



Title: Judicial Branch Paid Parental Leave Policy

Policy Number: JB-HR-26-001

Authority: 19 Del. C. §§ 3701-3704; 29 Del. C. §§ 5120, 5253

Effective Date: January 1, 2026

Supersedes: Judicial Branch Parental Leave Policy issued April 1, 2019

Signature: *Gayle P. Lafferty*

1. Purpose

The purpose of this policy is to recognize the importance of maintaining a healthy workforce by providing economic stability for employees caring for and bonding with children newly born, adopted, or placed for adoption or foster care. Paid parental leave (PPL) assists the Judicial Branch in retaining its current workforce and attracting new employees to public service.

The benefits provided in this policy comply with Sections 5120 and 5253 of Chapter 29 of the Delaware Code and the Healthy Delaware Families Act (the Act), [Chapter 37 of Title 19 of the Delaware Code](#). The PPL provided in this policy has been approved by Delaware's Department of Labor (DDOL) as a grandfathered plan for purposes of DDOL's Paid Family and Medical Leave coverage through December 31, 2029.

2. Scope

This policy applies to eligible full-time and permanent part-time Judicial Branch employees who are caring for a child during the first year following the child's birth, lawful adoption placement, adoption, or initial foster care placement.

Casual seasonal employees, employed under Section 5903(17)a of Title 29 of the Delaware Code, are statutorily ineligible for PPL. This policy does not apply to Judicial Officers who are part of the Revised Judicial Pension Plan.

This policy will be in effect for qualifying events occurring on or after January 1, 2026.

3. Definitions and Acronyms

- **Act** refers to the Healthy Delaware Families Act, [Chapter 37 of Title 19 of the Delaware Code](#).

- **Adoption** means legal adoption of a child confirmed by a decree, court order, or other acceptable verification.
- **Calendar Week** means an eligible employee's regularly scheduled hours within the seven (7) day period that does not include overtime. Holidays or severe weather conditions and emergency declarations occurring during a week when parental leave is taken will not extend the paid parental leave time.
- **Child** means a biological, adopted, or foster person, who is either under the age of 18 or is 18 or older and incapable of self-care because of a mental or physical disability.
- **Creditable Compensation** means the base rate of compensation that the employee received on the last day of employment before the employee developed a disability. *29 Del. C. § 5251(c)*.
- **DDOL** refers to Delaware's Department of Labor.
- **DSCYF** refers to Delaware's Department of Services for Children, Youth and Their Families.
- **Eligible Employee** means a Judicial Branch full-time or permanent part-time employee who (1) was hired to work at least 25 hours per week in a leave eligible position; (2) has worked for the State for 12 continuous months (or 52 weeks) as of the date of the birth, adoption, lawful adoption placement, or initial foster care placement; and (3) has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.
 - Casual seasonal employees, employed under Section 5903(17)a of Title 29 of the Delaware Code, are ineligible for PPL.
 - The Family and Medical Leave Act (FMLA) applies when determining whether an employee meets the 1,250 hours requirement. This means that the 1,250 hours of service must be hours actually worked and does not include paid time off for vacation, illness, holidays, or any other type of paid or unpaid leave.
- **Employer** means, individually or collectively, the Administrative Office of the Courts (AOC), a Court, or a nonjudicial agency.
- **Family and Medical Leave Act (FMLA)** is a federal law that entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage, if applicable, under the same terms and conditions as if the employee had not taken leave.
- **Foster Care** means the temporary care of a child placed with an agency-approved foster parent. [*13 Del. C. § 2302*](#).
- **Foster Parent** means an individual or couple who has been approved by DSCYF (or another state's equivalent child protection agency) or a licensed agency to

provide foster care in exchange for foster care payments provided by DSCYF (or another state's equivalent child protection agency) or a licensed agency.

- **Human Resources (HR)** refers to each employee's human resources department.
- **Lawful Adoption Placement** means the selection of an approved family for the child; the arrangement for the child's move into an adoptive home; or the relocation of the child with an adoptive family performed by DSCYF (or another state's equivalent child welfare agency), licensed agency, or an authorized agency. A lawful adoption placement can be confirmed by an adoption agreement or other acceptable written verification. [13 Del. C. § 901.](#)
- **Multiple Births/Adoptions/Foster or Adoption Placements** refers to more than one infant born from the same pregnancy; more than one child adopted or placed on the same adoption or placement date.
- **Nonjudicial Agency** refers to those statutorily-created bodies that receive administrative support from the AOC but over which the Judicial Branch has no substantive supervisory authority. Nonjudicial agencies include the Office of the Child Advocate; the Office of the Public Guardian; the Maternal and Child Death Review Commission; and the Delaware Residents' Protection Commission.
- **Parent** means an employee who is the biological, adoptive, or foster parent of a child.
 - Parents-in-law are not included in the definition of parent.
- **Paid Parental Leave (PPL)** refers to the 12 calendar weeks of paid leave provided for the purpose of caring for or bonding with a newborn child, a newly adopted child, or a child involved in a lawful adoption placement or initial foster care placement.
- **Short-Term Disability (STD)** refers to the State plan that provides employees enrolled in the Disability Insurance Program (DIP) with partial income replacement for up to 182 calendar days should the employee become disabled due to a covered accident, sickness, or pregnancy.

4. Policy

- a) The Judicial Branch provides up to 12 calendar weeks of PPL to eligible employees upon the birth, adoption, lawful adoption placement, or initial foster care placement of a child to care for the child during the first year after the birth, adoption, or placement of the child.
- b) PPL under this policy complies with the leave required under the Act (Chapter 37 of Title 19 of the Delaware Code) and has been approved as a grandfathered plan through December 31, 2029.
- c) PPL under this policy runs concurrently with the Family and Medical Leave Act (FMLA) and Short-Term Disability (STD) benefits, as applicable.

- If an employee becomes eligible for FMLA while on PPL, the employee must apply for and use FMLA.
 - An employee may be eligible for PPL even if the employee has exhausted their FMLA time consistent with the law covering FMLA. A key consideration in determining eligibility will be whether the employee has meet the 1,250 hours requirement for the preceding 12 months. The 1,250 hours of service must be hours actually worked and does not include paid time off for vacation, illness, holidays, or any other type of paid or unpaid leave, including FMLA time off.
- d) To use PPL, an employee must meet all eligibility criteria at the time of the birth, adoption, lawful adoption placement, or initial foster care placement.
- e) The entitlement to PPL expires at the end of the 12-month period beginning on the date of the birth, adoption, lawful adoption placement, or initial foster care placement.
- f) At the conclusion of PPL, the Judicial Branch will restore the eligible employee to the same or equivalent position, barring any unforeseen circumstances unrelated to the employee's taking leave (i.e., workforce reduction).
- g) An employee who terminates employment prior to the end of the 12-month period is not eligible for payment of any unused PPL.
- h) It is unlawful for an employer to interfere with, restrain, retaliate against, or deny the exercise of any right related to the use of PPL.
- i) An employer will take disciplinary action, up to and including termination, against an employee who uses PPL for purposes other than those set forth in this policy.
- j) PPL Eligibility and Usage Provisions:**
- i) PPL can be used for the following reasons:
- (1) To care for or bond with a newborn child of an eligible employee.
 - (2) To care for or bond with a child that is legally adopted by or lawfully placed for adoption with an eligible employee.
 - (3) To care for or bond with a child who is initially placed in foster care with an eligible employee who is the foster parent.
 - (4) To cover the elimination period in the State's STD program, if eligible, upon the birth of a child to an eligible employee.
 - (5) To supplement the State's STD benefit, if eligible, not to exceed 100% of the employee's creditable compensation following the birth of a child to an eligible employee.
- ii) For eligible employees who are permanent part-time employees, the maximum amount of PPL will be determined on a pro-rata basis.
- Casual seasonal employees, employed under Section 5903(17)a of Title 29 of the Delaware Code, are ineligible for PPL.

- iii) PPL may be requested in one continuous block of time (up to 12 calendar weeks) or may be requested in blocks of two (2) weeks of continuous time (2-week time periods).
 - One or more 2-week time periods may be requested and approved. (For example, an employee may request four (4) weeks, six (6) weeks, eight (8) weeks, or twelve (12) weeks).
 - The 2-week time periods may be consecutive or nonconsecutive.
- iv) PPL shall be charged as a full day regardless of the daily number of hours used, worked, or necessary to supplement STD benefits.
- v) PPL runs concurrently with FMLA and STD, as applicable, in accordance with the State's [Disability Insurance Program's Rules and Regulations](#)
 - STD Claim Filing Requirements: 5.1 Employees enrolled in the DIP are required to file an STD claim with the DIP insurance carrier or third-party administrator if the employee applied for or is receiving lost wage benefits (i.e., Workers' Compensation) or parental leave at the birth of a child. Once an employee exhausts the elimination period, the employee will be deemed to have applied for benefits under this subsection and will not be eligible to utilize paid sick leave or annual leave in lieu of application for STD. Employees not meeting the requirements noted in Section 9.0 of this regulation, will be deemed to have applied for benefits under this subsection and will not be eligible to utilize paid sick leave or annual leave in lieu of application for an extension of STD benefits.
- vi) If two (2) employees of the Judicial Branch are eligible for PPL for the same birth, adoption, lawful adoption placement, or initial foster care placement, each eligible employee is entitled to up to twelve (12) calendar weeks of PPL.
- vii) Multiple Births/Adoptions/Foster or Adoption Placements do not increase the amount of PPL. This means that PPL is capped at twelve (12) calendar weeks even if the birth, adoption, or placement involves more than one child.
- viii) An employee may not use accrued sick leave, annual leave, or other leave in lieu of PPL for the birth, adoption, lawful adoption placement, or initial foster care placement of a child. Additionally, an employee may not use accrued sick leave, annual leave, or other leave to extend their PPL.
- ix) If an employee requires leave before the actual birth, adoption, lawful adoption placement, or initial foster care placement due to medical reasons or to fulfill legal adoption or placement obligations, other available leaves may be utilized in accordance with the Judicial Branch Personnel Rules and the Delaware Code.
 - Based on an individual's specific circumstances, one or more of the following types of leave may be applicable:

- Sick leave used pursuant to Section 8.3.5 of the [Judicial Branch Personnel Rules](#) and STD as appropriate.
 - Annual leave used pursuant to Section 8.2 of the [Judicial Branch Personnel Rules](#).
 - Foreign Adoptions - pursuant to Section 5116(b) of Title 29 of the Delaware Code, any employee of the State who has been continuously employed on a full-time basis for at least 1 year at the time of application is entitled to utilize accumulated sick leave to travel out of the United States for the purpose of adopting a child from a foreign country. Employees must provide documentation that they have applied for the adoption and that the travel is required for the adoption to be approved. Once the adoption has been approved, leave will then be eligible for FMLA and PPL. For more information, please refer to Section 8.3.5.6 of the [Judicial Branch Personnel Rules](#).
 - Bereavement Leave is available when an employee has suffered a miscarriage, stillbirth, or other pregnancy-related loss. Please refer to the Judicial Branch Bereavement Leave Policy and Section 5125 of Title 29 of the Delaware Code for more details.
- x) PPL does not accrue and cannot be donated to the Donated Leave Bank or to another State employee.
 - xi) Holidays and closings based on severe weather conditions or emergency declarations occurring during a week when PPL is taken do not extend the PPL time.
 - xii) PPL expires twelve (12) months from the date of the birth, adoption, lawful adoption placement, or initial foster care placement of the child.
 - xiii) PPL is not payable for less than one workday of covered leave.

5. Procedures

- a) To apply for PPL, an eligible employee must:
 - i) Notify (verbally or in writing) and discuss with their immediate supervisor and employer's HR representative their request for PPL at least thirty (30) days in advance of the birth, adoption, lawful adoption placement, or initial foster care placement of a child. When thirty (30) days' notice is not possible, the employee must provide this notice as soon as practicable.
 - ii) Complete the Paid Parental Leave Request Form, the FMLA Forms, and initiate the STD claims process, as applicable. If requesting leave in 2-week time periods (as opposed to one continuous block of time), the employee must include a planned schedule with the Paid Parental Leave Request Form.

- iii) Submit completed forms to the employee's supervisor and HR representative.
 - (1) If applicable, the employee's supervisor must review the employee's planned schedule requesting noncontinuous 2-week periods of leave and document their approval on the Request Form.
 - (2) The HR representative must review the PPL request and determine the employee's eligibility. The HR representative must document the determination on the Request Form.
- iv) Notify their supervisor and HR representative upon the birth, adoption, lawful adoption placement, or initial foster care placement of the child.
 - This notification can be made verbally or in writing. If notification is first made verbally, the employee must follow-up with written notification.
 - If both parents are eligible employees under this policy, each parent must make this notification.
- v) Provide to the employee's HR representative legal documentation of a child's birth, adoption, lawful adoption placement, or initial foster care placement within thirty (30) days of the event or as soon as it becomes available. Acceptable legal documents must show both of the following:
 - (1) the date of birth, adoption, lawful adoption placement, or initial foster care placement.
 - (2) the name(s) of the legal, adoptive, or foster parents.

Examples of acceptable documentation include a birth certificate, report of birth, adoption order, adoption agreement, foster care placement agreement, or other official documentation verifying a qualifying event. If documentation cannot be provided at the time of the event or within the required timeframe, the employer will consider PPL on a case-by-case basis.

- vi) Provide further notification to the employee's HR representative of any changes to their approved schedule or intended return to work date.
- b) HR representatives must:**
- i) Communicate available leave options to an employee within seven (7) business days of receiving notice or a request for PPL.
 - ii) Provide the employee acknowledgement of a PPL request and initial approval, if applicable, within seven (7) business days of receipt of the PPL request.
 - iii) Keep the employee's supervisor apprised of any revisions in a parental leave request.
- c) An employee's failure to comply with procedures listed in this policy may result in delay or denial of PPL.**

6. Exclusions

- a) Casual seasonal employees, employed under Section 5903(17)a of Title 29 of the Delaware Code, are ineligible for PPL.
- b) If an employee has exhausted their PPL based on the lawful adoption placement or initial foster care placement of a child and subsequently adopts that child, the employee is not eligible for an additional twelve (12) weeks of PPL based on that adoption. To clarify, PPL for a particular child (or multiple children if involved in the same placement or adoption) is limited to one qualifying event.
- c) Surrogate mothers and sperm donors are excluded from coverage under this policy.
- d) An employee may not use PPL to cover an absence resulting from an administered disciplinary suspension.

7. Dissemination and Training

Each employer will provide this policy to current employees, who must read and acknowledge receipt within thirty (30) days. The policy will also be available on the Judicial Branch Intranet.

Each employer shall provide this policy to new employees as part of their onboarding or orientation. New employees shall then have thirty (30) days to acknowledge their review of the policy.

8. Data Reporting

To record PPL in PHRST, an HR representative must use the PPL Data Entry Requirements available at: [PPL Data Entry Requirements](#). All of the following information must be recorded in PHRST:

- the effective date of the birth, adoption, adoption placement, or initial foster care placement regardless of whether the child is enrolled under the State of Delaware Group Health Insurance Program.
- the effective date of the paid leave of absence when the employee begins taking PPL, including intermittent periods.
- the effective date of the return from PPL, including intermittent dates.

Based on PHRST data, Delaware's Department of Human Resources will submit a statewide PPL annual report to the General Assembly and the Governor.

9. Associated Policies, Regulations, and Resources

- [Disability Insurance Program Rules & Regulations](#)
- [Group Health Insurance Plan Eligibility and Enrollment Rules](#)
- [PHRST Paid Parental Leave Data Entry Instructions](#)

- Judicial Branch Bereavement Leave Policy
- [Pregnant Workers Fairness Act, 42 U.S.C. § 21G](#)

10. Associated Forms

- [Judicial Branch Parental Leave Request Form](#)
- [Judicial Branch Frequently Asked Questions \(FAQ\)](#)

11. Notes

This policy is not intended to create any individual right or cause of action not already existing and recognized under State or Federal law. If there is a conflict between this policy and any law or regulation, the law or regulation, as applicable, governs.

Employee Acknowledgement of the Judicial Branch Paid Parental Leave Policy

This is to certify that I have read, reviewed, and understand the provisions set forth in the Judicial Branch Paid Parental Leave Policy as presented to me.

Employee's Name: _____

Employee's Signature: _____

Employee's Signature Date: _____