

TITLE 260 – DEPARTMENT OF LABOR AND TRAINING

CHAPTER 30 – WORKFORCE REGULATION AND SAFETY

SUBCHAPTER 05 – LABOR STANDARDS

PART 7 – Parental and Family Medical Leave Act

7.1 Authority

These rules and regulations are promulgated pursuant to R.I. Gen. Laws § 28-48-1 *et seq.*

7.2 Purpose

These rules and regulations shall assist in carrying out the powers and duties assigned to the Department of Labor and Training (hereinafter, "Department") related to the Department's enforcement of the provisions of the Parental and Family Medical Leave Act, R.I. Gen. Laws § 28-48-1 *et seq.*

7.3 Definitions

A. "Employer" means:

1. any person, sole proprietorship, partnership, corporation or other business entity that employs fifty (50) or more employees,
2. the State of Rhode Island (including the executive, legislative and judicial branches), and any state department or agency that employs persons, and
3. any city or town or municipal agency that employs thirty (30) or more employees, and
4. any person who acts directly or indirectly in the interest of any employer.

B. "Employee" means any full time employee who has been employed by the same employer for twelve (12) consecutive months averaging at least thirty (30) hours per week prior to the effective date of the leave.

C. "Parental leave" means leave by reason of (1) the birth of a child of an employee, or (2) the placement of a child sixteen (16) years of age or less with an employee in connection with the adoption of such child by the employee.

- D. "Serious illness" means a disabling physical or mental illness, injury, impairment or condition that involves inpatient care in a hospital, nursing home or hospice, or outpatient care requiring continuous treatment or supervision by a health care provider.
- E. "Family member" means a parent, spouse, child, mother-in-law, father-in-law, or the employee him or herself.
- F. "Family leave" means leave by reason of the serious illness of a family member.

7.4 Parental and Family Medical Leave – Rights and Duties

- A. The employee shall be entitled, upon reasonably advanced notice to his or her employer, to thirteen (13) consecutive work weeks of parental leave or family leave in any two (2) calendar years.
- B. The employee shall give at least thirty (30) days' notice of the intended date upon which parental leave or family leave shall commence and terminate, unless prevented by medical emergency to provide said notice.
- C. If an employer provides paid parental leave or family leave or fewer than thirteen (13) weeks, the additional weeks of leave added to attain the total of thirteen (13) weeks required by R.I. Gen. Laws Chapter 28-48 may be unpaid.
- D. The employee shall provide upon the request of the employer written certification from a physician caring for the person who is the reason for the employee's leave specifying the probable duration of the employee's leave.

7.5 Employment and Health Benefits Protection

- A. Upon the expiration of parental leave or family leave an employee shall be entitled to be restored by the employer to the position held by the employee when the leave commenced, or to a position with equivalent seniority, status, employment benefits, pay and other related terms and conditions of employment, including fringe benefits and service credits that the employee had been entitled to at the commencement of leave.
- B. During any period of parental or family leave the employer shall maintain any existing health benefits of the employee in force for the duration of such leave as if the employee had continued in employment continuously from the date he or she commenced such leave until the date he or she returns to employment. The maintenance of health benefits shall be governed by R.I. Gen. Laws § 28-48-3.
- C. An employee on parental leave or family leave shall not suffer the loss of any benefit accrued before the date on which the leave commenced, nor shall any employee who takes parental leave or family leave be entitled to any benefit other than benefits to which the employee would have been entitled had he or she not taken the leave.

7.6 Employee's Notice to the Employer-Form and Content

An employee's notice to the employer indicating his or her intent to exercise the right to parental leave or family leave shall be in writing and shall verify the truthfulness of the factual representations made by said employee. The notice shall include information which reasonably identifies the employee and his or her employment relationship to the employer, as well as a detailed description of the circumstances supporting his or her entitlement to parental leave or medical leave.

7.7 Enforcement

- A. An employee may file a written complaint alleging violations of the Rhode Island Parental and Family Medical Leave Act, R.I. Gen. Laws § 28-48-1 *et seq.*
- B. Upon receipt of an employee's complaint the Director of the Rhode Island Department of Labor or his or her designee shall give the employer written notice and an opportunity to respond in writing to said complaint. If the Director or his or her designee finds probable cause that the employer has failed to comply with the provisions of the Rhode Island Parental and Family Medical Leave Act, a hearing shall be scheduled wherein the Director or his or her designee shall determine by a preponderance of the evidence whether the employer committed the alleged violations.
- C. If after hearing it is found that the employer has failed to comply with the provisions of the Parental and Family Medical Leave Act, the Director or his or her designee may issue such orders as he or she deems necessary to protect the rights of the employee, including reinstatement of the employee and/or retroactive wages and applicable benefits.

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