

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: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Friedson

Co-Sponsors: Councilmember Hucker, Council President Albornoz, 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:

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

2 **33-27. Paid Parental Leave – Prior to Commencement of the State Family and**
 3 **Medical Leave Insurance Program.**

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

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

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

9 Parent includes the spouse or domestic partner of a parent.

10 (b) Paid parental leave – required.

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

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

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

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

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

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

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

26 (c) Continuance of salary and benefits.

- 27 (1) The County must continue to pay an employee on parental
 28 leave under this Section the full salary of the employee.
- 29 (2) An employee on parental leave under this Section must
 30 continue to receive employee insurance benefits.
- 31 (3) An employee on parental leave under this Section must
 32 continue to receive retirement credit under the Employees’
 33 Retirement System in Article III or the Retirement Savings Plan
 34 in Article VIII, as applicable.
- 35 (d) Relationship to other employee leave.
- 36 (1) Concurrence of leave.
- 37 (A) Except as provided in ~~[[paragraph (2)]]~~ subparagraph (B)
 38 of this ~~[[subsection]]~~ paragraph, parental leave taken under
 39 this Section must not count against any other type of leave
 40 of the employee.
- 41 ~~[[2)]~~ (B) Parental leave taken under this Section must run
 42 concurrently with any FMLA leave of the employee.
- 43 (2) Exhaustion of other leave – not required. Prior to taking parental
 44 leave under this Section, an employee must not be required to
 45 exhaust any other type of leave provided to the employee under a
 46 collective bargaining agreement or other applicable law,
 47 including County personnel regulations.
- 48 (e) Collective bargaining. This Section must not be construed to
 49 diminish any employee leave required by a collective bargaining
 50 agreement under this Chapter.
- 51 (f) Regulations. The Executive may adopt Method (2) regulations to
 52 implement this Section.

53 **33-28. Paid Parental Leave – County supplement to the State Family and**
 54 **Medical Leave Insurance Program.**

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

56 (1) the County establishes a private employer plan approved by the
 57 Maryland Secretary of Labor under the Time to Care Act of
 58 2022, Chapter 48 of the 2022 Laws of Maryland, as amended;
 59 and

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

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

65 FAML I leave means employee leave under the State FAML I Program.

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

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

69 Parent includes the spouse or domestic partner of a parent.

70 Parental FAML I leave means FAML I leave, taken by an employee who
 71 is a parent, to care for a newborn child, a newly adopted child, or a
 72 newly placed foster child within 12 months of the child’s birth,
 73 adoption, or placement. Parental FAML I leave includes FAML I leave
 74 taken by an employee who is the parent of a stillborn child within 12
 75 months of the stillbirth.

76 State FAML I Program means:

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

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

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

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

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

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

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

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

99 (1) An employee on parental FAMILI leave must continue to
 100 receive employee insurance benefits.

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

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

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

106 (1) Concurrence of leave.

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

112 (B) [[parental]] Parental FAML I leave must run concurrently
 113 with FMLA leave.

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

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

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

126 ~~[33-27]~~ ~~33-29~~—33-33. **Reserved.**

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

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

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

Approved:

 7/28/2022

Gabriel Albornoz, President, County Council Date

Approved:

Marc Elrich, County Executive Date

This is a correct copy of Council action.

Judy Rupp, Clerk of the Council Date