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Maryland delays paid family and medical leave again

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Enacted on April 9, 2022 (MD Code Lab. & Empl. [§§ 8.3-101 et seq.](#)) and most recently amended on May 6, 2025 ([2025 Ch. 363](#), HB 102), Maryland's Time to Care Act (TTCA) establishes a paid family and medical leave (PFML) insurance program. Contributions — which cannot exceed 1.2% of wages — will now begin Jan. 1, 2027. Starting no later than Jan. 3, 2028, covered employees may take up to 12 weeks of leave in a rolling 12-month period, with another 12 weeks possible for employees who experience a serious health condition and need to bond with a new child. The program will replace up to 90% of average weekly wages (subject to an initial \$50 minimum and \$1,000 maximum, adjusted annually thereafter). Covered employers must participate in the state program or comply with an approved private plan (insured, self-insured or a combination).

PFML under the TTCA is in addition to the state's existing sick and safe leave under the [Healthy Working Families Act](#), effective since 2018. For more details, see [Roundup: State accrued paid leave mandates](#) (updated periodically).

As a historical note, PFML start dates were originally Oct. 1, 2024, for contributions and Jan. 1, 2025, for benefits; then extended to Oct. 1, 2024, and Jan. 1, 2026, respectively, by a 2023 law ([2023 Chs. 258](#) and [259](#), HB 988 and SB 828). Still later, start dates were extended to July 1, 2025 (contributions) and July 1, 2026 (benefits) by [2024 Chs. 266](#) and [267](#) (SB 485 and HB 571), enacted on April 25, 2024.

Covered employers and employees

Covered employers. The law applies to all employers (including state and local governmental employers) with at least one employee working in Maryland. An employer does not include the sole

owner of a sole proprietorship or limited liability company or a C or S corporation whose owner is the only employee.

Covered employees. Full- and part-time employees are eligible for PFML if they worked at least 680 hours in the state for the four most recently completed calendar quarters for which quarterly reports are required immediately preceding the anchor date (either the date paid leave begins or the date the application for benefits is complete, whichever is earlier). Self-employed individuals who reside in Maryland may opt into the program. Individuals receiving workers' compensation benefits (other than for permanent partial disability) or unemployment benefits are not eligible for PFML benefits.

Funding

The law creates the Family and Medical Leave Insurance (FAMLI) Fund, administered by Maryland's Department of Labor (MDOL). Contributions start Jan. 1, 2027, and are shared equally by employers and employees. Employers may pay all or a portion of the required employee contribution.

MDOL has set the initial contribution rate at 0.9% (and it cannot exceed 1.2% of wages, up to the Social Security maximum taxable wage base), effective from Jan. 1, 2027, through Dec. 31, 2027. On or before Oct. 1, 2026, and annually thereafter, MDOL will conduct a cost analysis focusing on solvency and benefit payments and report the findings to the state legislature.

Wages are defined by reference to the state's Labor and Employment Code ([§ 8-101](#)), which encompasses all compensation for personal services, including bonuses, commissions, tips and other noncash compensation in the definition. Note that this definition of wages is broader than the definition provided by the state's Wage and Hour Law (MD Code Lab. & Empl. [§ 3-501\(c\)](#)).

Employers with fewer than 15 employees need not contribute (but their employees have to contribute 50% of the total contribution). Certain licensed community health providers will be reimbursed some or all of the required employer contribution for selected employees. MDOL may use a portion of the funds to award grants for community partnerships.

Qualifying leave

These reasons qualify for leave:

- **Parental leave:** birth, adoption, foster care placement or kinship care (an undefined term) of an employee's child during the first year and preparations for adoption, foster or kinship placement
- **Family caregiving:** care for a family member with a serious health condition, as defined by the statute
- **Service member caregiving:** care for an employee's next of kin who is a service member with a serious health condition resulting from military service

- **Medical:** an employee's serious health condition causing inability to perform the functions of his or her position
- **Military qualifying exigency:** any of 10 reasons related to a family member's military service, as defined by the statute

Family member. Covered family members include:

- Employee's biological, step-, adopted or foster children
- Employee's children in legal or physical custody or under guardianship
- Individuals for whom an employee stands *in loco parentis* (no age limit)
- Employee's or spouse's biological, step-, adoptive or foster parents
- Employee's legal guardian or employee's or spouse's ward
- Individuals who acted as a parent or stood *in loco parentis* to an employee or the employee's spouse during childhood
- Employee's spouse or domestic partner (an undefined term under the statute or general Maryland law, which does not recognize domestic partnerships)
- Employee's biological, step-, adoptive or foster grandparents or grandchildren
- Employee's biological, step-, adoptive or foster siblings

Duration. Except in one circumstance, leave cannot exceed 12 weeks in an application year (the 12-month period starting on the Sunday of the calendar week in which leave under TCCA begins).

Employees who experience a serious health condition and also qualify for parental leave (as described above) may receive another 12 weeks of benefits in a single application year.

Employees may take intermittent leave, regardless of the reason, in minimum increments of four hours.

Wage-replacement benefits

Benefits will become available no later than Jan. 3, 2028, with a \$50 weekly minimum and \$1,000 weekly maximum. No waiting period will apply. The weekly maximum will be adjusted yearly by the annual percentage growth in the [Consumer Price Index for All Urban Consumers \(CPI-U\), Washington–Arlington–Alexandria, DC-VA-MD-WV metropolitan area](#). Beginning in 2028, MDOL will announce the maximum weekly benefit for the next calendar year by Sept. 1.

A covered employee's wage replacement benefit depends on the employee's average weekly wage (AWW) — total wages received in the highest of the four calendar quarters immediately prior to the anchor date and for which quarterly reports were required ÷ 13 — relative to the state average weekly wage (SAWW):

- If the covered employee's AWW is 65% of or lower than the SAWW, the benefit is 90% of the AWW.
- If the covered employee's AWW is greater than 65% of the SAWW, the benefit is 90% of the AWW up to 65% of the SAWW, plus 50% of the AWW exceeding 65% of the SAWW, capped at the \$1,000 maximum benefit (indexed after 2028).

Employees receiving workers' compensation for reasons other than a permanent partial disability are not eligible for PFML benefits.

Employee rights

During leave, health benefits must continue at active employee rates "in the same manner as required under ... the federal Family and Medical Leave Act (FMLA)." Employers must restore an employee returning from leave to a position equivalent to the one held before leave began. An employer may deny job restoration only by satisfying all three of these conditions:

- Job restoration would cause "substantial and grievous" economic injury to employer operations.
- After determining economic injury would occur, the employer notifies the employee about its intent to deny restoration rights.
- An employee already on leave when receiving this notice elects not to return to work. (Employees receiving this notice prior to taking leave do not have the same opportunity to elect to return.)

The law protects employees exercising TTCA rights from employer discrimination or retaliation.

Private plans

Employers may opt out of the PFML insurance program if their private plan meets or exceeds the TTCA's rights, protections and benefits. This plan may be self-insured, fully insured or a combination. MDOL must approve the plan. Approved plans exempt an employer (and covered employees) from contributing to the FAMLFI Fund. Employees may not be charged more than 50% of the contribution amount set by MDOL for the public option.

MDOL will establish criteria for authorizing private plans, which may include the number of employees, capitalization, bondedness and status as a government employer. MDOL may charge application and renewal fees. Upcoming guidance should provide more details.

Coordination with other leave

Employers cannot require employees to use or exhaust paid vacation, paid sick leave or other paid time off (PTO) under an employer policy before or during PFML. Employers and employees can, however, mutually agree to use paid vacation, paid sick leave or other PTO to top off PFML benefits up to 100% of the employee's average weekly wage. This use of other PTO presumably includes time earned under Maryland's Healthy Working Families Act, but confirmation would be welcome. Employers can require

coordination of PFML with employer-provided parental leave, family leave, military leave or disability policy.

PFML runs concurrently with federal FMLA leave when both laws apply. If, after notice of eligibility from the employer, an employee declines to apply for PFML benefits during an FMLA leave, the leave duration will still count against the individual's total PFML allotment for the application year.

The law does not diminish an employer's obligations under a collective bargaining agreement or an employer policy that provides longer leave benefits.

Required notices

Employer notice. Employers must provide each employee a written notice about the law's rights and duties on hire and annually thereafter. Employee leave requests potentially triggering PFML require an employer to provide a notice of eligibility to the employee within five business days of the request. MDOL will publish model notices.

Employee notice. Employers may require at least 30 days' advance written notice for foreseeable leave. For unforeseeable leave, employees must provide notice as soon as practicable and comply with the employer's notice procedures and requirements for other types of leave, as long as those requirements do not interfere with the employee's TTCA rights.

Administration

Guidance. MDOL is [working](#) on regulations. Upcoming rules should fill in the law's gaps on topics like electronic claim filings, appeals, certifications, notice standards, employer complaints of fraud and other aspects of benefit administration like recordkeeping. Under the TTCA, MDOL must:

- Notify employers within five business days of a completed application, a claim determination, an appeal or a change to a claim determination
- Approve or deny a claim, and notify the employee and employer about this decision within 10 business days after a claim filing
- Make the first benefit payment within five business days of a claim's approval and every two weeks thereafter until leave ends

Claim substantiation. TTCA requires certification of the reason for leave other than parental leave. Certifications of serious health conditions must include:

- The first date of the leave and whether it will be continuous or intermittent
- When the serious health condition began
- The serious health condition's probable duration

- Appropriate facts within the knowledge of the licensed healthcare provider

Depending on the certification, additional requirements may apply:

- A *family member's* serious health condition certification must have a statement indicating the covered individual needs to care for a family member and the estimated amount of time needed.
- An *employee's* serious health condition certification must contain a statement indicating the employee is unable to perform the functions of the position.
- An *intermittent leave* certification for a *family member's* or *service member's* serious health condition must include the expected frequency and duration. Such certifications for *employees* must also contain a statement indicating the employee is unable to perform the functions of the position.

The law provides no details on military-related qualifying exigency certifications.

Other provisions. If a covered employee wins an appeal of an adverse decision, the employer or insurer may be assessed MDOL's appeal costs. MDOL may disclose personal identifying information relating to an individual who has applied for or received PFML benefits for the sole purpose of claims administration. This right does not extend to companies that contract with self-employed individuals.

Enforcement

MDOL can investigate alleged violations and file suit under the law. Employer contribution failures are subject to the amount due (plus interest) and a penalty of up to two times the amount of overdue contributions. MDOL can also conduct audits and receive employee complaints. Those complaints may be resolved through mediation, or MDOL ultimately can order an employer to restore lost wages and damages, reinstate an employee with or without back pay (as applicable) and pay a civil penalty of up to \$1,000.

MDOL and the state attorney general may also bring actions. Employees may bring suit in limited circumstances. Potential liability includes:

- Three times the amount of lost wages and benefits
- Court-assessed punitive damages
- Reasonable attorneys' fees and other costs
- Injunctive and other relief that a court deems appropriate

Federal issues

The Internal Revenue Service (IRS) clarified the federal tax treatment of PFML benefits in [Revenue Ruling 2025-4](#) for contributions and benefits under a state PFML program. The guidance does not

address the tax treatment of approved private plans. Transitional relief for 2025 is available. For details, see [IRS clarifies taxation of state and DC PFML contributions, benefits](#) (April 29, 2025).

Under [Pub. L. No. 119-21](#), commonly known as the “One Big Beautiful Bill Act,” the employer tax credit for providing PFML benefits became permanent. In addition, several eligibility changes in the law make the credit available to more employers. Of note, employers subject to state-mandated PFML programs may qualify for the credit. For background, see [One Big Beautiful Bill includes employer-friendly provisions](#) (July 8, 2025).

Employer actions

While awaiting regulations and other guidance, employers have work to do. Here are some steps to take before the deadlines in 2027 and 2028:

- Factor TTCA requirements into future workforce planning or headcount changes.
- Identify which employees are eligible for TTCA leave.
- Review current PTO programs and address coordination with TTCA leave.
- Explore the private plan option and decide whether to insure or self-insure.
- Ensure proper changes occur to your payroll system.
- Educate your staff on the law’s key features.
- Create a communication strategy that encompasses required notices.
- Watch for guidance and other developments (for example, regulations, sample notices and forms, posters, FAQs and webinars).

The law preempts any local PFML laws or ordinances — except those applicable to municipality employers — enacted on or after June 1, 2022. Multistate employers should also examine Maryland’s new mandate in light of PFML requirements in other jurisdictions. Current programs exist throughout the country. For more details on these other jurisdictions, see [2025 state paid family and medical leave contributions and benefits](#) (updated semiannually).

Related resources

Non-Mercer resources

- [Pub. L. No. 119-21](#), the “One Big Beautiful Bill Act” (Congress, July 4, 2025)
- [26 USC § 45S](#) (IRS)
- [Revenue Ruling 2025-4](#) (IRS)

- [2025 Ch. 363](#), HB 102 (MD Legislature, May 6, 2025)
- [2024 Ch. 266](#), SB 485 (MD Legislature, April 25, 2024)
- [2024 Ch. 267](#), HB 571 (MD Legislature, April 25, 2024)
- [Paid family and medical leave in the United States](#) (Congressional Research Service, March 26, 2025)
- [2023 Ch. 258](#), HB 988 (MD Legislature, May 3, 2023)
- [2023 Ch. 259](#), SB 828 (MD Legislature, May 3, 2023)
- Time to Care Act, [§§ 8.3-101 et seq.](#) (MD Legislature, April 9, 2022)

Mercer Law & Policy resources

- [Maryland paid family and medical leave overview \(slide deck\)](#) (May 9, 2024; to be updated for 2025)
- [One Big Beautiful Bill includes employer-friendly provisions](#) (July 8, 2025)
- [IRS clarifies taxation of state and DC PFML contributions, benefits](#) (April 29, 2025)
- [2025 state paid family and medical leave contributions and benefits](#) (updated semiannually)
- [Roundup: State accrued paid leave mandates](#) (updated periodically)

Other Mercer resource

- [Life, absence, and disability benefits](#)

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