

New York State Paid Family Leave Updates for 2020

January 6, 2020

2020 is here, and so are important changes to the New York State Paid Family Leave Act (“PFLA”).

As discussed [here](#), in 2016, Governor Andrew Cuomo signed into law the PFLA, which requires any private employer with at least one employee to purchase a Paid Family Leave insurance policy or to self-insure in order to provide paid family leave benefits to eligible employees as part of New York State’s disability insurance program.

The PFLA became effective in 2018 and provides eligible employees with the opportunity to take paid leave in order to: (1) bond with a newly born, adopted or foster child; (2) care for a family member with a serious health condition; or (3) assist loved ones when a spouse, domestic partner, child or parent is deployed abroad on active military service. Eligible employees must work at least 20 hours per week after 26 weeks of employment, or less than 20 hours per week after 175 days of employment.

Several important changes became effective on January 1, 2020. In 2019, eligible employees were permitted to take 10 weeks of paid leave at 55% of their average weekly wage, or fifty-five percent (55%) of the state average weekly wage (SAWW), whichever was less. Beginning on January 1, 2020, eligible employees may take up to 10 weeks of paid leave at sixty percent (60%) of the employee’s average weekly wage or sixty percent (60%) of the SAWW, whichever is less. The State has announced the SAWW for 2020 is \$1,401.17; therefore, the maximum weekly benefit in 2020 will be \$840.70 per week. In 2021, the amount of leave is expected to increase from 10 weeks to 12 weeks and the monetary benefit to employees will increase from sixty percent (60%) of average weekly wage to sixty-seven percent (67%) of average weekly wage, capped at sixty-seven percent (67%) of the SAWW, whichever is less.

Also, effective January 1, 2020, the employee contribution rate increased from 0.153% to 0.270% of an employee’s gross wages each pay period (capped at the SAWW), which means that an employee’s maximum annual contribution increased from \$107.97 to \$196.72. Employers need to adjust employee withholdings starting with the first pay period of 2020.

Finally, as a reminder, employees taking Paid Family Leave are guaranteed paid leave, the ability to return to their jobs, and continued health insurance. When the leave is foreseeable, employees must provide their employers with 30 days’ notice of their intention to use Paid Family Leave. If the event is unforeseeable, the employee must inform the employer of the intended leave as soon as possible.

Concurrent leaves should be carefully analyzed depending on the specific facts of the employee's situation. Generally, any PFLA benefit may run concurrently with an employee's available entitlement under the FMLA. An employee cannot receive both disability benefits and PFLA benefits for the same period of time (i.e., the two cannot run concurrently) and employees cannot take more than 26 weeks of combined short-term disability and Paid Family Leave in a 52-week period.

If you have questions regarding these provisions, or any other aspect of employment law, please contact Hayley B. Dryer at hdryer@cullenllp.com or (516) 357-3745, or Thomas B. Wassel at twassel@cullenllp.com or (516) 357-3868, or James G. Ryan at jryan@cullenllp.com or (516) 357-3750.

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