

# EMPLOYMENT LAW SUMMARY

## Delaware Employee Leave Laws - Overview



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Employers have some flexibility when it comes to establishing or negotiating employee leave policies, and they may provide their employees with various types of paid or unpaid leave as part of their overall compensation packages, including vacation time, personal leave and sick leave. However, Delaware employers must comply with state employment laws requiring employee leave for specific purposes.

(Employers must also follow federal employee leave laws, such as the Family and Medical Leave Act.)

Delaware has state laws that require:

- Paid family and medical leave (available in 2026);
- Jury duty and court appearance leave;
- Pregnancy accommodation leave;
- Domestic violence leave;
- Military leave; and
- Volunteer emergency responder leave;

The chart below provides a high-level overview of Delaware's employee leave laws. It does not cover federal laws.

### Overview of Delaware Employee Leave Laws

Paid Family and Medical Leave	<p>The Healthy Delaware Families Act will require job-protected, paid family and medical leave for employees in Delaware. The leave is funded by employer and employee contributions that begin <b>Jan. 1, 2025</b>. Leave benefits become available <b>Jan. 1, 2026</b>.</p> <p>The law covers employers with <b>10 or more employees</b> working in Delaware; however, employers with <b>10 to 24</b> employees are only required to comply with its parental leave mandate. Businesses that are completely closed for 30 or more consecutive days per year are not covered.</p> <p>Employees are eligible for leave if they have been employed for 12 months by their current employer, worked 1,250 hours during that time and primarily work in Delaware. Employers approve applications for leave, subject to appeal. Workers receive up to 12 weeks' parental leave per year for child bonding, but employers with fewer than 25 employees may reduce an employee's parental bonding leave by half for the first five years of the program. Leave is limited to six weeks per any 24-month period for an employee's or family member's serious health condition, or for a qualifying military exigency. Total combined family and medical leave is capped at 12 weeks per year per employee. Workers receive 80% of their average weekly wage, up to a maximum of \$900 in 2026 and 2027, with increases thereafter linked to the consumer price index. Program funding is shared equally between employers and employees via payroll contributions. The 2025 and 2026 contribution rate is <b>0.4% of wages</b> for medical leave, <b>0.08%</b> for family caregiving leave and <b>0.32%</b> for parental leave.</p>
Jury Duty and Court Appearance Leave	<p>Employers must grant employees <b>unpaid leave</b> for jury duty. An employer cannot terminate, threaten or otherwise coerce an employee because the employee responds to a jury summons, serves as a juror or</p>

	attends court for prospective jury service. An employer also may not discharge or discipline a victim or representative of a victim for attending or participating in preparation for a criminal justice proceeding.
Pregnancy Accommodation Leave	Employers with <b>four or more employees</b> must provide reasonable accommodations to pregnant applicants and employees who have work-related limitations stemming from pregnancy, childbirth or a related condition. Reasonable accommodations may include, but are not limited to, more frequent or longer breaks, periodic rest, job restructuring, light-duty assignments, a modified work schedule, time off to recover from childbirth, or break time and appropriate facilities for expressing milk. An employer must treat a pregnant employee or applicant the same for any employment-related purpose as it would treat any other employee or applicant not affected by pregnancy, but similar in the ability to work. An employer may not: <ul style="list-style-type: none"> <li>•Fail or refuse to make reasonable accommodations related to the pregnancy of an applicant or an employee, unless the accommodation would impose an undue hardship on the employer’s operations;</li> <li>•Deny employment opportunities to an applicant or employee based on the need to make reasonable accommodations related to pregnancy;</li> <li>•Require an applicant or employee affected by pregnancy to accept an accommodation if: <ul style="list-style-type: none"> <li>oThe applicant or employee chooses not to accept it;</li> <li>oThe applicant or employee does not have a known limitation related to pregnancy; or</li> <li>oThe accommodation is unnecessary for the applicant or employee to perform the essential functions of her job;</li> </ul> </li> <li>•Require an employee to take leave under any leave law or policy of the employer if another reasonable accommodation can be provided; or</li> <li>•Take adverse action against an employee for requesting or using a reasonable accommodation. In determining whether an accommodation would impose an undue hardship on the employer, factors such as the nature and cost of the accommodation, the size of the employer’s business and the effect the accommodation would have on the business operations of the employer are considered.</li> </ul>
Leave for Victims of Domestic Violence	Employers with <b>four or more employees</b> must provide reasonable accommodations related to domestic violence, a sexual offense or stalking, absent undue hardship on the employer. Under the law, “reasonable accommodations” means making reasonable changes in the workplace, including, but not limited to, reasonable changes in the employee’s schedule or allowing the individual to use accrued leave to address the domestic abuse, a sexual offense or stalking.
Military Leave	In addition to USERRA, Delaware law provides National Guard members who are called to state active duty with the same rights, privileges and protections with respect to employment as they would have if called for military training under federal law protecting reservists and National Guard members.
Volunteer Emergency Responder Leave	An employer with <b>10 or more employees</b> cannot terminate, demote or take other disciplinary action against any employee who is a volunteer emergency responder, if, when acting as a volunteer emergency responder, the employee is absent from work: <ul style="list-style-type: none"> <li>•To respond to a Governor-declared state of emergency lasting up to seven consecutive days;</li> <li>•To respond to a President-declared national emergency lasting up to 14 consecutive days; or</li> <li>•Due to injury sustained when the employee was acting as a volunteer emergency responder.</li> </ul>

**SPECIAL NOTE:** The chart above contains information about statewide laws. Localities across the country have also passed ordinances requiring employee leave in varied circumstances. Generally, employers must comply with both local and state laws that apply.

## More Information

Contact Heffernan Insurance Brokers for more information on employee leave laws in Delaware.

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