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05/20/2013

## Colorado Expands FMLA Coverage to Civil Union and Domestic Partners

By [Alyssa Yatsko](#)

Under the newly passed Family Care Act ([House Bill 13-1222](#)), Colorado employers must extend leave under the federal Family and Medical Leave Act (FMLA) to permit eligible employees to care for their civil union partner or domestic partner who has a serious health condition. The law goes into effect on August 7, 2013 so covered employers should act now to update their FMLA policies and procedures. Here are the details of this new Colorado law.

### FMLA Leave Available to Care for Civil Union Partner or Domestic Partner

Prior to this law, Colorado employees seeking to take job-protected family or medical leave looked only to the federal FMLA. Under the federal FMLA, leave to care for a family member with a serious health condition is limited to the employee's spouse, child or parent. The federal FMLA does not permit leave for an employee to care for his or her civil union partner or domestic partner. The Family Care Act allows an eligible employee in Colorado to take leave to care for the employee's partner in a civil union or the employee's domestic partner (if the employer recognizes the person as the employee's domestic partner or the domestic partnership is registered with the municipality or the state, as applicable). The employer may require that the employee provide reasonable documentation or a written statement of the family relationship as well as medical certifications as may be required under the FMLA. Upon meeting these terms, eligible employees are entitled to take up to 12 weeks of unpaid FMLA leave in a 12-month period.

### "Double Dipping" of FMLA Leave

We have previously written in this blog about how the Family Care Act potentially could permit certain employees to take up to 24 weeks of FMLA leave in a 12-month period. However, the circumstances in which this may occur is limited, meaning many employers will not face a "double dipping" situation. To learn more, check out our [previous post](#).

### Colorado's Family Care Act not as Expansive as First Proposed

As enacted, the Family Care Act is greatly downsized from the original bill introduced into the Colorado House in February. The initial bill would have expanded the group of family members for whom Colorado employees are entitled to take leave under the federal FMLA to include care for any person related to the employee by blood, adoption, legal custody, marriage or civil union partners and domestic partners. This would have permitted leave to care for siblings, grandparents, grandchildren and in-laws, regardless of age or dependency. Due to significant opposition by business groups, the bill was amended to remove all additional family members except civil union and domestic partners for the expanded FMLA coverage.

**Update Your FMLA Policies and Forms Now**

To prepare for the August 7th effective date of the new leave entitlement, covered Colorado employers should revise their FMLA policies and forms now to include provision of leave to care for a civil union partner or domestic partner with a serious health condition. Remember to update the FMLA policy contained in your employee handbook. As always, it is wise to consult with your legal counsel to ensure your policies and practices comply with all applicable laws.

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