

Bill No. 10-22
Concerning: Personnel and Human
Resources – Paid Parental Leave
Revised: 7/20/2022 Draft No. 2
Introduced: June 14, 2022
Enacted: July 26, 2022
Executive: August 8, 2022
Effective: November 7, 2022
Sunset Date: _____
Ch. 25, Laws of Mont. Co. 2022

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Friedson

Co-Sponsors: Councilmember Hucker, Council President Alborno, Councilmembers Navarro and Katz, Council Vice-President Glass, and Councilmembers Rice, Riemer, and Jawando

AN ACT to:

- (1) require the County to provide paid parental leave to County employees prior to the effective date of the State Family and Medical Leave Insurance Program;
- (2) require the County to pay an employee's salary, minus benefits under the State Family and Medical Leave Insurance Program, for certain leave taken under the State Family and Medical Leave Insurance Program; and
- (3) generally amend personnel and human resources laws affecting County employees.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-27 and 33-28

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 33-27 and 33-28 are amended as follows:

33-27. Paid Parental Leave – Prior to Commencement of the State Family and Medical Leave Insurance Program.

(a) Definitions. For purposes of this Section, the following words have the meanings indicated.

FMLA leave means employee leave under the federal Family and Medical Leave Act, 29 U.S.C § 2601 et seq., as amended.

Parent means a biological parent, an adoptive parent, or a foster parent.

Parent includes the spouse or domestic partner of a parent.

(b) Paid parental leave – required.

(1) The County must provide paid parental leave under this Section to a part-time or full-time County employee who:

(A) has been in a County merit system position for at least 6 consecutive months; and

(B) is the parent of a newborn child, a stillborn child, a newly adopted child, or a newly placed foster child.

(2) The paid parental leave under this Section must consist of up to:

(A) 240 hours within a 12-month period, for an employee scheduled to work 40 hours per week; or

(B) a prorated amount within a 12-month period, for an employee scheduled to work more or less than 40 hours a week.

(3) The paid parental leave under this Section must be used within 12 months of the birth or stillbirth of the child, the adoption of the child, or the placement of the child in foster care.

(c) Continuance of salary and benefits.

- (1) The County must continue to pay an employee on parental leave under this Section the full salary of the employee.
- (2) An employee on parental leave under this Section must continue to receive employee insurance benefits.
- (3) An employee on parental leave under this Section must continue to receive retirement credit under the Employees' Retirement System in Article III or the Retirement Savings Plan in Article VIII, as applicable.
- (d) Relationship to other employee leave.
- (1) Concurrence of leave.
- (A) Except as provided in [[paragraph (2)]] subparagraph (B) of this [[subsection]] paragraph, parental leave taken under this Section must not count against any other type of leave of the employee.
- [[(2)] (B) Parental leave taken under this Section must run concurrently with any FMLA leave of the employee.
- (2) Exhaustion of other leave – not required. Prior to taking parental leave under this Section, an employee must not be required to exhaust any other type of leave provided to the employee under a collective bargaining agreement or other applicable law, including County personnel regulations.
- (e) Collective bargaining. This Section must not be construed to diminish any employee leave required by a collective bargaining agreement under this Chapter.
- (f) Regulations. The Executive may adopt Method (2) regulations to implement this Section.

33-28. Paid Parental Leave – County supplement to the State Family and Medical Leave Insurance Program.

(a) The requirements of subsection (c) of this section must not apply if:

(1) the County establishes a private employer plan approved by the Maryland Secretary of Labor under the Time to Care Act of 2022, Chapter 48 of the 2022 Laws of Maryland, as amended; and

(2) the plan established by the County under paragraph (1) of this subsection provides to each employee at least 240 hours of paid parental FAMLI leave annually.

[[a)] (b) Definitions. For purposes of this Section, the following words have the meanings indicated.

FAMLI leave means employee leave under the State FAMLI Program.

FMLA leave means employee leave under the federal Family and Medical Leave Act, 29 U.S.C § 2601 et seq., as amended.

Parent means a biological parent, an adoptive parent, or a foster parent.

Parent includes the spouse or domestic partner of a parent.

Parental FAMLI leave means FAMLI leave, taken by an employee who is a parent, to care for a newborn child, a newly adopted child, or a newly placed foster child within 12 months of the child's birth, adoption, or placement. Parental FAMLI leave includes FAMLI leave taken by an employee who is the parent of a stillborn child within 12 months of the stillbirth.

State FAMLI Program means:

(1) the Family and Medical Leave Insurance Program required by the State of Maryland under the Time to Care Act of 2022, Chapter 48 of the 2022 Laws of Maryland, as amended; or

(2) a private employer plan established by the County and approved by the Maryland Secretary of Labor under the Time to Care Act of 2022, Chapter 48 of the 2022 Laws of Maryland, as amended.

[(b)] (c) County supplement to State FMLI program benefits for parental FMLI leave – required.

(1) Except as provided under paragraph (2) of this subsection, the County must pay an employee on parental FMLI leave the employee’s County salary, reduced by the amount of any benefit the employee is entitled to receive for the leave under the State FMLI Program.

(2) The County’s payments under paragraph (1) of this subsection must be provided to compensate up to:

(A) 240 hours of parental FMLI leave within a 12-month period, for an employee scheduled to work 40 hours per week; or

(B) a prorated amount of parental FMLI leave within a 12-month period, for an employee scheduled to work more or less than 40 hours a week.

[(c)] (d) Continuance of benefits.

(1) An employee on parental FMLI leave must continue to receive employee insurance benefits.

(3) An employee on parental FMLI leave must continue to receive retirement credit under the Employees’ Retirement

System in Article III or the Retirement Savings Plan in Article VIII, as applicable.

[[d)] (e) Relationship to [[FMLA]] other employee leave.

(1) Concurrence of leave.

(A) [[To the extent permitted under the State FAMLI program and other applicable law,]] Except as provided under paragraph (2) of this subsection, parental FAMLI leave taken under this Section must not count against any other type of leave of the employee.

(B) [[parental]] Parental FAMLI leave must run concurrently with FMLA leave.

(2) Exhaustion of other leave – not required. Prior to taking parental FAMLI leave under this Section, an employee must not be required to exhaust any other type of leave provided to the employee under a collective bargaining agreement or other applicable law, including County personnel regulations.

[[e)] (f) Collective bargaining. This Section must not be construed to diminish any employee leave required by a collective bargaining agreement under this Chapter.

[[f)] (g) Regulations. The Executive may adopt Method (2) regulations to implement this Section, including regulations to specify how, consistent with the State FAMLI program and other applicable law, parental FAMLI leave relates to other types of employee leave.

[33-27] 33-29—33-33. Reserved.

Sec. 2. Effective date and sunset. On the first day that an individual may file a claim under the State FAMLI Program: (1) County Code Section 33-27, amended

under Section 1 of this Act, must sunset and must have no further force or effect; and (2) County Code Section 33-28, amended under Section 1 of this Act, must take effect.

Sec. 3. Required Assessment. By January 1, 2024, the Office of Legislative Oversight must provide to the Council: (1) data, which must be provided to the Office of Legislative Oversight by the Office of Human Resources in analyzable form, regarding County employee parental leave usage by race, ethnicity, occupational class, and wages; (2) a racial equity and social justice assessment of the implementation of this Act; and (3) any recommendations to improve the racial equity and social justice impacts of this Act, based upon its implementation.

Approved:



7/28/2022
Gabriel Albornoz, President, County Council
Date

Approved:



8/8/2022
Marc Elrich, County Executive
Date

This is a correct copy of Council action.



8/8/2022
Judy Kupp, Clerk of the Council
Date