (employees may elect to continue health insurance coverage under COBRA or Connecticut's "mini-COBRA"). However, employers subject to both Connecticut and Federal FMLA are required to continue employee health insurance for up to 12 weeks for employees eligible for Federal FMLA leave.
7. The Act also includes an FMLA compensation benefit for employees who take unpaid leave (up to 12 days per year) for reasons related to family violence.
8. Commencing July 1, 2022, employers will be required to (a) provide new employees with notice of FMLA benefits under the Act, and (b) provide current employees with such notice annually.

OUR TAKEAWAY

Virtually all Connecticut employers will need to change their policies and procedures to comply with the Act. Employers with fewer than 50 employees (who previously were not subject to Federal **or** Connecticut FMLA requirements) will need to adopt new policies and notice procedures. Employers who are already subject to Connecticut and Federal FMLA requirements will need to revise their policies to ensure compliance with the revised Connecticut FMLA requirements.

Please do not hesitate to contact us with any questions, or if you would like to discuss making revisions to your policies and procedures.

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