

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 13-0442.01 Christy Chase x2008

HOUSE BILL 13-1222

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

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House Committees

Health, Insurance & Environment

Senate Committees

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".**

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.

HOUSE
Amended 2nd Reading
March 22, 2013

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.

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.; OR

13 (b) IS THE EMPLOYEE'S DOMESTIC PARTNER AND:

14 (I) HAS REGISTERED THE DOMESTIC PARTNERSHIP WITH THE
15 MUNICIPALITY IN WHICH THE PERSON RESIDES OR WITH THE STATE, IF
16 APPLICABLE; OR

17 (II) IS RECOGNIZED BY THE EMPLOYER AS THE EMPLOYEE'S
18 DOMESTIC PARTNER.

19 (2) (a) FOR PURPOSES OF CONFIRMING AN EMPLOYEE'S
20 RELATIONSHIP TO A PERSON DESCRIBED IN SUBSECTION (1) OF THIS
21 SECTION FOR WHOM THE EMPLOYEE IS REQUESTING FMLA LEAVE, THE
22 EMPLOYER MAY REQUIRE THE EMPLOYEE TO PROVIDE REASONABLE
23 DOCUMENTATION OR A WRITTEN STATEMENT OF FAMILY RELATIONSHIP, IN
24 ACCORDANCE WITH THE FMLA.

25 (b) AN EMPLOYER MAY REQUIRE AN EMPLOYEE SEEKING FMLA
26 LEAVE FOR A PERSON DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO
27 SUBMIT THE SAME CERTIFICATION AS THE EMPLOYER MAY REQUIRE UNDER

1 THE FMLA.

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

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

8 (b) PRECLUDE AN EMPLOYER FROM GRANTING AN EMPLOYEE AN
9 AMOUNT OF LEAVE THAT EXCEEDS THE TOTAL AMOUNT OF LEAVE TO
10 WHICH THE EMPLOYEE IS ENTITLED DURING A TWELVE-MONTH PERIOD
11 UNDER THE FMLA.

12 **8-13.3-204. Enforcement.** IF AN EMPLOYER DENIES AN EMPLOYEE
13 IN THIS STATE FMLA LEAVE TO CARE FOR A PERSON DESCRIBED IN
14 SECTION 8-13.3-203 WHO IS NOT A PERSON FOR WHOM THE EMPLOYEE
15 WOULD BE ENTITLED TO LEAVE UNDER THE FMLA, OR INTERFERES WITH
16 AN EMPLOYEE'S EXERCISE OF OR ATTEMPT TO EXERCISE HIS OR HER RIGHT
17 TO FMLA LEAVE FOR PERSONS DESCRIBED IN SECTION 8-13.3-203, THE
18 EMPLOYER IS SUBJECT TO DAMAGES AND EQUITABLE RELIEF AS SPECIFIED
19 IN THE FMLA. AN AGGRIEVED EMPLOYEE MAY BRING AN ACTION IN STATE
20 COURT AGAINST THE EMPLOYER TO RECOVER DAMAGES OR EQUITABLE
21 RELIEF.

22 **8-13.3-205. Repeal of part.** THIS PART 2 IS REPEALED IF THE
23 UNITED STATES CONGRESS ENACTS AND THE PRESIDENT SIGNS FEDERAL
24 LEGISLATION AMENDING THE FMLA TO PERMIT EMPLOYEES TO USE FMLA
25 LEAVE FOR ALL PERSONS DESCRIBED IN SECTION 8-13.3-203. THE
26 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT
27 SHALL NOTIFY THE REVISOR OF STATUTES, IN WRITING, IF THE CONDITION

1 SPECIFIED IN THIS SECTION OCCURS.

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