Leave Laws: District of Columbia

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A Q&A guide to leave laws in the District of Columbia.

STATE LAW

1. What leave laws exist in your state (for example, mini-FMLA laws, disability leave, jury duty leave or domestic violence leave)? For each leave law please describe:
   - Which employers are covered.
   - Which employees are eligible to take the leave.
   - The entity that administers the law.

FAMILY AND MEDICAL LEAVE: D.C. CODE §§ 32-501 TO 517

Covered Employers

Employers in the District of Columbia (DC) with 20 or more employees are covered by the District of Columbia Family and Medical Leave Act of 1990 (DCFMLA) (DC Mun. Regs. tit. 4, § 1601.1).

Eligible Employees

To be eligible, an employee must have:
   - Been employed continuously by the employer for at least one year.
   - Worked for at least 1,000 hours (an average of 19 hours per week) during the 12-month period immediately preceding the medical leave requested.

Administration

The DC Office of Human Rights administers and enforces this law.

PARENTAL LEAVE: D.C. CODE §§ 32-1201 TO 1206

Covered Employers

The District of Columbia Parental Leave Act of 1994 (DCPLA) applies to all employers with paid employees in DC.

Eligible Employees

To be eligible, an employee must have:
   - Been employed continuously by the employer for at least one year.
   - Worked for at least 1,000 hours (an average of 19 hours per week) during the 12-month period immediately preceding the leave requested.

ASSLA does not cover certain classes of employees, including:
   - Independent contractors.
   - Certain healthcare workers.
   - Certain student workers.
   - Restaurant workers who receive wages and tips.

Administration

The DC Department of Employment Services administers this law.
Leave Laws: District of Columbia

Eligible Employees
DCPLA covers all paid employees.

Administration
The DC Mayor’s office administers this law.

JURY DUTY LEAVE: D.C. CODE §§ 11-1913 AND 15-718

Covered Employers
Section 15-718, the Jury Fee Act of 1994, covers all employers with more than ten employees within DC.
Section 11-1913, the Protection of Employment of Jurors law, applies to all employers.

Eligible Employees
Section 15-718 covers all full-time employees, except for:
- Those who would not earn regular wages if not serving on a jury.
- Those who would have worked one-half or less of a shift that extends into the following day.
There are no employee eligibility limits on coverage under Section 11-1913.

Administration
No agency directly administers either of these laws.

TAKING LEAVE

2. For each applicable leave law, please describe:
- The circumstances under which an employee may take leave (for example, birth of a child).
- How much leave time is allowed to be taken by each employee each year?
- How is that leave time calculated?

FAMILY AND MEDICAL LEAVE: D.C. CODE §§ 32-501 TO 517

Valid Leave Reasons
Medical Leave. An employee may take medical leave for his own serious health condition.
A serious health condition is a physical or mental illness, injury or impairment that involves either:
- Inpatient care in a hospital, hospice or residential healthcare facility.
- Continuing treatment or supervision at home by a healthcare provider or other competent individual.

When interpreting the definitions of a “serious health condition” or “continuing treatment” under the District of Columbia Family and Medical Leave Act (DCFMLA), courts may consider the federal Family and Medical Leave Act (FMLA) regulations and existing case law (see Chang v. Institute for Public-Private Partnerships, Inc., 846 A.2d 318, 327 (D.C. 2004)). For example, based on FMLA definitions, DC courts have held that any period of illness due to pregnancy or prenatal care is considered a serious health condition under DCFMLA even though these illnesses may not require ongoing treatment by a physician (Pendarvis v. Xerox Corp., 3 F.Supp.2d 53, 55 (D.C. 1998)).

Family Leave. An employee may take unpaid leave for:
- The birth of the employee’s child.
- The placement of a child with the employee:
  - for adoption;
  - for foster care; or
  - for whom the employee permanently takes on parental duties.
- The care of a family member with a serious health condition.
Family member means:
- The employee’s relative by blood, legal custody or marriage.
- A child who lives with the employee or for whom the employee permanently takes on parental responsibility.
- A person in a committed relationship with the employee who has shared a mutual residence with the employee within the last year.

FAMILY AND MEDICAL LEAVE: D.C. CODE §§ 32-501 TO 517

Valid Leave Reasons
Medical Leave. An employee may take medical leave for his own serious health condition.
A serious health condition is a physical or mental illness, injury or impairment that involves either:
- Inpatient care in a hospital, hospice or residential healthcare facility.
- Continuing treatment or supervision at home by a healthcare provider or other competent individual.

(D.C. Code § 32-501.)

Leave Time for Each Employee
Employees can take up to 16 weeks of family and/or medical leave in a 24-month period.
Leave for birth or adoption of a child must be taken within 12 months of the birth or placement of the child with the employee.
In the case of family leave, an employer and employee may agree to a reduced leave schedule taken over a period of not more than 24 consecutive weeks.

Calculating Leave Time
The 24-month period starts on the date the employee first begins using family or medical leave under DCFMLA.

ACCRUED SICK AND SAFE LEAVE ACT: D.C. CODE §§ 32-131.01 TO 17

Valid Leave Reasons
An employee may use leave to:
- Care for the physical or mental illness, injury or medical condition of the employee or a family member.
- Obtain a medical diagnosis or preventative care for the employee or a family member.
The employer may deny the leave only if granting leave would disrupt business operations and make production or service delivery unusually difficult.

**Leave Time For Each Employee**

Employees can take up to 24 hours of parental leave per any 12-month period.

**Calculating Leave Time**

There is no specified method for calculating leave time.

**JURY DUTY LEAVE: D.C. CODE §§ 11-1913 AND 15-718**

**Valid Leave Reasons**

Receipt of notice to serve on a jury is a valid reason to be granted jury duty leave.

**Leave Time For Each Employee**

Under Section 15-718, full-time employees serving on a jury for five or fewer days are entitled to their usual compensation, less the amount paid for jury duty service.

Under Section 11-1913, employees cannot be terminated from employment because of jury service.

**Calculating Leave Time**

There is no specified method to calculate leave time.

3. For each applicable leave law, must the leave time run concurrently with other leave, and if so, which types of leave must it run concurrently with?

**FAMILY AND MEDICAL LEAVE: D.C. CODE §§ 32-501 TO 517**

Unlike the federal Family and Medical Leave Act, an employer covered by the District of Columbia Family and Medical Leave Act (DCFMLA) generally may not require the employee to use his paid leave while on DCFMLA leave. If an employee chooses to use paid vacation or sick leave while on DCFMLA leave, the paid leave and the DCFMLA leave run concurrently.

**ACCRUED SICK AND SAFE LEAVE ACT: D.C. CODE §§ 32-131.01 TO 17**

The leave must not run concurrently with other leave.

**PARENTAL LEAVE: D.C. CODE §§ 32-1201 TO 1206**

The leave must not run concurrently with other leave. Employees may elect to take paid leave in place of taking parental leave under this law.
JURY DUTY LEAVE: D.C. CODE §§ 11-1913 AND 15-718
The leave must not run concurrently with other leave.

4. For each applicable leave law, can leave be taken intermittently, and if so, what rules apply to intermittent leave under each law?

FAMILY AND MEDICAL LEAVE: D.C. CODE §§ 32-501 TO 517
Both family and medical leave may be taken intermittently when medically necessary.

ACCRUED SICK AND SAFE LEAVE ACT: D.C. CODE §§ 32-131.01 TO 17
Leave may be taken intermittently.

PARENTAL LEAVE: D.C. CODE §§ 32-1201 TO 1206
Leave may be taken intermittently.

JURY DUTY LEAVE: D.C. CODE §§ 11-1913 AND 15-718
There is no rule relating to intermittent leave.

EMPLOYEES

5. For each applicable leave law, must an employee seeking leave:

- Give notice to their employer? If so, how much and what kind of notice?
- Provide medical or any other sort of certification?

FAMILY AND MEDICAL LEAVE: D.C. CODE §§ 32-501 TO 517

Notice
Employees must notify the employer:

- 30 days before the leave starts, if possible.
- As soon as possible before the leave would begin, if the leave was not foreseeable.
- Not later than two days after the absence begins, in an emergency.

(D.C. Mun. Reg. tit. 4, § 1608.2-3.)

Certification
Employers may require that an employee provide medical certification from a healthcare provider for either family or medical leave. Healthcare provider is defined as “any person licensed under federal, state, or District law to provide health care services.” The certification should include:

- The date on which the condition began.
- The probable duration of the condition.
- Appropriate medical information that would entitle the employee to take leave.

If the employee’s own condition is the reason for the leave, the employer also may require:

- Certification that the employee cannot perform the functions of his position.
- In certain circumstances, that the employee obtain second and third medical opinions.
- Re-certification on a reasonable basis.

If the serious health condition of a family member is the reason for the leave, the employer may also require an estimate of the amount of time that the employee needs to care for the family member.

An employee must provide medical documents to support a request for District of Columbia Family and Medical Leave Act leave only if the employer requests it.

ACCRUED SICK AND SAFE LEAVE ACT: D.C. CODE §§ 32-131.01 TO 17

Notice
When the need for leave is foreseeable, an employee must provide a written request for paid leave stating the reason for and the expected duration of the leave, at least ten days in advance or as early as possible.

When the need for leave is unforeseeable, an employee must provide an oral request before the start of the shift for which paid leave is requested.

When the need for leave is because of an emergency, an employee must provide notice before the start of the employee’s next work shift or within 24 hours, whichever is sooner.

Certification
An employer may require an employee to provide reasonable certification if absent for three or more consecutive days.

Certification may include a:

- Signed document from a healthcare provider affirming an employee’s illness.
- Police report indicating that the employee was a victim of stalking, domestic violence or sexual abuse.
- Court order.
- Signed statement from a victim and witness advocate or domestic violence counselor affirming that the employee is involved in a legal action related to stalking, domestic violence or sexual abuse.
PARENTAL LEAVE: D.C. CODE §§ 32-1201 TO 1206

Notice
The employee must give ten days’ advance notice, unless notice is impossible.

Certification
There is no explicit certification provision.

FAMILY AND MEDICAL LEAVE: D.C. CODE §§ 32-501 TO 517

An employee must be reinstated to the same or an equivalent position (including benefits and any seniority accrued before leave) after District of Columbia Family and Medical Leave Act leave. The leave, however, is unpaid.

ACCRUED SICK AND SAFE LEAVE ACT: D.C. CODE §§ 32-131.01 TO 17

An employee must be paid for Accrued Sick and Safe Leave Act leave. Employees may carry over unused paid leave to the next year, but they may not use more than the maximum amount of paid leave that they could earn in that year without employer approval.

Employees are not entitled to payment of unused accrued leave on termination or resignation. However, an employee who is discharged after the completion of a 90-day introductory period and rehired within 12 months may access paid leave immediately.

PARENTAL LEAVE: D.C. CODE §§ 32-1201 TO 1206

An employee who takes parental leave cannot lose any employment benefit or seniority accrued before or during the date of that leave.

JURY DUTY LEAVE: D.C. CODE §§ 11-1913 AND 15-718

Under Section 11-1913, an employee who takes jury duty leave must not be penalized by his employer in any way.

Under Section 15-718, an employee on jury duty leave for five days or less is entitled to his usual compensation less the jury duty fee.

EMPLOYERS

7. For each applicable leave law, what obligations does an employer have to inform their employee of their rights to the leave?

FAMILY AND MEDICAL LEAVE: D.C. CODE §§ 32-501 TO 517

Employers must post a notice, provided by the DC Mayor, that describes the law and provides information about filing a complaint in a conspicuous place.

ACCRUED SICK AND SAFE LEAVE ACT: D.C. CODE §§ 32-131.01 TO 17

Employers must post a notice, provided by the DC Mayor, that describes the law and provides information about filing a complaint in a conspicuous place. The notice must be posted in English and all languages spoken by employees unable to adequately understand or express themselves in English (see D.C. Code § 2-1931(5)).

PARENTAL LEAVE: D.C. CODE §§ 32-1201 TO 1206

Employers must post a notice, provided by the DC Mayor, that describes the law and provides information about filing a complaint in a conspicuous place.

JURY DUTY LEAVE: D.C. CODE §§ 11-1913 AND 15-718

There is no specific notice requirement under these laws.

8. For each applicable leave law, what are possible consequences for employers who violate the law?

FAMILY AND MEDICAL LEAVE: D.C. CODE §§ 32-501 TO 517

Employees may bring an action against their employers through the DC Office of Human Rights or in any court of competent jurisdiction. A successful employee may recover each of the following:

- Any wages, salary, benefits or other compensation denied or lost due to the violation plus interest.
- An amount equal to the greater of:
  - the value of actual lost wages and benefits; or
  - consequential damages limited to an amount equal to three times the amount of actual lost wages and benefits plus any medical expenses not covered by the employee’s health insurance.
- Attorneys’ fees.
Damages awarded to an employee may be reduced if both:
- The employer shows that the violation occurred in good faith.
- The employer reasonably believed its action was not in violation of the District of Columbia Family and Medical Leave Act.

Any employer who willfully violates the notice requirements of the law is subject to a maximum fine of $100 for each day that notice is not posted.

**ACCURED SICK AND SAFE LEAVE ACT: D.C. CODE §§ 32-131.01 TO 17**

An employer who willfully violates the substantive requirements of this law may be fined:
- $500 for the first offense.
- $750 for the second offense.
- $1,000 for the third and each further offense.

Violations of the notice requirement of the law are punishable by a fine of up to $100 for each day that the employer fails to post the notice, up to a maximum of $500. An employer is not fined for failure to post the notice if the Mayor does not provide the information.

**PARENTAL LEAVE: D.C. CODE §§ 32-1201 TO 1206**

An employee may file a complaint with the Mayor’s office or in any court of competent jurisdiction within one year of the occurrence or discovery of the alleged violation of this law. A successful employee may recover each of the following:
- Any wages, salary, benefits or other compensation denied or lost due to the violation plus interest.
- An amount equal to the greater of:
  - the value of actual lost wages and benefits; or
  - consequential damages limited to an amount equal to three times the amount of actual lost wages and benefits plus any medical expenses not covered by the employee’s health insurance.
- Attorneys’ fees.

Damages awarded to an employee may be reduced if both:
- The employer shows that the violation occurred in good faith.
- The employer reasonably believed that its action was not a violation.

Any employer that willfully violates the law is subject to a maximum civil penalty of $100 for each day the notice is not posted.

**JURY DUTY LEAVE: D.C. CODE §§ 11-1913 AND 15-718**

Under Section 11-1913, if an employer terminates an employee for taking jury duty leave, the employer is subject to a charge of criminal contempt and fines up to $300 and/or imprisonment for up to 30 days. Further violations may incur fines up to $5,000 and/or imprisonment for up to 180 days.

Under Section 15-718, an employer who fails to pay an employee for jury duty leave may be subject to a civil lawsuit and the employee may be reinstated with payment for lost wages, damages and reasonable attorneys’ fees.

**RECORD-KEEPING**

9. What are the record-keeping obligations for each applicable type of leave?

**FAMILY AND MEDICAL LEAVE: D.C. CODE §§ 32-501 TO 517**

Employers must maintain confidential records and make them available to the DC Mayor. Mandatory records include:
- The number of employees who have taken District of Columbia Family and Medical Leave Act leave.
- The employer’s cost to replace the employee requesting leave.
- The additional cost of the employee’s health insurance.
- Length of each leave.
- Reasons for leave.
- Salary, wages or grade level of the employee requesting leave.
- Documents supporting request for leave.
- The employer’s disposition of each request for leave.

(D.C. Mun. Regs. tit. 4, § 1606.1.)

Employers must file an annual report summarizing all leave actions to the DC Office of Human Rights (D.C. Mun. Regs. tit. 4, § 1606.4).

**ACCURED SICK AND SAFE LEAVE ACT: D.C. CODE §§ 32-131.01 TO 17**

There is no formal recordkeeping obligation. To promote full compliance, employers should keep records of employees’ use of and remaining Accrued Sick and Safe Leave Act leave.

**PARENTAL LEAVE: D.C. CODE §§ 32-1201 TO 1206**

There is no explicit recordkeeping obligation imposed for this kind of leave. It is advisable that records be kept to track leave taken by employees.

**JURY DUTY LEAVE: D.C. CODE §§ 11-1913 AND 15-718**

There is no formal recordkeeping obligation under either law; although employers should ensure that leave is properly awarded.

There are no other significant background check or reference laws, cases or requirements in DC.
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