

PARENTS' RIGHTS AT WORK



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FIRST SHIFT'S MISSION

To help working
mothers exercise
their workplace
rights to avoid job
loss.



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Basic Principles for Employment Law

- The applicable law is the law of the place where the work is being performed.
- Most employees are “terminable at will.”
Exceptions: Union employees and government employees.

A Working Parent May Have the Right to Take Time Off:

If she is sick.

If her child is sick.

If she or a member of her family has a serious health condition.

If she needs to attend her child's school-related events, including IEP meetings.

Paid Sick Days

- Employees who work in D.C. and MD have a legal right to paid sick days.
- How much time depends on the size of the employer.
- Paid sick time can be used to care for sick children, including doctors' visits.

D.C. Paid Sick Leave

Depends on the size of the employer in D.C.:

- ◆ Less than 25 workers: 3 days per year
- ◆ Between 25-99 workers: 5 days per year
- ◆ More than 100 workers: 7 days per year

*Rolls over to next year if not used.

* Must work in D.C. 50% of the time.

*Tipped workers: 5 days per year *regardless of employer size.*



D.C. Paid Sick Leave

Also...

- ◆ You can take your sick days after having worked 90 days.
- ◆ An employer can only request a doctor's note after 3 consecutive absences.
- ◆ Retaliation prohibited for asserting right to paid sick leave.



Maryland Paid Sick Leave

MD Healthy Working Families Act – 40 hours of paid sick leave. (15+ employees)

Montgomery County Paid Sick Days Law – Up to 56 hours of paid sick leave, depending on size of employer.

Employers' Paid Sick Leave Policies

An employer may have its own sick leave policies that provide more leave than the law requires.

Employers have broad discretion to make their own rules about the leave they offer, as long as they don't discriminate.

Family Medical Leave Act

Pursuant to the D.C. Family Medical Leave Act and federal Family Medical Leave Act, parents can take job-protected time off from work to care for their children who have serious health conditions.

A “**serious health condition**” is defined as an illness, injury or impairment that involves hospitalization or ongoing treatment by a medical provider.

Family Medical Leave Act

D.C. FMLA adopts a broad definition of “family,” including grandparents and others who stand *in loco parentis*.

Family Medical Leave Act

- Applies to companies with 50 or more employees.
- Employees must have one year of service.
- Employees must have worked at least 1250 hours.
- Provides 12 weeks of job-protected leave.
- D.C. FMLA is different.

FMLA, Continued

- Employees must give 30 days' notice if the need for leave is foreseeable (e.g. pregnancy)
- Medical certification must be submitted within 15 calendar days of the request.
- Medical forms must be specific as to the duration of the leave and the reason it is needed.

FMLA, Continued

Intermittent Leave

- Employees may take intermittent or reduced schedule leave under the federal or D.C. FMLA upon a showing of medical necessity.
- Employees should give the employer as much notice and certainty as possible about their need for leave.

The Right to Return to Work

- FMLA leave is “job protected.”
- You have the right to return to the same or an equivalent position.

Virginia

There is currently no state law in Virginia which gives employees the right to any kind of leave from employment for any reason, paid or unpaid.

D.C. Universal Paid Family Leave Act

New law which provides for:

- ◆ 8 weeks of paid leave insurance to care for newborn.
- ◆ 6 weeks of paid leave insurance to care for sick family member.
- ◆ 2 weeks of paid leave insurance to care for self if illness.

Applies to part-time & full time workers.

D.C. Universal Paid Family Leave Act

Does not apply to federal or D.C. government employees.

Starting July 1, 2019, D.C. employers will be required to make their first quarterly contributions to the fund.

Starting July 1, 2020, D.C. employees may apply for the leave insurance.

D.C. Universal Paid Family Leave Act

Note: This law gives D.C. employees the right to receive insurance payments while they are on leave for a qualifying reason but does **not** give employees the right to job-protected leave!

D.C. Parental Leave Act

Provides D.C. parents and guardians up to 24 hours of unpaid time off to attend their children's school events.

Workplace Discrimination

Title VII, Civil Rights Act of 1964

Americans with Disabilities Act

*These federal laws only apply to employers with 15+ employees.

Local anti-discrimination laws

D.C. Human Rights Act

Montgomery County Human Rights Act

Prince George's County Human Rights Act

* Cover workplaces with 1+ employees.

Exception: Domestic workers in D.C.

Family Responsibilities Discrimination

- ❖ Discrimination against an employee because of his or her caregiving responsibilities.
- ❖ D. C. and Montgomery County prohibit discrimination on this basis.
- ❖ It may also be possible to assert a claim under federal Title VII.

Associational Claims under A.D.A.

An employer may not deny employment opportunities to or terminate a parent of a child with a covered disability under the A.D.A. because of:

- ❖ Expense;
- ❖ Disability by association; or
- ❖ Distraction.

All working parents should:

- Read the employee handbook.
- Follow proper procedures for requesting leave.
- Notice how others are treated.
- Keep contemporaneous written records.
- Complain of discrimination via proper channels.
- Write down communications with employer.
- Do not quit!

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