

# WEST VIRGINIA DIVISION OF LABOR

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## PARENTAL LEAVE ACT

**PARENTAL LEAVE ACT** – (W. Va. Code §21-5D-1, *et. seq.*). This legislation, enacted in 1989, covers employees of all departments, divisions, boards, bureaus, agencies, commissions or other units of State Government and County Boards of Education.

Under this law, an employee shall be entitled to a total of 12 weeks of unpaid *Parental Leave* following the exhaustion of all his or her annual and personal leave, during any 12-month period. The unpaid leave shall be granted to an employee for any of the following reasons:

- The birth of a son or daughter of the employee
- The placement of a son or daughter with the employee for adoption
- To care for the employee's son or daughter, spouse, parent, or dependent who has a serious health condition

The statute further states that in the case of a serious health condition, the leave may be taken intermittently when medically necessary.

If a leave of absence due to the birth or adoption of a child is foreseeable, the employee shall provide the employer with a two weeks written notice. If a leave of absence is foreseeable due to planned medical treatment or medical supervision, the employee shall make a reasonable effort to schedule the leave of absence so as not to disrupt the operations of the employer, subject to the approval of the health care provider.

If an employee requests *Parental Leave* to care for a family member with a serious health condition, the employer may require the employee to provide certification by a health care provider of the family member's health condition and that the employee's assistance is necessary. The certification shall be sufficient if it contains the following:

- That the child, dependent, parent, or employee has a serious health condition
- The date the serious health condition commenced and its probable duration
- The medical facts regarding the serious health condition, upon release by the patient

The position held by an employee immediately before the leave of absence shall be held and the employee shall be returned to that position upon his or her return to work. However, the employer may hire a temporary employee to fill the position for the period of time the employee is off work.

No employer may, because an employee received *Parental Leave*, reduce or deny any employment benefit or seniority which accrued to the employee before his or her leave commenced.