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Subchapter I. Family and Medical Leave.

§ 32-501. Definitions.

NOTE: This section includes amendments by emergency legislation that will expire on June 10, 2021. To view the text of this section after the expiration of all emergency and/or temporary legislation, click this link: Permanent Version.

For purposes of this chapter, the term:

(1) "Employee" means:

(A) For leave provided under § 32-502 or § 32-503, any individual who has been employed by the same employer for one year without a break in service except for regular holiday, sick, or personal leave granted by the employer and has worked at least 1000 hours during the 12-month period immediately preceding the request for family or medical leave; or

(B) For leave provided under § 32-502.01, an individual employed by an employer for at least 30 days prior to the request for leave.

(2) "Employer" means any individual, firm, association, or corporation, any receiver or trustee of any individual firm, association, or corporation, or the legal representative of a deceased employer, including the District of Columbia ("District") government, who uses the services of another individual for pay in the District.

(3) "Employment benefit" means any benefit, other than salary or wages, provided or made available to an employee by an employer, including, but not limited to, group life, health, and disability insurance, sick and annual leave, and educational and pension benefits, regardless of whether the benefit is provided by a policy or practice of an employer or by an employee welfare benefit plan as defined in title 1, subtitle A, section 3(3) of the Employee Retirement Income Security Act of 1974, effective September 2, 1974 (88 Stat. 833; 29 U.S.C. 1002(1)).

(4) "Family member" means:

(A) A person to whom the employee is related by blood, legal custody, or marriage;

(B) A child who lives with an employee and for whom the employee permanently assumes and discharges parental responsibility;

(C) A person with whom the employee shares or has shared, within the last year, a mutual residence and with whom the employee maintains a committed relationship; or

(D) A foster child.

(5) "Health care provider" means any person licensed under federal, state, or District law to provide health care services.

(6) "Public safety agency" means the Metropolitan Police Department of the District of Columbia, the Fire Department of the District of Columbia, or the Department of Corrections.

(7) "Mayor" means Mayor of the District of Columbia.

(8) "Reduced leave schedule" means leave scheduled for a fewer number of hours than an employee usually works during each workweek or workday.

(9) "Serious health condition" means a physical or mental illness, injury, or impairment that involves:

(A) Inpatient care in a hospital, hospice, or residential health care facility; or

(B) Continuing treatment or supervision at home by a health care provider or other competent individual.

(10) "Local educational agency" shall have the same meaning as the term has in section 1471(12) of the Elementary and Secondary Education Act of 1965, approved April 28, 1988 (102 Stat. 201; 20 U.S.C. 2891(12)) [omitted].

(Oct. 3, 1990, D.C. Law 8-181, § 2, 37 DCR 5043; Apr. 7, 2017, D.C. Law 21-264, § 202, 64 DCR 2121; Oct. 9, 2020, D.C. Law 23-130, § 104(a), 67 DCR 8622; Mar. 17, 2021, D.C. Act 24-30, § 104(a), 0 DCR 0.)

Prior Codifications

1981 Ed., § 36-1301.

Section References

This section is referenced in § 2-1411.03, § 32-131.01, and § 32-131.04.

Applicability

Section 7034 of D.C. Law 22-33 repealed § 301 of D.C. Law 21-264. Therefore the changes made to this section by D.C. Law 21-264 have been given effect.

Applicability of D.C. Law 21-264: § 301 of D.C. Law 21-264 provided that the change made to this section by § 202 of D.C. Law 21-264 is subject to the inclusion of the law's fiscal effect in an approved budget and financial plan. Therefore that amendment has not been implemented.

Emergency Legislation

For temporary (90 days) amendment of this section, see § 104(a) of Coronavirus Support Emergency Amendment Act of 2021 (D.C. Act 24-30, Mar. 17, 2021, 0 DCR 0).

For temporary (90 days) amendment of this section, see § 103(a) of Coronavirus Support Second Congressional Review Emergency Amendment Act of 2020 (D.C. Act 23-405, Aug. 19, 2020, 67 DCR 10235).

For temporary (90 days) repeal of § 301 of D.C. Law 21-264, see § 7034 of Fiscal Year 2018 Budget Support Congressional Review Emergency Act of 2017 (D.C. Act 22-167, Oct. 24, 2017, 64 DCR 10802).

For temporary (90 days) repeal of § 301 of D.C. Law 21-264, see § 7034 of Fiscal Year 2018 Budget Support Emergency Act of 2017 (D.C. Act 22-104, July 20, 2017, 64 DCR 7032).

Temporary Legislation

For temporary (225 days) amendment of this section, see § 104(a) of Coronavirus Support Temporary Amendment Act of 2020 (D.C. Law 23-130, Oct. 9, 2020, 67 DCR 8622).

References in Text

The reference in (10) to " 20 U.S.C. 2891(12)" is obsolete and should now read " 20 U.S.C. 8801(18).".

Delegation of Authority

Delegation of authority pursuant to D.C. Law 8-181, the "D.C. Family and Medical Leave Act of 1990.", see Mayor's Order 91-38, March 14, 1991.

Delegation of Authority-The District of Columbia Family and Medical Leave Act of 1990, see Mayor's Order 2009-45, March 31, 2009 (56 DCR 6783).

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§ 32–502. Family leave requirement.

(a) An employee shall be entitled to a total of 16 workweeks of family leave during any 24-month period for:

(1) The birth of a child of the employee;

(2) The placement of a child with the employee for adoption or foster care;

(3) The placement of a child with the employee for whom the employee permanently assumes and discharges parental responsibility; or

(4) The care of a family member of the employee who has a serious health condition.

(b) The entitlement to family leave under subsection (a)(1) through (3) of this section shall expire 12 months after the birth of the child or placement of the child with the employee.

(c) Subject to the requirements of subsection (h) of this section, in the case of a family member who has a serious health condition, the family leave may be taken intermittently when medically necessary.

(d) Upon agreement between the employer and the employee, family leave may be taken on a reduced leave schedule, during which the 16 workweeks of family leave may be taken over a period not to exceed 24 consecutive workweeks.

(e)(1) Except as provided in paragraphs (2) and (3) of this subsection, family leave may consist of unpaid leave.

(2) Any paid family, vacation, personal, or compensatory leave provided by an employer that the employee elects to use for family leave shall count against the 16 workweeks of allowable family leave provided in this chapter.

(3) If an employer has a program that allows an employee to use the paid leave of another employee under certain conditions, and the conditions have been met, the employee may use the paid leave as family leave and the leave shall count against the 16 workweeks of family leave provided in this chapter.

(4) Nothing in this section shall require an employer to provide paid family leave.

(f) If the necessity for leave under this section is foreseeable based on an expected birth or placement of a child with an employee, the employee shall provide the employer with reasonable prior notice of the expected birth or placement of a child with the employee.

(g) If the necessity for family leave under this section is foreseeable based on planned medical treatment or supervision, an employee shall:

(1) Provide the employer with reasonable prior notice of the medical treatment or supervision; and

(2) Make a reasonable effort to schedule the medical treatment or supervision, subject to the approval of the health care provider of the employee or family member, in a manner that does not disrupt unduly the operations of the employer.

(h)(1) If 2 family members are employees of the same employer:

(A) The employer may limit to 16 workweeks during a 24-month period the aggregate number of family leave workweeks to which the family members are entitled; and

(B) The employer may limit to 4 workweeks during a 24-month period the aggregate number of family leave workweeks to which the family members are entitled to take simultaneously.

(2) For the purposes of this subsection, the term "same employer" includes an office, division, subdivision, or other organizational section of an employer in which both employees have the same or interrelated duties and the absence of both employees would disrupt unduly the conduct of the employer's business.

(i)(1) Information that an employee gives to an employer regarding a family relationship, pursuant to which the employee seeks to take family leave under this section, shall be used only to make a decision in regard to the provisions of this chapter. An employer shall keep any information regarding the family relationship confidential.

(2) Any employer who willfully violates this subsection shall be assessed a civil penalty of $1,000 for each offense.

(Oct. 3, 1990, D.C. Law 8-181, § 3, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1302.

Section References

This section is referenced in § 32-504, § 32-505, § 32-506, and § 32-705.

Cross References

Adoption of a child, see § 32-705.

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§ 32–502.01. COVID-19 leave.

NOTE: This section was created by emergency legislation that will expire on June 10, 2021.

(a) During the COVID-19 public health emergency, an employee shall be entitled to leave if the employee is unable to work due to:

(1) 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;

(2) 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

(3) A need to care for a child whose school or place of care is closed or whose childcare provider is unavailable to the employee.

(b)(1) An employee may use no more than 16 weeks of leave pursuant to this section during the COVID-19 public health emergency.

(2) The right to leave pursuant to this section expires on the date the COVID-19 public health emergency expires.

(c) An employer may require reasonable certification of the need for COVID-19 leave as follows:

(1) If the leave is necessitated by the recommendation of a health care provider to the employee, a written, dated statement from a health care provider stating that the employee has such need and the probable duration of the need for leave;

(2) If the leave is necessitated by the recommendation of a health care provider to an employee's family member or individual with whom the employee shares a household, a written, dated statement from a health care provider stating that the individual has such need and the probable duration of the condition.

(3) If the leave is needed because a school, place of care, or childcare provider is unavailable, a statement by the head of the agency, company, or childcare provider stating such closure or unavailability, which may include a printed statement obtained from the institution's website.

(d) Notwithstanding § 32-516, this section shall apply to any employer regardless of the number of persons in the District that the employer employs.

(e)(1) Except as provided in paragraphs (2) and (3) of this subsection, leave under this section may consist of unpaid leave.

(2) Any paid leave provided by an employer that the employee elects to use for leave under this section shall count against the 16 workweeks of allowable leave provided in this section.

(3) If an employer has a program that allows an employee to use the paid leave of another employee under certain conditions and the conditions have been met, the employee may use the paid leave as leave and the leave shall count against the 16 workweeks of leave provided in this section.

(4) An employee shall not be required, but may elect, to use leave provided under this section before other leave to which the employee is entitled under federal or District law or an employer's policies, unless barred by District or federal law.

(f) The provisions of § 32-505 shall apply to an employee who takes leave pursuant to this section.

(g) An employer who willfully violates subsections (a) through (e) of this section shall be assessed a civil penalty of $1,000 for each offense.

(h) The rights provided to an employee under this section may not be diminished by any collective bargaining agreement or any employment benefit program or plan; except, that this section shall not supersede any clause on family or medical leave in a collective bargaining agreement in force on the applicability date of this section for the time that the collective bargaining agreement is in effect.

(i) For the purposes of this section, the term "COVID-19 public health emergency" means the emergencies declared in the Declaration of Public Emergency (Mayor's Order 2020-045)

together with the Declaration of Public Health Emergency (Mayor's Order 2020-046), declared on March 11, 2020, including any extension of those declared emergencies.

(Oct. 3, 1990, D.C. Law 8-181, § 3a; as added Mar. 17, 2021, D.C. Act 24-30, § 104(b), 0 DCR 0.)

Emergency Legislation

For temporary (90 days) creation of this section, see § 104(b) of Coronavirus Support Emergency Amendment Act of 2021 (D.C. Act 24-30, Mar. 17, 2021, 0 DCR 0).

Temporary Legislation

For temporary (225 days) creation of this section, see § 104(b) of Coronavirus Support Temporary Amendment Act of 2020 (D.C. Law 23-130, Oct. 9, 2020, 67 DCR 8622).

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§ 32–503. Medical leave requirement.

(a) Subject to the provisions of § 32-504, any employee who becomes unable to perform the functions of the employee's position because of a serious health condition shall be entitled to medical leave for as long as the employee is unable to perform the functions, except that the medical leave shall not exceed 16 workweeks during any 24-month period. The medical leave may be taken intermittently when medically necessary.

(b)(1) Except as provided in paragraphs (2) through (4) of this subsection, medical leave may consist of unpaid leave.

(2) Any paid medical or sick leave provided by an employer that the employee elects to use for medical leave shall count against the 16 workweeks of allowable medical leave under this chapter.

(3) If an employer and employee agree that an employee may use paid vacation, personal, or compensatory leave as medical leave, the paid vacation, personal, or compensatory leave shall count against the 16 workweeks of medical leave provided in this chapter.

(4) If an employer has a program that allows an employee to use the paid leave of another employee under certain conditions, and the conditions have been met, the employee may use the paid leave as medical leave and the leave shall count against the 16 workweeks of medical leave provided in this chapter.

(c) If the need for medical leave is foreseeable based on planned medical treatment or supervision, the employee shall:

(1) Provide the employer with prior reasonable notice of the medical treatment or supervision; and

(2) Make a reasonable effort to schedule the medical treatment or supervision, subject to the approval of the health care provider of the employee, in a manner that does not disrupt unduly the operations of the employer.

(Oct. 3, 1990, D.C. Law 8-181, § 4, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1303.

Section References

This section is referenced in § 32-504, § 32-505, and § 32-506.

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§ 32–504. Certification.

(a) An employer may require that a request for family leave under § 32-502(a)(4) or medical leave under § 32-503 be supported by a certification issued by the health care provider of the employee or family member. The employee shall provide a copy of the certification to the employer.

(b) The certification provided by the employee to the employer shall state:

(1) The date on which the serious health condition commenced;

(2) The probable duration of the condition;

(3) The appropriate medical facts within the knowledge of the health care provider that would entitle the employee to take leave under this chapter; and

(4)(A) For purposes of medical leave under § 32-503, a statement that the employee is unable to perform the functions of the employee's position; or

(B) For purposes of family leave under § 32-502(a)(4), an estimate of the amount of time that the employee is needed to care for the family member.

(c) For the purposes of § 32-505(c), the employer may request that certification issued in any case involving medical leave under § 32-503 include an explanation of the extent to which the employee is unable to perform the functions of the employee's position.

(d)(1) If the employer has reason to doubt the validity of the certification provided under subsection (a) of this section, the employer may require that the employee obtain, at the expense of the employer, the opinion of a 2nd health care provider approved by the employer, in regard to any information required to be certified under subsection (b) of this section.

(2)(A) If the 2nd opinion provided under this subsection differs from the original certification provided under subsection (a) of this section, the employee may obtain the opinion of a 3rd health care provider mutually agreed upon by the employer and the employee, in regard to any information required to be certified under subsection (b) of this section. The employer shall pay the cost of the opinion of the 3rd health care provider.

(B) The opinion of the 3rd health care provider in regard to the information certified under subsection (b) of this section shall be final and binding on the employer and employee.

(e) Any health care provider approved or mutually agreed upon under subsection (d)(1) or (2) of this section may not be retained on a regular basis by the employer or employee or otherwise bear a close relationship to the employer or employee that would give the appearance that the certification is biased.

(f) The employer may require that the employee obtain subsequent recertifications on a reasonable basis.

(g)(1) Certification information requested under this section shall be used only to make a decision in regard to the provisions of this chapter. An employer shall keep any medical information obtained from a certification request confidential.

(2) Any employer who willfully violates this subsection shall be assessed a civil penalty of $1,000 for each offense.

(Oct. 3, 1990, D.C. Law 8-181, § 5, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1304.

Section References

This section is referenced in § 32-503.

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§ 32–505. Employment and benefits protection.

(a) Any employee who takes family or medical leave under this chapter shall not lose any employment benefit or seniority accrued before the date on which the family or medical leave commenced.

(b)(1) During any period in which an employee takes family or medical leave under § 32-502 or § 32-503, the employer shall maintain coverage under any group health plan, as defined in section 5000(b) of the Internal Revenue Code of 1986, approved October 21, 1986 (100 Stat. 2012; 26 U.S.C. 5000(b)), except that for the purposes of this chapter, the term “group health plan” shall include a group health plan provided by the District of Columbia government. The employer shall maintain coverage for the duration of the family or medical leave at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment from the date the employee commenced the family or medical leave until the date the employee was restored to employment pursuant to subsection (d) of this section.

(2) An employer may require the employee to continue to make any contribution to a group health plan that the employee would have made if the employee had not taken family or medical leave. If an employee is unable or refuses to make the contribution to the group health plan, the employee shall forfeit the health plan benefit until the employee is restored to employment pursuant to subsection (d) of this section and resumes payment to the plan.

(c)(1) Nothing in this chapter shall prohibit an employer and an employee with a serious health condition from agreeing mutually to alternative employment for the employee throughout the duration of the serious health condition of the employee. Any period of alternative employment shall not cause a reduction in the amount of family or medical leave to which the employee is entitled under § 32-502 or § 32-503.

(2) When the employee who agreed to alternative employment is able to perform the functions of the employee's original position, the employee shall be restored to the original position pursuant to subsection (d) of this section.

(d) Except as provided in subsection (f) of this section, upon return from family or medical leave taken pursuant to § 32-502 or § 32-503, the employee shall be:

(1) Restored by the employer to the position of employment held by the employee when the family or medical leave commenced; or

(2) Restored to a position of employment equivalent to the position held by the employee when the family or medical leave commenced that includes equivalent employment benefits, pay, seniority, and other terms and conditions of employment.

(e) Except as provided in subsection (b) of this section, nothing in this section shall entitle an employee restored by an employer to a position of employment to:

(1) The accrual of any seniority or employment benefit during any period of family or medical leave; or

(2) Any right, employment benefit, or position of employment other than any right, employment benefit, or position of employment to which the employee would have been entitled had the employee not taken the family or medical leave.

(f)(1) Except as provided in paragraph (2) of this subsection, an employer in the District may deny restoration of employment to a salaried employee if the employee is among the 5 highest paid employees of an employer of fewer than 50 persons or among the highest paid 10% of employees of an employer of 50 or more persons and the following conditions are met:

(A) The employer demonstrates that denial of restoration of employment is necessary to prevent substantial economic injury to the employer's operations and the injury is not directly related to the leave that the employee took pursuant to this chapter; and

(B) The employer notifies the employee of the intent to deny restoration of employment and the basis for the decision at the time the employer determines denial of restoration of employment is necessary.

(2) The condition in paragraph (1)(A) of this subsection shall not apply if the following conditions have been met:

(A) The employer is under a contract to provide work or services and the absence of the employee prohibits the employer from completing the contract in accordance with the terms of the contract;

(B) Failure to complete the contract will cause substantial economic injury to the employer; and

(C) After the employer made reasonable attempts, the employer failed to find a temporary replacement for the employee.

(Oct. 3, 1990, D.C. Law 8-181, § 6, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1305.

Section References

This section is referenced in § 32-504 and § 32-506.

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§ 32–506. School employees.

(a) If the conditions in subsection (b) of this section are met, a local educational agency ("educational agency") or private elementary or secondary school ("school") may require an employee who is employed principally in an instructional capacity to elect to:

(1) Take the family or medical leave for periods of particular duration not to exceed the planned medical treatment or supervision; or

(2) Transfer temporarily to an available alternative position offered by the educational agency or school for which the employee is qualified, which has equivalent pay and benefits, and better accommodates the recurring periods of leave than the employee's regular employment position.

(b) The provisions of subsection (a) of this section shall apply if the employee described in subsection (a) of this section:

(1) Elects to take family leave pursuant to § 32-502(a)(4) or medical leave pursuant to § 32-503 that is foreseeable based on planned medical treatment or supervision;

(2) Would be on leave for greater than 20% of the total number of working days in the period during which leave would extend; and

(3) Complies with § 32-502(g) or § 32-503(c).

(c)(1) If an employee of an educational agency or school who is employed principally in an instructional capacity begins family or medical leave more than 5 weeks before the end of the academic term, the educational agency or school may require the employee to continue to take leave until the end of the term if:

(A) The leave is at least 3 weeks in duration; and

(B) The return to employment would occur during the 3-week period before the end of the academic term.

(2) If the employee described in paragraph (1) of this subsection begins leave under § 32-502 or § 32-503 during the period that commences from more than 3 weeks and up to and including 5 weeks before the end of the academic term, the educational agency or school may require the employee to continue to take leave until the end of the term if:

(A) The leave is greater than 2 weeks in duration; and

(B) The return to employment would occur during the 2-week period before the end of the academic term.

(3) If the employee described in paragraph (1) of this subsection begins leave under § 32-502 or § 32-503 during the period that commences 3 weeks or less before the end of the academic term and the duration of the leave is greater than 5 working days, the educational agency or school may require the employee to continue to take leave until the end of the term.

(d) For purposes of a restoration of employment determination under § 32-505(d)(2), in the case of an educational agency or school, the determination shall be made on the basis of established school board or private school policies and practices and collective bargaining agreements.

(Oct. 3, 1990, D.C. Law 8-181, § 7, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1306.

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§ 32–507. Prohibited acts.

(a) It shall be unlawful for any person to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by this chapter.

(b) It shall be unlawful for an employer to discharge or discriminate in any manner against any person because the person:

(1) Opposes any practice made unlawful by this chapter;

(2) Pursuant or related to this chapter:

(A) Files or attempts to file a charge;

(B) Institutes or attempts to institute a proceeding; or

(C) Facilitates the institution of a proceeding; or

(3) Gives any information or testimony in connection with an inquiry or proceeding related to this chapter.

(Oct. 3, 1990, D.C. Law 8-181, § 8, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1307.

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§ 32–508. Investigative authority.

(a) An employer shall develop, maintain, and make available to the Mayor records regarding the employer's activities related to this chapter that the Mayor may prescribe by rule.

(b) To ensure compliance with the provisions of this chapter, the Mayor, consistent with constitutional guidelines, may:

(1) Investigate and gather data regarding any wage, hour, condition, or practice of employment related to this chapter; and

(2) Enter or inspect any place of employment or record required by this chapter.

(c) For the purpose of any investigation provided for in this section, the Mayor may exercise the subpoena authority provided in § 1-301.21.

(Oct. 3, 1990, D.C. Law 8-181, § 9, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1308.

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§ 32–509. Administrative enforcement procedure; relief.

(a) The Mayor shall provide an administrative procedure pursuant to which a person claimed to be aggrieved under this chapter may file a complaint against an employer alleged to have violated this chapter. A complaint shall be filed within 1 year of the occurrence or discovery of the alleged violation of this chapter.

(b) The administrative procedure shall include, but not be limited to:

(1) An investigation of the complaint and an attempt to resolve the complaint by conference, conciliation, or persuasion;

(2) If the complaint is not resolved, a determination on the existence of probable cause to believe a violation of this chapter has occurred;

(3) If there is a determination that probable cause exists, the issuance and service of a written notice and a copy of the complaint to the employer alleged to have committed the violation that requires the employer to answer the charges of the complaint at a formal hearing;

(4) A hearing conducted in accordance with procedures that the Mayor shall promulgate pursuant to subchapter I of Chapter 5 of Title 2;

(5) A decision and order accompanied by findings of fact and conclusions of law;

(6) If there is a determination that an employer committed a violation of this chapter, the issuance of an order that requires the employer to pay the employee damages in an amount equal to:

(A) Any wages, salary, employment benefits, or other compensation denied or lost to the employee due to the violation plus interest on the amount calculated at the rate prescribed in § 28-3302(b) or (c); and

(B) An amount equal to the greater of:

(i) The amount determined under subparagraph (A) of this paragraph; or

(ii) Consequential damages not to exceed an amount equal to 3 times the amount determined under subparagraph (A) of this paragraph plus any medical expenses not covered by the health insurance of the employee; or

(C) A reduction in damages, within the discretion of the trier of fact, for an employer who violates this chapter and proves that the violation occurred in good faith and that the employer had reasonable grounds to believe that the employer's action or omission was not in violation of this chapter; and

(7) A provision that authorizes the award of costs and reasonable attorney's fees to the prevailing party in addition to other relief awarded under this chapter.

(c) Any person who is adversely affected or aggrieved by an order or decision issued pursuant to subsection (b) of this section is entitled to judicial review of the order or decision in accordance with § 2-510, upon filing a written petition for review in the District of Columbia Court of Appeals.

(d)(1) If the Mayor determines that the employer has not complied with an order after 20 days following service of the order, the Mayor shall certify the matter to the Corporation Counsel and to any other agency as may be appropriate for enforcement.

(2) The Corporation Counsel shall institute, in the name of the District, a civil proceeding that may include seeking injunctive relief, as is necessary to obtain complete compliance with the order.

(3) An enforcement action shall not be instituted pending judicial review as provided in subsection (c) of this section.

(e) The entire administrative enforcement procedure outlined in subsections (a) and (b) of this section, including the formal hearing, shall take no longer than 150 days to complete from the date the complaint is filed. If the Mayor fails to make a reasonable effort to comply with the deadline requirements of the administrative enforcement provisions prescribed by this subsection and the rules promulgated by the Mayor, the person who initiated the administrative enforcement procedure against the employer may file a civil action against the employer pursuant to § 32-510.

(Oct. 3, 1990, D.C. Law 8-181, § 10, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1309.

Section References

This section is referenced in § 32-510.

§ 32–510. Enforcement by civil action.

(a) Subject to the provisions in subsection (b) of this section, an employee or the Mayor may bring a civil action against any employer to enforce the provisions of this chapter in any court of competent jurisdiction.

(b) No civil action may be commenced more than 1 year after the occurrence or discovery of the alleged violation of this chapter.

(c) If a court determines that an employer violated any provision of this chapter, the damages provision prescribed in § 32-509(b)(6) and § 32-509(b)(7) shall apply.

(Oct. 3, 1990, D.C. Law 8-181, § 11, 37 DCR 5043; July 23, 1994, D.C. Law 10-143, § 2, 41 DCR 3059.)

Prior Codifications

1981 Ed., § 36-1310.

Section References

This section is referenced in § 32-509.

§ 32–511. Notice.

(a) The Mayor shall devise, and an employer shall post and maintain in a conspicuous place, a notice that sets forth excerpts from or summaries of the pertinent provisions of this chapter and information that pertains to the filing of a complaint under this chapter.

(b) Any employer who willfully violates this section shall be assessed a civil penalty not to exceed $100 for each day that employer fails to post the notice.

(Oct. 3, 1990, D.C. Law 8-181, § 12, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1311.

§ 32–512. Effect on other laws.

Nothing in this chapter shall supersede any provision of law that provides greater employee family or medical leave rights than the family or medical rights established under this chapter.

(Oct. 3, 1990, D.C. Law 8-181, § 13, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1312.

§ 32–513. Effect on existing employment benefits.

(a) Nothing in this chapter shall diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family or medical leave rights to an employee than the family or medical leave rights provided under this chapter.

(b) The rights provided to an employee under this chapter may not be diminished by any collective bargaining agreement or any employment benefit program or plan, except that this chapter shall not supersede any clause on family or medical leave in any collective bargaining agreement in force on October 3, 1990, for the time that the collective bargaining agreement is in effect.

(c) The rights provided to an employee under this chapter may be suspended temporarily for an employee of a public safety agency if the employee is required by rules or regulations of the agency or by the provisions of a collective bargaining agreement to return to duty because of an emergency declared by the agency head or the Mayor.

(Oct. 3, 1990, D.C. Law 8-181, § 14, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1313.

§ 32–514. Encouragement of more generous leave policies.

Nothing in this chapter shall be construed to discourage an employer from the adoption or retention of a family and medical leave policy more generous than the family and medical leave required by this chapter.

(Oct. 3, 1990, D.C. Law 8-181, § 15, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1314.

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§ 32–515. Family and Medical Leave Commission established.

Expired.

Prior Codifications

1981 Ed., § 36-1315.

Editor's Notes

Expiration of Family and Medical Leave Commission: Subsection (e) of former § 36-1315, which was derived from D.C. Law 8-181, § 16, provided that the Family and Medical Leave Commission "shall continue in existence for 5 years at which time the Commission shall terminate unless the Council determines that the Commission shall continue in existence or be reestablished." The Family and Medical Leave Commission is deemed to have expired October 3, 1995.

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§ 32–516. Applicability.

The rights and responsibilities established by this chapter shall apply:

(1) During the 3-year period beginning 180 days from October 3, 1990, to any employer who employs 50 or more persons in the District; and

(2) After the 3-year period beginning 180 days from October 3, 1990, to any employer who employs 20 or more persons in the District.

(Oct. 3, 1990, D.C. Law 8-181, § 17, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1316.

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§ 32–517. Rules.

(a) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this chapter within 90 days from October 3, 1990. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period the proposed rules shall be deemed approved.

(b) The proposed rules shall include standards for:

(1) The definition of the term "family member";

(2) The reasonable notice that an employee who seeks to take family or medical leave shall give to an employer; and

(3) The administrative enforcement procedure.

(Oct. 3, 1990, D.C. Law 8-181, § 18, 37 DCR 5043.)

Prior Codifications

1981 Ed., § 36-1317.

Editor's Notes

Family and Medical Leave Act Rulemaking Approval Resolution of 1991: Pursuant to Resolution 9-64, effective June 14, 1991, the Council approved proposed rules to implement the District of Columbia Family and Medical Leave Act of 1990.