

On June 19, 2020, Washington D.C. published DC Act No. 23-328, an omnibus bill about DC residents' health, welfare and safety, including the District of Columbia Family and Medical Leave Act (DC FMLA). Subsequently, the DC Council enacted emergency legislation DC Bill No. 24-0404, which provided reauthorized DC COVID-19 FMLA. This is a summary of the enacted legislation.

Overview of COVID-19-related changes to DC FMLA

Current Effective Date: In effect until February 3, 2022 (may be extended)

On June 19, 2020, Washington DC published DC Act No. 23-328, an omnibus bill on DC residents' health, welfare and safety, including the District of Columbia Family and Medical Leave Act (DC FMLA), which provided a "declaration of emergency leave" under DC FMLA (DC COVID-19 FMLA) where employees may take leave only for their own quarantine or isolation during a public health emergency declared by the Mayor. Subsequent legislation and declarations reauthorized and extended the DC COVID-19 FMLA program, which was supposed to have expired on November 5, 2021.

On November 18, 2021, the DC Mayor approved emergency legislation DC Bill No. 24-0404, which restored the DC COVID-19 FMLA program. The DC COVID-19 FMLA provisions are effective until February 03, 2022, and are retroactive back to November 5, 2021. Please note that this program may be extended should additional pending legislation (DC Bill No. 24-0405) be enacted by the DC Council.

The law provides that employees are eligible for COVID-19 leave under the DC FMLA if they have been employed by an employer for at least 30 days prior to the request for leave. This removes the employee eligibility requirement for COVID-19 Leave by waiving the one year of employment and 1,000 hours of work for the employer requirements.

During the effectivity of the DC COVID-19 FMLA program, an eligible employee shall be entitled to DC COVID-19 leave if the employee is unable to work due to:

1. **Positive test: testing positive for COVID-19 or is caring for a family or household member who has tested positive for COVID-19 and must quarantine pursuant to Department of Health guidelines; (new qualifying leave reason as of November 5, 2021)**
2. *Own isolation or quarantine:* A recommendation from a health care provider that the employee isolate or quarantine, including because the employee or an individual with whom the employee shares a household is at high risk for serious illness from COVID-19;
3. *Care for family member under isolation or quarantine:* A need to care for a family member or an individual with whom the employee shares a household who is under a government or health care provider's order to quarantine or isolate; or
4. *School or childcare closure:* A need to care for a child whose school or place of care is closed or whose childcare provider is unavailable to the employee.

Using COVID-19 leave does not count against the traditional 16 weeks of family and 16 weeks of medical leave provided by the DC FMLA. COVID-19 leave is a new leave type in addition to the family leave and medical leave entitlement under standard DC FMLA (non-COVID-19).

As of November 5, 2021, the emergency legislation created a new 16-week bucket of DC COVID FMLA leave due to this provision: "An employee may use no more than 16 weeks of leave pursuant to this section in the 2- year period beginning on the effective date of the COVID Vaccination Leave Emergency Amendment Act of 2021".

Updates to the District of Columbia Family and Medical Leave Act Coronavirus (COVID-19)-related changes

Current as of December 6, 2021

All traditionally covered employers, as well as employers temporarily covered for COVID-19 leave, must provide notice of employees' new rights under the DC FMLA by posting a notice in a conspicuous place and notifying an eligible employee of COVID-19 leave as soon as they become eligible or may become eligible under the prescribed circumstances.

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Consistent with the regulations implementing the DC FMLA, an employer may designate qualifying leave as COVID-19 leave whether or not the employee requests such designation.

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