

Pennsylvania's Living Donor Protection Act Provides FMLA Leave for Organ Donating Surgery

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Beginning June 26, 2021, Pennsylvania's [Living Donor Protection Act](#) (the "LDPA") will provide time off to organ and tissue donors to cover time off for donation surgery, including necessary preparation and recovery.

Pennsylvania employees will be eligible for leave under the LDPA if they meet the following FMLA eligibility criteria: the employee must (1) work for a covered employer, (2) work 1,250 hours during the 12 months prior to the start of leave, (3) work at a location where 50 or more employees work or within 75 miles of it, and (4) have worked for the employer for 12 months. Under the FMLA, an eligible employee may take up to 12 workweeks of unpaid leave a year, and is entitled to return to their same (or equivalent) job at the end of their leave.

Leave under the LDPA applies to an employee's own donation or to care for a spouse, child or parent who is making or receiving an organ or tissue donation. Under the LDPA, FMLA-covered employers must provide FMLA-eligible employees with leave that is the same as if the employee were taking it for other eligible reasons. Employers may ask for written documentation regarding the preparation and recovery necessary for surgery.

LDPA leave will run concurrently with FMLA leave. The Department of Health has been tasked with providing informational materials relating to living donors and the benefits of live organ and tissue donation. Additionally, the LDPA also ensures that insurers may not discriminate against living donors through policy conditions, acceptance or pricing, based solely on that person's status as a living donor.

Pennsylvania joined the growing list of states providing statutory leave to employees who donate all or part of an organ and/or tissue.

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