

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0442.01 Christy Chase x2008

**HOUSE BILL 13-1222**

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**HOUSE SPONSORSHIP**

**Peniston,** Court, Fischer, Ginal, Hamner, Hullinghorst, Labuda, Lebsock, Melton,  
Rosenthal, Salazar, Singer, Tyler, Young

**SENATE SPONSORSHIP**

**Ulibarri,** Aguilar, Carroll, Giron, Hudak, Kefalas, Todd

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**House Committees**

Health, Insurance & Environment

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE EXPANSION OF THE GROUP OF FAMILY MEMBERS**  
102              **FOR WHOM COLORADO EMPLOYEES ARE ENTITLED TO TAKE**  
103              **LEAVE FROM WORK UNDER THE FEDERAL "FAMILY AND**  
104              **MEDICAL LEAVE ACT OF 1993".**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

Under the federal "Family and Medical Leave Act" (FMLA), an employee is entitled to 12 workweeks of leave during a 12-month period

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

to care for a spouse, child, or parent of the employee who has a serious health condition. In the case of a parent using FMLA leave to care for a child, the FMLA permits the leave only for the parent of a child who is under 18 years of age or is incapable of self-care because of a mental or physical disability. Current Colorado law is silent with regard to required family and medical leave, so Colorado employees are entitled to leave as specified in the FMLA.

The bill expands the group of family members for whom employees in Colorado may take FMLA leave when the family member has a serious health condition to include a person to whom the employee is related by blood, adoption, legal custody, marriage, or civil union or with whom the employee resides and is in a committed relationship. As a result, an employee is permitted to use FMLA leave for a child, regardless of the age or dependency of the child, as well as for a sibling, partner in a civil union, grandparent, grandchild, or in-law.

An employee who is denied leave to care for a person in the expanded group of family members has the right to recover damages or equitable relief, as is currently the case for persons denied leave to care for a family member for whom leave is permitted under the FMLA.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, **add** part 2 to article  
3 13.3 of title 8 as follows:

4   PART 2

5   FAMILY AND MEDICAL LEAVE ELIGIBILITY

6           **8-13.3-201. Short title.** THIS PART 2 SHALL BE KNOWN AND MAY  
7 BE CITED AS THE "FAMILY CARE ACT".

8           **8-13.3-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE  
9 CONTEXT OTHERWISE REQUIRES:

10                   (1) "CIVIL UNION" HAS THE SAME MEANING AS SET FORTH IN  
11 SECTION 14-15-103 (1), C.R.S.

12                   (2) "EMPLOYEE" MEANS A PERSON EMPLOYED BY AN EMPLOYER  
13 AND WHO IS ELIGIBLE FOR FMLA LEAVE.

14                   (3) "EMPLOYER" HAS THE SAME MEANING AS SET FORTH IN THE

1 FMLA.

2 (4) "FMLA" MEANS THE FEDERAL "FAMILY AND MEDICAL LEAVE  
3 ACT OF 1993", PUB.L. 103-3, AS AMENDED, 29 U.S.C. SEC. 2601, ET SEQ.

4 (5) "FMLA LEAVE" MEANS LEAVE FROM WORK AND ALL BENEFITS  
5 AUTHORIZED BY THE FMLA.

6 **8-13.3-203. Family and medical leave - state requirements.**

7 (1) IN ADDITION TO THE LEAVE TO WHICH AN EMPLOYEE IS ENTITLED  
8 UNDER THE FMLA, AN EMPLOYEE IN THIS STATE IS ENTITLED TO FMLA  
9 LEAVE TO CARE FOR A PERSON WHO HAS A SERIOUS HEALTH CONDITION, AS  
10 THAT TERM IS DEFINED IN THE FMLA, IF THE PERSON:

11 (a) IS THE EMPLOYEE'S PARTNER IN A CIVIL UNION, AS DEFINED IN  
12 SECTION 14-15-103 (5), C.R.S.;

13 (b) IS THE PARENT, CHILD, GRANDPARENT, GRANDCHILD, SIBLING,  
14 FIRST COUSIN, AUNT, UNCLE, NIECE, OR NEPHEW OF THE EMPLOYEE OR OF  
15 THE EMPLOYEE'S SPOUSE OR PARTNER IN A CIVIL UNION, AS DEFINED IN  
16 SECTION 14-15-103 (5), C.R.S.;

17 (c) HAS ENTERED INTO A DESIGNATED BENEFICIARY AGREEMENT,  
18 AS DEFINED IN SECTION 15-22-103 (2), C.R.S., WITH THE EMPLOYEE AND  
19 RECORDED THE AGREEMENT IN ACCORDANCE WITH ARTICLE 22 OF TITLE  
20 15, C.R.S.; OR

21 (d) IS THE EMPLOYEE'S DOMESTIC PARTNER AND:

22 (I) HAS REGISTERED THE DOMESTIC PARTNERSHIP WITH THE  
23 MUNICIPALITY IN WHICH THE PERSON RESIDES OR WITH THE STATE, IF  
24 APPLICABLE; OR

25 (II) IS RECOGNIZED BY THE EMPLOYER AS THE EMPLOYEE'S  
26 DOMESTIC PARTNER.

27 (2) (a) FOR PURPOSES OF CONFIRMING AN EMPLOYEE'S

1 RELATIONSHIP TO A PERSON DESCRIBED IN SUBSECTION (1) OF THIS  
2 SECTION FOR WHOM THE EMPLOYEE IS REQUESTING FMLA LEAVE, THE  
3 EMPLOYER MAY REQUIRE THE EMPLOYEE TO PROVIDE REASONABLE  
4 DOCUMENTATION OR A WRITTEN STATEMENT OF FAMILY RELATIONSHIP, IN  
5 ACCORDANCE WITH THE FMLA.

6 (b) AN EMPLOYER MAY REQUIRE AN EMPLOYEE SEEKING FMLA  
7 LEAVE FOR A PERSON DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO  
8 SUBMIT THE SAME CERTIFICATION AS THE EMPLOYER MAY REQUIRE UNDER  
9 THE FMLA.

10 (3) FMLA LEAVE TAKEN BY AN EMPLOYEE PURSUANT TO THIS  
11 SECTION RUNS CONCURRENTLY WITH LEAVE TAKEN UNDER THE FMLA,  
12 AND THIS SECTION DOES NOT:

13 (a) INCREASE THE TOTAL AMOUNT OF LEAVE TO WHICH AN  
14 EMPLOYEE IS ENTITLED DURING A TWELVE-MONTH PERIOD UNDER THE  
15 FMLA, THIS SECTION, OR BOTH; AND

16 (b) PRECLUDE AN EMPLOYER FROM GRANTING AN EMPLOYEE AN  
17 AMOUNT OF LEAVE THAT EXCEEDS THE TOTAL AMOUNT OF LEAVE TO  
18 WHICH THE EMPLOYEE IS ENTITLED DURING A TWELVE-MONTH PERIOD  
19 UNDER THE FMLA.

20 **8-13.3-204. Enforcement.** IF AN EMPLOYER DENIES AN EMPLOYEE  
21 IN THIS STATE FMLA LEAVE TO CARE FOR A PERSON DESCRIBED IN  
22 SECTION 8-13.3-203 WHO IS NOT A PERSON FOR WHOM THE EMPLOYEE  
23 WOULD BE ENTITLED TO LEAVE UNDER THE FMLA, OR INTERFERES WITH  
24 AN EMPLOYEE'S EXERCISE OF OR ATTEMPT TO EXERCISE HIS OR HER RIGHT  
25 TO FMLA LEAVE FOR PERSONS DESCRIBED IN SECTION 8-13.3-203, THE  
26 EMPLOYER IS SUBJECT TO DAMAGES AND EQUITABLE RELIEF AS SPECIFIED  
27 IN THE FMLA. AN AGGRIEVED EMPLOYEE MAY BRING AN ACTION IN STATE

1 COURT AGAINST THE EMPLOYER TO RECOVER DAMAGES OR EQUITABLE  
2 RELIEF.

3 **SECTION 2. Act subject to petition - effective date.** This act  
4 takes effect at 12:01 a.m. on the day following the expiration of the  
5 ninety-day period after final adjournment of the general assembly (August  
6 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a  
7 referendum petition is filed pursuant to section 1 (3) of article V of the  
8 state constitution against this act or an item, section, or part of this act  
9 within such period, then the act, item, section, or part will not take effect  
10 unless approved by the people at the general election to be held in  
11 November 2014 and, in such case, will take effect on the date of the  
12 official declaration of the vote thereon by the governor.