

The Federal Family Medical Leave Act (FMLA)

The FMLA 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 under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

- Twelve workweeks of leave in a 12-month period for:
 - the birth of a child and to care for the newborn child within one year of birth;
 - the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
 - to care for the employee's spouse, child, or parent who has a serious health condition;
 - a serious health condition that makes the employee unable to perform the essential functions of his or her job;
 - any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or
- Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

In addition to the Federal requirements, FMLA also allows states to set standards that are more expansive than what is required by federal law. Many states have chosen to do so. State by state details of FMLA Laws are on the following pages. Where no additional regulations are noted under the state specific information, the Federal FMLA requirements should be assumed.

Alaska FMLA Laws

Private Sector Employees

There are no additional leave laws relating to any of the covered under the Family medical Leave Act (FMLA) for Alabama's employees employed in the private sector.

Public Sector Employees

Alaska's Family Leave Act (AFLA) is only applicable to public-sector employees (state employees). When employees are eligible under both FMLA and AFLA (Alaska Family Leave Act of 1992), the entitlements run concurrently.

Public-sector employees must fulfill the following requirements:

- The employer must have more than 20 employees working within 50 miles for any period of 20 consecutive weeks in the preceding 2 calendar years.
- The employee has worked at least 35 hours a week for six consecutive months immediately preceding the date of the requested leave OR at least 17.5 hours a week for 12 consecutive months before the requested leave.

Public Sector Employees Exclusions:

- Those who are not subject to civil service laws.
- Those in a public elective position.
- Members of an elected official's staff.
- Those appointed by an elected official to a policymaking position.
- Employees of the legislative branch.

Alaska Leave laws (additional to FMLA) for state employees.

Leave details

An employer (who qualifies as having more than 20 employees) must grant eligible employees up to 18 weeks of paid or unpaid family leave in a 24-month period for the following:

- The birth of the employee's child or adoption of a child (other than a step-child).
- Care of employee's spouse, parent, or child who has a serious health condition.
- For the employee's own serious health condition.

Notice Requirement

The state requires a written notice of intended leave from the employee within a time period that is reasonably foreseeable and practicable. (Leave Request/Report Form 02-035) However, a verbal notice is sufficient in extenuating circumstances.

Medical Certification

An employer may require a medical certification regarding all requests for leave.

Continuation of Benefits

Employers must maintain the same or equivalent coverage for an employee on leave, however the employee may be required to pay for all or part of the coverage.

Substitution of Paid Leave

An employee taking family leave must first use accrued paid leave to cover a qualifying absence. When the employee has five days of paid leave remaining, the employee may choose to take the remaining leave as unpaid, while retaining the balance of five days of paid leave.

Donated Leave

An employee may donate leave to another employee of the same employer "only for use as leave for medical reasons." The following are approved medical reasons:

- Medical disability of an employee.
- Medical disability of an employee's immediate family member that requires the employee's attendance.
- Employee's own severe medical condition.
- Pregnancy and childbirth or adoption.

Restoration of Employment

Upon return the employee must be given his or her job back or its equivalent, along with its prior wages and benefits, unless circumstances have changed, making job restoration impossible or unreasonable.

FMLA Laws in Arizona

State Employees

Medical and family leave are only applicable to employees in "state service." Excluding elected officers and appointed members of boards and commissions in the executive branch.

Sick Leave

Accrued paid sick leave is used for absence due to:

- An employee's own illness or injury.
- Disability due to pregnancy, childbirth, miscarriage or adoption.
- Examination or treatment by a licensed healthcare provider.
- Illness, injury or medical treatment by a licensed healthcare provider for an employee's spouse, dependent child, or parent.

Dependent child is defined as a natural, foster or adopted child.

Parent is defined as a birth or adoptive parent, step-parent, foster parent, grandparent, parent-in-law, or someone "in place of a parent."

Sick leave may not exceed 40 hours per calendar year. An agency may request documentation to support the need for sick leave.

Leave for a Serious Health Condition

If an employee's circumstance qualifies as FMLA leave, before taking FMLA leave without pay:

- An employee must first exhaust all accrued sick leave and annual leave when an employee's own health condition requires the leave.
- An employee may use sick leave and then must exhaust all annual leave when taking leave to care for a family member.

Parental Leave

- An employee may take up to 12 weeks of parental leave for childbirth, miscarriage, abortion or adoption of children.
- An employee may use any combination of annual leave, sick leave, compensatory leave or leave without pay.

- An employee shall not be forced to spend all of their sick, annual or vacation leave before taking "leave without pay".
- At the end of parental leave, an employee is entitled to return to his or her previous job. If the position no longer exists, a reduction-in-force may be conducted.

Donated Leave

- Family members working in a state agency, and employees working within the same agency as an employee, may donate leave to that employee.
- Donated leave can be used for an employee's "seriously incapacitating illness or injury" or to care for a family member after the employee's own sick and annual leave has been exhausted.
- Maximum leave allowed is six consecutive months for each qualifying occurrence.

Bereavement Leave

Time allowed: 24 work hours, or 40 hours (if the employee must travel outside of Arizona for the funeral) for the death of:

- Spouse, parent (as defined above), father, mother, brother, sister, brother-in-law, son-in-law, sister-in-law, daughter-in-law.
- Child—defined as: natural, adopted, foster, step-child or grand-child.

Continuation of Benefits

When on leave without pay, an employee may opt to continue to participate in the health benefit plan (as long as they pay both the state and employee contribution) for:

- A maximum of 30 months for health related leave.
- A maximum of 6 months for non-health related leave.

Military Leave

When an employee requests absence without pay for military leave:

- He/she must submit a copy of orders for duty.
- Maximum leave is 240 work hours in any two consecutive years.

Arkansas FMLA Requirements

State Leave Requirements in Arkansas

Only full-time employees in "state service" qualify under the provisions of the Arkansas Uniform Attendance and Leave Policy Act, excluding:

- Elected constitutional officers and their employees.
- The General Assembly and its employees.
- The state Highway and Transportation Department.
- Most members of the courts.
- Certain employees of state-supported institutions of higher learning.

Sick Leave

Arkansas grants sick and maternity leave to state employees. State employees only qualify for sick leave if a sickness or illness inhibits them from performing their job, or if they have optical, medical or dental treatment.

Sick leave may also be used for bereavement due to the death or serious illness of an immediate family member. An immediate family member is defined as a:

- Parent.
- Sibling.
- Spouse.
- Child.
- In-laws.
- Any individual acting as a parent or guardian to the employee.

Sick leave should be applied for in advance if possible. If the employee uses more than four consecutive sick days, he/she must obtain a certificate from their doctor disclosing the need for sick leave. Any absences due to sick leave must be charged against accrued sick leave, earned annual leave, catastrophic leave and leave without pay, in that order, and an employee must use all of their accrued sick days before taking leave without pay for an illness.

Maternity leave:

Maternity leave works similar to sick or disability leave, with the exception that employees do not have to use any/all accrued sick or annual leave days, though they may if they wish. If all paid leave is exhausted, leave without pay may be used.

Leave Without Pay:

State employees may request and be granted up to six months of leave without pay by their agency director, with the option of applying for another six months of leave after the first six transpire. Leave with pay may be denied by the agency director if the employee's leave would cause hardship to the agency.

The employee must have exhausted all of their sick leave before being able to take leave without pay under the Arkansas Uniform Attendance and Leave Policy Act.

California FMLA

Family Leave Requirements for California

California has both paid disability insurance and leave rights. The state's leave rights are codified in The Fair Employment and Housing Act (FEHA) and the California Labor Code. The FEHA is a broad anti-discrimination law.

All Employers

Family Leave

The California Family Rights Act is a part of the FEHA and very similar to the FMLA. The CFRA covers private employers with 50 or more workers within 75 miles of the worksite and public employers with any number of workers. Employees that are eligible are allowed to take up to 12 weeks in any 12-month period.

Family and medical care leave is allowed for the following reasons:

- Birth or adoption of a child, or placement of a foster child.
- Serious health condition of a spouse, child, or parent.
- Employee's own serious health condition.

Employee Eligibility

Employees are eligible if they have worked for their employer for 1,250 hours in the previous 12-month period.

Birth or Adoption of a Child

CFRA has unique allowances regarding time and manner in which leave is taken involving birth, adoption or placement in foster care. CFRA provides that a minimum duration of such leave is two weeks. In addition, the employer must grant requests for leave in increments of at least one day, but less than two weeks, on two separate occasions.

Leave for both Parents

- Each parent is eligible for up to 12 weeks of CFRA family leave for the birth, adoption or foster care of a child.
- If parents work for the same employer, they must share leave.

Continuation of Benefits

- Employers must continue and pay for medical coverage under a group health plan for an employee who is on CFRA leave during the leave.
- Coverage will not exceed 12 workweeks in a 12-month period.
- An employer may recover premiums paid for coverage if employee fails to return from leave and if the employee's failure to return is not due to the continuation, recurrence or onset of serious health condition or other circumstances beyond the control of the employee.

Substitution of Paid Leave

- The employer may require or an employee may elect that the employee substitute accrued vacation leave under CFRA.
- The employer may require or an employee may elect that the employee substitute accrued sick leave under CFRA if leave is due to employee's own serious health condition.
- Employees may not use sick leave for the birth, adoption or foster care of a child unless employer agrees.

Exemption for Reinstating Highly Compensated Employees

- Employers must allow family or medical leave to a salaried employee who is among the top 10% of earners of employees working within 75 miles of the worksite.
- Restoration of employee to previous work status is at the discretion of employer if the restoration would be detrimental to the employer's business. (See ¶421 of the Handbook for details.)
- Employee must be notified by employer of intent to refuse reinstatement.
- If leave has already begun, employer must give employee a reasonable opportunity to return to work following the notice.

Basis for Wrongful Discharge Claims

An employee may file a wrongful discharge claim, asserting a violation of public policy under CFRA.

Enforcement Mechanisms

- CFRA can be enforced through administrative or court action.
- A case brought before the FEHC (Federal Employment and Housing Commission) may be ordered by the commission to reinstate employee with back pay.

- The FEHC may also award actual damages for conditions relating to pain and suffering, mental anguish or other causes of up to \$50,000 and assess civil penalties of up to \$25,000.
- Disputes litigated in a court of law may be awarded unlimited damages, attorney's fees and compensatory damages.

Pregnancy Disability Leave

- Under the FEHA, private employers with five or more employees and public employers must provide up to four months leave for pregnancy, childbirth or related conditions regardless of amount of time a woman has been employed and regardless of whether she works full or part-time.
- If an employer allows leave for more than four months for other disabilities, it must also allow that same amount of time for pregnancy disability.
- An employee who becomes pregnant or gives birth could take up to 28 weeks of leave during a 12-month period if she qualifies for CFRA or FMLA leave in addition to FEHA leave.
- Employees may use accrued vacation leave or sick leave during pregnancy disability leave. (State employees have paid disability leave under their NDI program.)

Expanded Sick Leave ('Kin Care') (Cal. Lab. Code §233)

- All private and public employees are allowed to use accrued sick leave to care for a sick child, parent, spouse or domestic partner. (The statute does not limit the definition of illness.)
- This law is not linked to the CFRA or the FMLA, but it states that it does not extend the maximum period of leave that an employee is legally entitled to under those laws, regardless of whether an employee receives sick leave compensation during leave.
- If the leave qualifies for FMLA or CRFA protection, paid leave under the code would run concurrently with leave offered by state and federal laws.
- Annual sick leave available for "kin care" must be at least half of what the employee accrued in one year. Any remaining sick leave may be restricted for use for employee's own illness.
- Sick leave does not include any benefit provided under an employee welfare benefit plan and does not include any of the following benefits: insurance, workers' compensation, unemployment compensation disability or a benefit not payable from the employer's general assets.
- If an employer does not allow an employee to use accrued sick leave for "kin care" or otherwise interferes with an employee's right to use sick leave in this way, the

employee is entitled to reinstatement (if terminated) and actual damages or one day's pay, whichever is greater.

- If an employer provides sick leave for its workers, the law's mandates must be followed.
- Employers may change their existing sick leave policies.
- Employers who have uncapped sick leave plans are not subject to the "kin care" provision of §233, under a California Supreme Court ruling.

Organ and Bone Marrow Donation

- Under the Michelle Maykin Memorial Donation Protection Act, an employee who has exhausted his or her sick leave may take up to 30 day leave of absence for purpose of organ donation and for up to 5 days for bone marrow donation in one year.
- Leave will be counted as business days, not calendar days.
- The year period for measuring how much leave can be taken must begin on the day the employee's leave starts, rather than the start of the calendar year.
- Leave cannot be considered a break in service when calculating salary adjustments, accrual of vacation, sick leave, paid time off or seniority.
- Employees receiving bone marrow donations may take up to five days of accrued vacation, sick leave or paid time off and up to two weeks of such time for organ donation receipt, before an employer is obligated to pay employees for bone marrow or organ donation time off, unless such a policy would violate a collective bargaining agreement.
- The employee must provide written certification of the need and eligibility for the donation.
- Employees must be allowed to remain on the employer's group health plan, paying premium contributions as if the employer were still at work.
- Employees must be reinstated to the same or equivalent position.
- Leave need not be all at once. There may be other necessary medical procedures related to the donation. In this case, the total allotment must not exceed 5 days for bone marrow donation or 30 days for organ donation.
- Bone marrow and organ donation leave is separate from and in addition to FMLA or CFRA leave. Therefore, an employee may take an additional 12 weeks of unpaid leave for serious health condition related to the donation.
- Employers may not interfere with or retaliate against donation leave, nor may employers use unlawful employment practices related to such leave.
- Employees may seek private claims for enforcement of these provisions.

School Visitation

- Employers with 25 or more workers at the same location must allow employees to take up to 40 hours of leave each year, but not more than 8 hours in one month, to visit their children's school.
- Covered employees are protected from discharge, demotion or other discrimination related to this leave.
- School visitation covers parents, guardians or grandparents having custody of minor grandchildren.
- Employees must give reasonable notice before taking such leave.
- Employees must use existing vacation leave, personal leave, unpaid leave or compensation time off for purposes of school visits.
- Documentation maybe required as proof that employee participated in school related activities on a certain time and date.

Crime Victim Leave

- An employee who is a victim of a crime or is required to serve on a jury may be entitled to crime victim leave.
- An employee who is a victim of sexual assault or domestic violence may take leave to obtain injunctive relief.
- Advance notice should be given when feasible and certification should be provided to the employer within a reasonable time after absence.
- An employee may use compensatory leave when applicable.
- An employer with more than 24 employees must allow employees who are victims of crime to take additional leave for medical attention, psychological counseling and safety planning. Advance notice should be given when feasible and certification should be provided to the employer within a reasonable time after absence. Compensatory leave may be used when applicable.
- An employee may also take leave to attend a judicial proceeding of an immediate family member who was a victim of a violent or serious felony or a felony relating to theft or embezzlement.
- Immediate family includes spouse, child, siblings, parents and step-relatives. Advanced notice should be given and compensatory leave may be substituted.

Civil Air Patrol

- The California Civil Air Patrol Employment Protection Act requires employers with more than 15 employees to provide at least 10 days of leave per year to volunteer members of the California Wind of the Civil Air Patrol responding to an "emergency operational mission".

- This provision is in addition to other leave benefits required by law.
- Those qualified must be employed at their current employer at least 90 days prior to beginning of leave.
- Employees must give advance notice of leave when possible.
- Employees must be restored to prior position or position equivalent in pay, benefits, and seniority after leave, unless the employee is not restored for reasons unrelated to the exercise of leave rights.
- The law does not require employers to grant leave to employees with Civil Air Patrol who are required to act as first responders for federal, state or local agencies answering the same or simultaneous operational mission.

All Non-State Employers

Paid Family Leave

- Nearly all private sector employees and non-state public sector employees are covered by the State Disability Insurance program (SDI).
- Paid family leave is offered to most workers with the Paid Family Leave program. (PFL)
- PFL is an extension of the SDI program, broadening the concept of "disability" to include "family disabilities".
- PFL and SDI are funded entirely by employees

Employee Eligibility

All California employees who pay into the disability fund are covered. (State workers have a separate disability fund – see below.)

Family Disabilities Covered

- The illness of a family member or new-child bonding is covered.
- Employees are given partial compensation for up to six weeks within 12-month period.
- Employees are eligible to receive a "weekly benefit amount" which is listed in Cal. Unemployment Benefit Code §2655

Employee Cost

Employee contributions vary annually depending on fund balance.

Employer Administration

- There is no direct cost to employers for implementing PFL.
- It is funded by an increased tax on employee's wages payable to the SDI.

- Both programs are administrated by California's Employment Development Department, which receives and processes applications for leave and sends checks to employees.

Penalties

There are strict penalties for falsifying certifications of illness and false statements of a need for family leave.

State Employers

Paid Disability Leave

An employer-funded, Nonindustrial Disability Insurance is available to certain state employees.

Colorado FMLA

State Employers

Administrative rules govern the granting of sick leave, leave for pregnancy, and care of a sick immediate family member for an employee. Administrative rules also govern family leave for adoption, birth or the serious illness of an immediate family member. These rules cover state employees with at least one year of service and 1,250 hours worked in the year before leave begins. Calculation of the 1,250 hours includes periods of paid leave and overtime.

Sick Leave

Personnel rules and administrative procedures grant an employee sick leave for medical examination and treatment. Employees may also use accrued sick leave for the health needs of:

- An employee's child under the age of 18 or incapacitated adult child.
- An employee's parent.
- An employee's spouse.
- An employee's legal dependent; or
- Anyone living in employee's household for whom the employee is the primary care giver.

Certification May Be Required

Employees must request leave on an authorization form with as much advance as possible. The request-for-leave should take into consideration employee's privacy rights as well as employer's need to know if condition qualifies for FMLA.

Fitness-to-Return Certification

A fitness-to-return certification may be required for absences of 30 or fewer days when it is a business necessity given the nature of the condition in relation to the assignment. It cannot be required for those taking intermittent family/medical leave.

Substitution of Leave

All accrued personal leave must be used before using unpaid leave for the remainder of family/medical leave.

- All other types of leave run concurrently with family/medical leave.
- Other types of leave do not extend leave time.

- If all paid leave had been exhausted and employee is still unable to return to work, unpaid leave may be granted or the employee may be administratively separated by written notice.

Protection from Discharge

If family/medical leave and/or short-term disability leave apply, an employee may not be administratively discharged. If an employee is terminated because of a physical inability to perform the job, the employee must be placed on departmental re-employment list for referral upon recovery.

Family Leave

An employee with a minimum of one year of full-time service must be provided up to 520 hours of family/medical leave in a fiscal year. Family/medical leave may be granted to eligible employees for:

- The birth and care of employee's child within one year of birth.
- Placement and care of adopted or foster child within one year of placement.
- A serious health condition of employee's parent, child, spouse for physical care or psychological comfort.
- An employee's own health condition.

Notice Requirement

When the need for leave is foreseeable, an employee must provide at least 30 days' written notice, or as soon as practicable.

Certification Requirements

The employee must provide proper medical certification to the employer. If the employee fails to do so, the leave is not deemed family/medical leave and the employee is not covered under these provisions.

Continuation of Benefits

Benefits coverage will continue while employee is on family/medical leave.

- If the employee is on paid leave, premiums will be paid through payroll deduction.
- If the employee is on unpaid leave, the employee is responsible for paying premiums according to benefits and payroll procedures.

Intermittent Leave Permitted

In situations where there is a serious health condition and it's medically necessary, family/medical leave may be used on an intermittent basis or with a reduced schedule.

Reinstatement

When an employee returns to work after family/medical leave, he or she must be reinstated to the same or equivalent position including pay, benefits, schedule and other working conditions. If employment would have otherwise been terminated due to performance, layoff or end of an appointment, employee does not have restoration rights.

Bereavement Leave

An employee may take up to 40 hours of paid leave at the time of death of a family member. The decision to grant leave and the amount of leave is determined by the relationship to the deceased and the distance and travel time needed.

Military Leave

Members of the National Guard, military service or National Disaster Medial Service are granted up to 15 paid workdays in a calendar year. After exhaustion of the 15 days of paid leave, the employee may use paid leave or annual leave.

Unemployment Insurance

Colorado's unemployment compensation law, the Employment Security Act, allows full benefits to be paid to employees who are separated from a job because a member of the immediate family require the employee to care for that person due to an illness or disability and that care extends for a period of time greater than the employee's medical leave, absence policy or FMLA leave. This is allowed under the following requirements:

- The employee informed the employer, if the employer requires the employee to give notice of the condition of the employee's immediate family member, and;
- When requested, the employee provides a competent statement verifying the condition of the immediate family member.

All Employers

Adoptive Parents Leave Act

This is applicable to both public and private employers with one or more employees. It requires employers who permit maternity or paternity leave for biological parents following the birth of a child to make that benefit available to adoptive parents as well.

- Biological and adoptive parents shall be granted the same period of leave.
- Other benefits, such as job guarantee or pay, also must be available to adoptive parents and birth parents on an equal basis.

Parental Involvement in K-12 Education Act

Employers with at least 50 employees must provide unpaid leave for non-supervisory workers to attend parent-teacher conferences and other activities for the educational progress of their children.

- The law exempts businesses in which such leave could endanger the health and safety of others.
- Leave is limited to six hours a month and 18 hours per academic school year, and may be taken in three (or less) hour increments.

Connecticut FMLA

Connecticut's family and medical leave laws cover both private and public employers.

Private-Sector Employers (Conn. Gen. Stat. Chapter 557 § 31-51kk to 31-51qq)

Covers employers with 75 or more employees (determined annually on Oct. 1). Provides up to 16 weeks of unpaid family leave or medical leave within a two-year period for:

- Birth, adoption or foster care.
- Serious illness of an employee's child, step-child, legal wards (and children for whom employee stands "in loco parentis"), spouse or parent, foster parents, step-parents, parents-in-law, and legal guardians.
- Employee's own serious illness.
- Donation of bone marrow.

Currently, there is a legal dispute over whether the statute covers employers with 75 or more employees only within the state of Connecticut or throughout the United States. In the meantime, employers with as many as one employee in Connecticut should consider consulting counsel about granting leave under Connecticut law.

Connecticut recognizes civil unions for same-sex couples, therefore the same legal benefits apply to same-sex couples, including serious health conditions of a domestic partner and serious health conditions of a partner's parent or child.

Employee Eligibility

An employee is eligible if the employee has worked for the employer for 12 months or more and for 1,000 or more hours in the 12-month period preceding the first day of leave. Spouses employed by the same employer may take a combined total of 16 weeks of FMLA in a two-year period if the leave is for the birth, adoption, placement of a foster child, or to care for a sick parent.

Methods to Determine Leave Period

Eligible employees are entitled to a total of 16 workweeks in any two-year period, to be determined by using any of the following methods:

- Consecutive calendar years.
- Any fixed 24-month period beginning at the employee's first date of employment.
- A 24-month period measured from the employee's first day of leave.
- A rolling 24-month period measured backward from employee's first day of leave.

Notice Requirement

An employee must provide the employer with at least 30 days' notice, if possible, when requesting leave for his or her own serious illness or family leave for the serious illness of a child, spouse or parent.

Written Certification May Be Requested

An employer may require certification from a healthcare provider to substantiate an employee's request for a serious health condition. Such certifications must include:

- Date on which serious health condition commenced.
- Probable duration of condition.
- Appropriate medical facts within the knowledge of the health care provider regarding the condition.

Continuation of Benefits

Taking family or medical leave will not result in the loss of any employee benefits accrued prior to the date on which leave began.

Substitution of Paid Leave

In substitution of paid leave for unpaid FMLA leave, Connecticut law mirrors FMLA. Under FMLA leave for birth, adoption or to care for a spouse, child or parent with a serious health condition or for employee's serious health condition:

- Eligible employees may choose to substitute accrued vacation, personal, or family leave.
- Eligible employers may require employee to substitute accrued vacation, personal, or family leave.
- Eligible employees may choose or be required to use accrued vacation, person or sick leave in place of unpaid FMLA leave.
- Employers are not required to provide paid sick leave in any circumstances in which it would not normally provide such paid leave.

Public Act No. 03-213 permits an employee to use up to two weeks of accumulated, paid sick leave to attend to a serious health condition or a son or daughter, spouse, parent or birth or adoption.

Birth or Adoption

Employees, taking leave for birth or adoption of a child, are required to provide at least 30 day notice when possible of intent to take leave. State law also provides for

intermittent leave for birth or adoption of a child if mutually agreed upon by the employer and employee.

Intermittent Leave Permitted

When the need for intermittent leave is foreseeable, upon employee's request, the employer may require employee to transfer temporarily to an available alternate position for which employee is qualified, with equivalent pay, benefits and which better accommodates intermittent leave. Such arrangements must not conflict with established collective bargaining agreements.

Reinstatement

When leave has expired, an employee is entitled to:

- Be reinstated to his or her original job and pay.
- If the job is no longer available, to an equivalent job with equivalent pay.
- To all accumulated seniority, retirement, fringe benefits and other service credits that the employee had at the beginning of the leave period.

Family Violence

In accordance with Public Action 10-144, employers with at least 3 workers must offer up to 12 days unpaid leave per calendar year to:

- Employees who are victims of family violence crimes; or
- Employees whose family or household members are victims of family violence crimes.

Family or household members are defined as:

- Current or former spouses.
- Parents and children.
- Individuals related by blood or marriage who are at least 18 years of age.
- Individuals with a child in common.
- Individuals who are, or recently have been in a dating relationship.

Reasons for leave include:

- To seek medical care or counseling.
- To obtain services from a victims services organization.
- To relocate due to family violence.
- To participate in civil or criminal proceedings due to family violence.

Employers may require 7 day notice of foreseeable leave and may require a written statement to certify that the leave is for authorized reason.

Employers may request police or court report, or written statement from a service organization, attorney, medical professional or state victims' rights advocate.

Records and statements must be kept confidential unless disclosure is required by law, or to protect employee's safety in the workplace. Employee must be notified in advance of such disclosure.

Public-Sector Employers (Conn. Gen. Stat. § 5-248a)

Allows a state employee, including those in same-sex unions, up to 24 weeks of unpaid leave with in a 2-year period for the following reasons:

- Birth or adoption of a child.
- Serious illness of an employee's child, spouse, parent, domestic partner, or domestic partner's child or parent.
- Employee's own serious illness.
- Donation of an organ or bone marrow.

This leave is in addition to any type of paid leave or benefits provided to state employees.

Employee Eligibility (Conn. Gen. Stat. § 5-196)

This law pertains to "permanent employee", defined as employees in classified service under permanent appointment or employment, or unclassified service employees who have served in the position for more than six months.

Written Certification Required

When requesting medical leave due to a serious illness, an employee must provide written certification from a physician stating the type of illness and its probable duration.

Continuation of Benefits

The state must continue to pay for health insurance benefits for employees while on family or medical leave. To continue other health benefit coverage (for spouse or dependents), the employee must contribute the same portion of the premium that he or she was responsible before taking leave.

Statement of Intent to Return Required

Prior to the start of leave, an employee must present the employer with a signed statement of intent to return to work upon expiration of leave. (This is not required by federal FMLA.)

Delaware FMLA

Leave for State Employees:

- Adoption
 - State employees are allowed up to six weeks of unpaid leave in the event that the employee adopts a child
 - Employee must have been continuously employed on a full-time basis for at least one full year before the time of the requested leave.
 - The accumulation of sick and leave days freezes during the employee's leave and the employee must be reinstated to his/her original position once they return from their leave.
 - Full-time and part-time employees are also entitled to use their accrued sick days following the birth of a child or the adoption of a pre-kindergarten-age child.
- Bone Marrow/Organ Donation
 - Employees may take no more than seven days of leave to donate bone marrow and no more than 30 days of leave to serve as an organ donor without loss or reduction of pay.

Note: Employees under collective bargaining agreements may have different requirements.

Leave for School Employees:

- Family Leave

Both full-time and part-time school employees have the right to use saved sick days for the following:

1. Birth of a child.
2. Adoption of a child.
3. Adoption of a pre-kindergarten-age child for maternity leave.
4. An immediate family member's serious illness which requires the attention of the employee's.

Employees wishing to use leave for any of the previous reasons must tell their immediate supervisors in advance if possible during the first hour of absence or as soon as possible thereafter.

Supervisor may request certification doctor verification.

Supervisor will request certification for all leave lasting longer than five consecutive days.

- Compassion Leave

Employees may leave for no more than five days after the death of an immediate family member. An immediate family member is defined as the employee's:

1. Spouse.
2. Domestic partner.
3. Parent.
4. Stepparent.
5. Grandparent.
6. Grandchild.
7. Sibling.
8. Spouse of an employee's child.
9. Any relative who resides in the employee's household.
10. Any minor child for who the employee carries out parental responsibilities.

Employees may also take leave for "near relatives", which include:

11. First cousins.
12. Aunts.
13. Uncles.
14. Nieces.
15. Nephews.
16. Brothers-in-law.
17. Sisters-in-law.
18. Grandparents-in-law.
19. Any other friend living in the employee's household.

Florida FMLA

Note: Florida's state leave laws only apply to state employees.

Parental & Family Leave

State employees are entitled for up to six months of parental or family leave according to state law for the following conditions:

- Pregnancy of the employee or the employee's spouse.
- Adoption of a child by the employee.
- A serious family illness which includes:
 - Accidents.
 - Diseases or conditions which possess imminent danger of death.
 - Hospitalization involving an organ transplant.
 - Limb amputation or procedures with similar severity.
 - Mental or physical conditions requiring in-home care.

Leave Approval Mandatory

It is illegal for the state to refuse to grant a career service employee six months of unpaid parental or family medical leave. The employee must notify their employer with a doctor's certification of the date which their leave will start, and a request of leave for a serious health condition of an employee's child, parent or spouse must be approved by the employer.

Employees may use accrued annual leave for parental or family leave if they wish, and cannot be denied use of accrued paid sick or family sick leave for any reason deemed necessary by a physician or established by a policy. The state may also not require career civil service employees to take leave.

Returning from Leave

Employees must be reinstated to the same job or equivalency (equal position, pay, seniority, retirement, fringe benefits and other service credits) upon returning from leave. If the employee activated paid leave anytime during their leave, the employee must be allowed to accrue all benefits granted under paid leave status.

School Activities and Family Responsibilities Leave

For the following activities, state employees are granted one hour of administrative leave per month:

- Local activities involving preschools and kindergartens through high schools.

- Visitation of children in day care centers.
- Local school activities (tutoring, guest speaking, career-day activities, etc.).

Employees may also be granted family leave without pay for a period not exceeding 30 calendar days (providing the leave has minimum impact on the employee's work unit) for "family responsibilities", which are:

- Caring for aging parents.
- Involvement in settling parents' estate upon death.
- Relocating dependent children into schools.
- Visiting family members in places that require extensive travel time.

Georgia FMLA

Note: Georgia's family and medical leave law was repealed on July 1st, 1995.

The state provides leave for state employees under the following events:

- Donating an organ for transplant (30 days of paid leave, certification required).
- Donating bone marrow (seven days of paid leave, certification required).
- Donating blood (eight hours per calendar year).
- Donating platelets or granulocytes (16 hours per calendar year).

Hawaii FMLA

Covering All Employees:

Maternity Leave

Female employees may leave "for a reasonable period of time", determined by the employee's physician, any debilitating conditions involving childbirth or pregnancy. The employer may request certification for leave, and the employee must be restored to her prior employment concluding the leave.

Civil Unions

Civil Unions, allowed since January 1st, 2012, makes all "partners to a civil union... have all the same rights, benefits, protections, and responsibilities under law" (Act 1 of Senate Bill 232), meaning all leave laws cover those in civil unions.

Covering State Employees:

State employees in the executive branch may be eligible for leave under a shared leave program for:

- Recovering from a serious personal illness or injury.
- Caring for a family member who has a serious person illness or injury and is incapable of self-care.

Covering Certain Public-Sector and Private-Sector Employees:

Coverage & Eligibility

Hawaii's Family Leave Law covers private and public employers that employ 100 or more employees for each working day during each of 20 or more weeks in the current or preceding calendar year. Cover employees include those who perform services for hire for at least six consecutive months for the employer the employee is requesting leave from.

Family, Paid & Unpaid Leave

Eligible employees are entitled to a total of four weeks of family leave during any calendar year (may be used intermittently) for:

- Birth or adoption of a child.
- To care for an employee's child, spouse, reciprocal beneficiary or parent with a serious health condition.

Regarding family leave:

- It can be paid, unpaid or a combination of both.
- If an employer provides paid leave for less than four weeks, unpaid leave may be added to reach the four-week total.
- Employers must let employees use their accrued and available sick leave for family leave purposes.
- Paid sick leave is limited to 10 days per year unless a collective bargaining agreement provides for the use of more.
- The employee or employer may elect to substitute any of the employee's other accrued paid leave (vacations, personal, family leave, etc.) for any part of the four-week period if legally allowable and agreeable upon both parties.

Employers may require medical certification for any requested family leave, including:

- Certification for the birth of a child issued by a health care provider or family court.
- Certification of the placement or adoption of a child with the employee.
- Certification of a serious health condition of a child, spouse or parent by a health care provider.

Definitions

As used in all accompanying Hawaiian laws, the following words are defined as:

- "Child" – step-child, foster child, adopted child or legal ward.
- "Parent" – a biological, foster or adoptive parent, parent-in-law, step-parent, legal guardian, grandparent, or grandparent-in-law.
- "Reciprocal beneficiary" – an adult with whom the employee has entered a legal partnership because he or she is not permitted to marry legally. This may include (but is not limited to) same-sex couples, adult brothers and sisters, widowed parents, adult children, aunts, uncles, nieces or nephews
- "Serious health condition" – a physical or mental condition requiring the employee's participation to provide care during the inpatient or continuing care treatment

Reinstatement

All employees returning from leave must be reinstated to their original position or something equivalent with equal benefits and pay, but employees do not accrue any seniority or benefits during their leave and they cannot lose any benefits accrued prior to the leave. If the employer has experienced a layoff or reduction in force during an employee's leave and the employee would have lost the position if he or she were working, the employee is not entitled to reinstatement in the former or equivalent position.

Idaho FMLA

All provisions of the Federal Family Medical Leave Act apply to employees in the state of Idaho except for:

- Employees of work sites employing less than 50 employees in a 75-mile radius of its headquarters.
- The limitation on the reinstatement of the highest-paid employees.

Parental Leave:

State employees disabled by pregnancy, childbirth or related medical conditions are considered temporarily disabled for the purpose of sick leave, however employees who are pregnant are allowed to work for as long as they are physically able (and may return to work when their physician certifies that they are physically capable of performing their job duties).

Maternity leave preceding or following a period of temporary disability of this type is normally leave without pay, however employees may use accrued vacation time or any other compensatory time off.

All Other Reasons for Leave:

- Family Sick Leave – Employees in Idaho are allowed to use accrued sick days "in cases of actual illness, disability or other medical and health reasons necessitating the employer's absence from work, or in situations where the employee's personal attendance is required or desired because of serious illness, disability, or death and funeral in the family."
 - "Family" includes spouse, parent, child, brother, sister, grandparent, grandchild, or any relationship granted upon marriage.
- Bone Marrow, Organ Donor Leave – Full-time employees are granted five work days of leave with pay in order to donate bone marrow or 30 days of leave with pay to donate an organ (written verification is required). Paid leave is limited to one-time bone marrow and one-time organ donor leave per employee..
- Other Medical Leave – Laws also allow for up to two hours of leave for each personal or family member medical, dental or optical examination or treatment; this time won't be charged to an employee's sick leave..

Return-to-work Forms:

Employees are required to provide return-to-work release forms if, due to the job and nature of the health condition at issue, light-duty work or other accommodations are requested, or if the agency reasonably requires assurance that the individual's return to work will not pose a significant risk to the employer or his/her coworkers.

Illinois FMLA

State Employers: Employee Eligibility

All employees who have worked for the state for at least 12 months qualify for family and medical leave under the same conditions as the federal Family Medical Leave Act.

Note: The Illinois Religious Freedom Protection and Civil Union Act may affect leave taken under Illinois law for those in civil unions; please consult an employment attorney for more information.

Types of Leave:

- **Parental and Family Leave:** State employees may request child care leave for the adoption of a child or for parental reasons such as caring for a seriously ill or emotionally disturbed child, or "similar serious family dilemmas".
 - Adoptions: employees are eligible for two weeks (10 work days) of paid adoption leave after the employee has obtained physical custody of the child. Maternity, paternity and adoption leaves are limited to one leave per family, per year.
- **Maternity Leave:** Female state employees that pre-certify their pregnancies within the first 20 weeks will be eligible for four week (20 work days) of paid maternity leave, while employees that pre-certify a spouse's pregnancy are entitled to three weeks (15 work days) of paid leave.
 - Three weeks of paid leave is also available for adoptions.
 - Maternity, paternity and adoption leave is limited to one leave per family, per year, for families that have more that one member employed by the state.
- **Family Responsibility Leave:** One year of leave may be allotted for a "duty or obligation perceived by the employee to provide care, full-time supervision, custody or non-professional treatment for a member of the employee's immediate family or household."
 - This leave may be used for:
 - Providing nursing or custodial care for a newborn infant.
 - Caring for a temporarily disabled, incapacitated or bedridden resident of the employee's household.
 - Settling the estate of a deceased member of the employee's family.
 - Other specified purposes.
 - The state will pay its share of employee and dependent health and dental insurance premiums for up to six months.

- State employees may also use this leave in the event of serious illness, disability or injury to the employee or a member of the employee's immediate family.
- **Organ Donation:** Employees employed by a state agency for at least six months may take paid leave to donate an organ, bone marrow, blood or blood platelets. They may use (according to the Organ Donor Leave Act):
 - 30 days of organ donation leave in any 12-month period to serve as a bone marrow or organ donor.
 - One hour to donate blood every 56 days.
 - Two hours to donate blood platelets.

All leave periods may be extended from one to 90 calendar days without pay and without deduction of continuous service. Employees may also request an additional 90 days of leave from the director of personnel, however an additional 90 days will be deducted from the employee's continuous service.

All Employers:

School Visits

All Illinois employers with 50 or more employees must allow employees who have been employed for at least six consecutive months up to eight hours of leave to visit their children's schools during the school year.

- Employees may not take more than four hours of school visitation leave in one day.
- Leave may not be taken if the employee has not exhausted all accrued vacation leave, personal leave or any other type of leave excluding sick or disability leave.

Blood Donation

Full-time employees who have worked for a local government agency or a private employer with 51 or more employees for six months or more may take one hour of paid leave to donate blood, according to the Employee Blood Donation Leave Act.

Family Military Leave

Employees who have been employed at least one year and have worked at least 1,250 hours may take unpaid leave when their spouse, child, parent or grandparent is called to military service lasting longer than 30 days.

The amount of leave varies with the size of the company:

- 15 to 50 employees – 15 days of leave.

- 50+ employees – 30 days of leave, but that amount can be reduced by the number of leave days provided to an employee for a "qualifying exigency" under the federal FMLA.

Employees must first exhaust all accrued vacation, personal and compensatory days (anything but sick and disability leave) before they can use Family Military leave. Employees must also inform their employer 14 days in advance of their leave if they plan on missing five or more consecutive work days.

Domestic Violence

According to the Illinois Victims' Economic Security and Safety Act (VESSA), all employers with more than 15 employees must provide any employee who is a victim of domestic or sexual violence (or who has a family member who is victim of either) at least eight weeks of unpaid leave during any 12-month period to address issues arising from such violence, while employers with more than 50 employees must provide at least 12 weeks of unpaid leave.

Employees may take VESSA leave in a single period, intermittently or on a reduced work schedule, either for themselves or for a "family or household member" (anyone related by blood or law) to:

- Seek medical attention for or to recover from physical or psychological injuries caused by domestic or sexual violence.
- Obtain victim services, psychological counseling or other counseling.
- Participate in safety planning, including temporary or permanent relocation or other actions, to increase the safety of the victim from future domestic or sexual violence.
- Seek legal assistance to ensure the health and safety of the victim, which may involve participation in court proceedings related to the violence.

Employers may not require employees to substitute other paid and unpaid leave for leave they take under VESSA, and are not allowed to fire, harass or discriminate against employees who take leave under VESSA. Employers violating VESSA in any way may be required to:

- Pay damages equal to the amount of lost wages or other forms of compensation plus interest.
- Provide equitable relief including reinstatement, promotion and reasonable accommodations.
- Pay attorney's fees and other costs.

Indiana FMLA

Private and Public Sector Employees:

Family Military Leave:

- If a private or public sector employer has 50 or more employees, the employer must provide up to 10 days of unpaid leave to employees who want to visit family members serving in the military.
- This rule defines family members as an employee's spouse, parent, guardian or custodian, grandparent, brother, sister, or adopted brother or sister.
- Leave of this kind must occur in specified periods;
 - During the 30 days before active duty orders are in effect.
 - During a period which the person on leave but still on active duty.
 - Or during the 30 days after active duty orders are terminated.
- To be eligible for this leave, an employee must have been employed for at least 12 months and worked 1500 hours during the past 12-month period.
- Eligible employees may take any available earned vacation leave, personal leave, or other paid leave except paid medical or sick leave for the 10 days available under this law.
- Employees must give their employer at least 30 days' notice before the starting date of the requested leave, unless;
 - The active duty orders are issued less than 30 days before the starting date of the requested leave.
- Employers may require employees to provide verification of eligibility for leave.

Public Sector Employees:

This sector includes:

State employees

Indiana Leave laws (additional to FMLA) for state employees:

Family Sick Leave:

- The state employees' family leave allows employees (both state-merit and non-merit) to use accrued sick leave for an illness or injury in the employee's "immediate family" that requires the employee to be absent from work.
- "Immediate family" is defined under this law as a spouse, child, or parent who resides with and is dependent on the employee for care and support.

- An employee may be required to submit verification from the attending physician, or another designated physician (at the expense of the employer).
- "Immediate family" is defined as a "spouse, child, or parent who resides with, and is dependent upon, the employee for care and support." The employee may be required to submit a medical certificate from the attending physician, or a designated physician (at the employer's expense).

Birth of a Child:

- Employees may take 1 year of leave for the birth of a child.

Military Leave:

- An employee can be granted a leave of absence without pay to cover the length of his or her service in the armed forces of the United States.
- During military leave, the employee will accrue credit for length of service for promotion or for other changes in status.
- No sick leave, personal leave, or vacation leave will accrue during military leave.
- Upon return from military leave, the employee will be reinstated to his or her former class or position if;
 - He or she was separated honorably from the service.
 - And is physically and mentally fit to perform his or her assigned duties.

Iowa FMLA

Private and Public Sector Employees:

Special provisions for pregnancy and related issues:

- Iowa makes some special provisions for employees of all sectors. These pertain to pregnancy, miscarriage, childbirth, and recovery from any of these conditions.
- All of those conditions (pregnancy, miscarriage, childbirth, and recovery there from) are counted as "temporary disabilities" for all job purposes. Any health or temporary disability insurance, or sick leave plan must treat the aforementioned conditions as temporary disabilities in connection with any work situation.
- Length of leave, availability of extensions, and payment under an insurance or sick leave plan will be determined by "written and unwritten employment policies and practices."
- In work situations where leave or "sufficient leave" is not available, employees may be eligible for up to eight weeks of leave for pregnancy, childbirth, or related medical conditions, provided it is medically necessary.
- An employee eligible for leave may need to provide adequate notice of her intent to take leave, as well as medical certification of the need to take it.
- The Iowa Civil Rights Act of 1965 provides broader coverage for pregnant employees than the federal FMLA does. For example, the Iowa laws provide coverage for any employee who works for an employer who has at least four employees.
- There is no minimum amount of service that has to be completed before leave can be taken for pregnancy.
- The only aspect of the Iowa coverage that is more narrow than the federal FMLA is the fact that minimum leave requirements can only be taken for pregnancy or related conditions. The leave is also not applicable for the purpose of temporarily caring for an immediate family member.

Public Sector Employees:

This sector includes:

State employees

Iowa Leave laws (additional to FMLA) for state employees:

Family Leave

- The Iowa state employee family leave rules are similar to the federal FMLA.

- In Iowa, "immediate family" is defined as a "the employee's spouse, parent, son, or daughter, as defined in the Family and Medical Leave Act".
- Some labor unions and collective bargaining agreements have different, broader definitions of "immediate family." These differences are listed in a later section.

Emergency or Funeral Leave

- Up to 40 hours of accrued sick leave per year may be used for a death in the employee's family and the care of members of the "immediate family".
- There are sometimes different rules applicable to employees with union contracts. For example, some union contracts allow more sick leave to be used.
- Sometimes union contracts allow an employee a day of paid sick leave if he or she is serving as a pallbearer.

Length of Leave

- Employees are not eligible for more than twelve weeks of state FMLA leave in one fiscal year.
- Employees may be eligible for twelve months of unpaid leave at the discretion of the state "appointing authority".
- After the first twelve months of unpaid leave, "leave without pay" may be extended for up to twelve more months only upon written request.

Exhaustion of Paid Leave

- If state FMLA leave is taken for the birth/adoption/foster placement of a child; care of a child under 18 years of age, or older if not capable of self-care; or care of a parent with a serious medical condition, the employee must have used all paid vacation before unpaid leave can begin.
- If an employee takes FMLA leave for serious personal illness, all paid sick leave and paid vacation time must be used up first before using unpaid leave.
- If an employee has been on maternity leave, but has not been granted medical clearance to return to work, she must use all paid sick leave and paid vacation time before taking unpaid leave.
- If an employee has been medically released to return to work, the employee can no longer use paid sick leave. But, the employee may be able to use leave as described in the earlier Emergency or Funeral Leave section.

Union Variations

- There are some special variations used by unions and collective bargaining agreements that differ from state code in terms of the definition of "immediate family" and what constitutes emergency or funeral leave.
- The term "immediate family" can be expanded to include foster and step relatives; brothers, sisters, aunts, uncles, nieces, nephews, and first cousins; corresponding relatives of the employee's spouse; and other persons who reside in the employee's household.
- State employee unions may also specify different amounts of time that paid sick leave can be used for emergency or funeral leave. The Iowa state code allows five days total, but some unions may use paid sick leave for a death in the family (not to exceed three days), for serving as a pallbearer (one day), or to take care of a family emergency defined as an ill or injured member of the employee's family (no more than five days).
- Leave variations are not uniform across all unions. Employees should be sure to check their union's provisions or their collective bargaining agreement to find out exactly what applies to their situation.

Kansas FMLA

State Employers

Family Sick Leave

Kansas' family leave rule only applies to state employees. Each permanent, probationary and conditional employee in the classified service is entitled to sick leave with pay in the following situations:

- Illness or disability of the employee, including pregnancy, childbirth, miscarriage, abortion and recovery.
- Illness or disability of the employee's family members, including pregnancy, childbirth, miscarriage, abortion and recovery, if employee's absence from work is deemed reasonably necessary to care for a family member.
- Employee's or a family member's personal appointments with dentist, physician or health care practitioner, when being absent from work is reasonably necessary.
- Legal quarantine of the employee.
- Childbirth or placement of child for adoption or foster care.

A family member is defined as any persons related to the employee by blood, marriage or adoption and minors living with employee due to certain court proceedings.

Employee may require certification of leave-qualifying condition.

Exhaustion of Paid Leave

If an employee cannot perform his or her duties because of an illness or disability, the state "appointing authority" may require that the employee use sick leave, vacation leave or compensatory credits before using unpaid leave.

Leave Without Pay

A probationary or conditional state employee may take leave without pay for up to 60 calendar days for:

- Illness or disability of the employee, including pregnancy, childbirth, miscarriage, abortion and recovery.
- Initial placement of child for adoption or foster care.
- To care for a family member with a serious health condition.
- Employee's own illness or temporary disability; or
- "Other good and sufficient reason, when the appointing authority deems leave to be in the best interest of the service".

Permanent employees may also take leave for the same reasons as listed above, but the time allowance is different. Permanent employees may take such leave for "a reasonable period of time consistent with the effective fulfillment of the agency's duties," but no longer than one year. Such leave is at the discretion of the appointing authority.

Funeral or Death

Employees in regular position may be granted leave upon the death of a close relative for a maximum of six days. Leave will be determined according to the employee's relationship to the deceased and travel time needed.

Shared Leave

Leave may be donated or shared by employees in a regular position.

- Shared leave may be granted to an employee if the employee or a family member suffers from a "serious, extreme, or life-threatening illness, injury, or impairment" that will cause the employee to take leave without pay or terminate employment.
- An employee must have at least 6 months of continuous service and have exhausted all paid leave options.
- The appointing authority oversees the distribution and eligibility.
- If the health condition is no longer serious, extreme or life threatening, or the employee terminates employment, the employee is no longer eligible for shared leave.

Military Leave

Employees enlisted or drafted into military service will receive unpaid military leave.

- Documentation of a military order of active duty for non-training purpose must be provided to the employer.
- A regular employee on military leave may apply to the employer within 90 days of discharge, if it is honorable or from the hospital, to be restored to their original position or equivalent.
- Military leave is counted as part of employee's length of service, but sick and vacation leave will not be accrued during this time.

For military reserve:

- A maximum of 15 days of leave with pay will be granted to those on active military reserve duty.

- The maximum leave is 15 days within each 12-month calendar period from Oct. 1-Sept. 30.
- Leave without pay is also granted for inactive duty or induction, entrance or examination for entrance into military reserve.
- After release from duty, employees must be reinstated to the same position or the equivalent.

For the Kansas National Guard:

- Members of the state National Guard are granted leave with pay for a call to state emergency duty.
- For active duty, members of the guard will receive unpaid military leave.
- After release from duty, employees must be reinstated to the same position or the equivalent.

All Employers

Domestic Violence or Sexual Assault

Employers within the state are prohibited from discriminated against an employee who is a victim of domestic violence or sexual assault when taking time off for the following:

- To obtain relief through a restraining order or injunctive relief on behalf of the victim or their children.
- To seek medical attention for injuries.
- To obtain services from domestic violence or rape crisis organizations.
- To appear in court.

To be eligible, the above activities must be conducted in the wake of an incident of domestic violence or sexual assault and in direct relation to it.

- Employers must be given advanced reasonable notice when possible.
- Employees must provide documentation supporting the absence within 48 hours of returning from leave.
- A police report, a court order or healthcare provider documentation are acceptable forms of supporting documentation.
- If supporting documentation is not available at the time of request for leave, documentation must be provided within 48 hours of beginning the unscheduled leave.

Employees must use all accrued paid leave, if eligible, for domestic violence or sexual assault leave. If no paid leave is left to use, the employer must grant the employee up to 8 days (per calendar year) of unpaid leave for these purposes.

The employer must maintain confidentiality in the event that an employee requests such leave.

Kentucky FMLA

Private and Public Sector Employees:

Special provisions regarding military service:

- All employers must provide leave for National Guard members. Leave is provided for those employees who are on active duty or training.
- Once the employee is released from active duty or training, the employee must be returned to their position with pay, seniority, and any other rights or benefits equal to what would have been in effect if the leave had never occurred.
- Employers are not required to provide paid leave for this kind of absence.

Public Sector Employees:

This sector includes:

State employees

Kentucky Leave laws (additional to FMLA) for state employees:

Sick Leave

- Kentucky's family leave law is similar to federal law, but it is only applicable to state employees. Family and medical leave is only available on a calendar-year basis.

Employee eligibility

- Eligible for up to 12 weeks of family leave if the employee has completed 12 months of service.
- Must also have worked or been on paid leave at least 1250 hours in the 12 months leading up to the first day of family and medical leave.

Use of sick leave

- State employees can use accrued sick leave with pay when the employee:
 - Is unable to work due to a medical, dental, or optical exam or treatment.
 - Is disabled due to illness or injury
 - Is needed to care for or transport a member of his or her immediate family that is sick or injured. This sick or injured family member may be in need of assistance to obtain medical attention for a reasonable period of time.

- Would jeopardize their own health or the health of co-workers due to a contagious illness or dangerous behavior.
- Suffers the death of a spouse, parent, child, grandparent, brother or sister; or any of their spouses, or any other close relatives. Bereavement leave is limited to three days.
- An employee who requests leave for personal illness or injury or for a sick or injured family member may need to produce certification from a doctor that the leave is necessary.
- At the end of paid sick leave, an employee must be returned to his or her former position.
- Sick leave without pay may be granted for illness or injury of an employee as long as the leave does not exceed one year.
- If an employee is unable to return to work after one year of unpaid leave, and if he or she was requested to return to work at least ten days prior to the end of that unpaid leave, the employee can be dismissed by the appointing authority.
- A former employee returning to state employment will be able to retain his or her balance of sick leave upon returning unless he or she was dismissed originally for conduct violations.
- If an employee has a balance of annual, compensatory, or sick leave, the employer may not designate leave as FMLA leave until either the employee's leave balance has been exhausted or until the employee requests that ten days of accrued sick leave be reserved and to be placed on unpaid FMLA leave.

Leave Sharing

- If an employee has accrued more than 75 hours of sick leave, any number of hours above the 75th hour may be transferred to any eligible employee.
- An employee is eligible to receive the hours if
 - Has or has a family member with a medically certified illness, injury, or physical condition that would require 10 or more consecutive days of leave.
 - Has his or her need certified by a doctor.
 - Has exhausted all other leave and
 - Has complied with regulations governing the use of sick leave.
- If any of the donated leave goes unused, it will be returned to the employee who donated it. This will happen after it has been found that the leave is not needed in connection with the originally stated reason.

Continuation of benefits

- The state employer's contribution to an employee's health and life insurance must be continued by the employer while the employee is using unpaid family and medical leave.
- Also, a state employer is required to continue contributing to an employee's health and life insurance while an employee is on paid leave.

Birth or Adoption

- An employee is entitled to 12 weeks of accrued annual leave, sick leave, unpaid family and medical leave, or a combination of these for the birth, placement, or adoption of a child.
- There exists for teachers only a special provision for the use of up to 30 days of sick leave following the birth and adoption of a child.
- Additional days of leave may be granted if a physician confirms that it is necessary.
- Also, both public and private employers must grant a reasonable amount of personal leave not to exceed six weeks when an employee adopts a child under the age of seven years.

Military Leave

- An employee who requests leave for military service will be allowed paid leave for 21 days (per fiscal year) without the loss of regular leave.
- If absence goes beyond the period of paid leave, it will be charged to other forms of leave up to a maximum of six years.
- Employees requesting military leave must provide a copy of military orders to the employer if it is requested.
- An employee may have all accumulated annual and compensated leave paid in a lump sum upon request.

Louisiana FMLA

Private and Public Sector Employees:

Maternity Leave

- Louisiana has a "Prohibited Discrimination in Employment Law".
- The law requires all employers (both public and private) who have with more than 25 employees to treat pregnancy, childbirth, and related medical conditions as they would any other temporary disability.
- Under this law, however, an employer is not required to provide a female employee leave beyond six weeks due to a normal pregnancy, childbirth, or related medical conditions.
- An employer does not have to provide an employee with health insurance coverage for the medical costs of pregnancy, childbirth, or related medical conditions.
- Section 23-342 of the law says that it is unlawful for an employer to refuse a female employee affected by pregnancy, childbirth, or related medical conditions to:
 - *Take a leave on account of pregnancy for a reasonable period of time, provided such period shall not exceed four months. Such employee shall be entitled to utilize any accrued vacation leave during this period of time.*
- The state interpretation of the above parts of the law to mean that for normal pregnancies, a female employee may take up to six weeks of leave.
- Women who experience complications during pregnancies may take up to four months of leave.
- Women who need the extended amount of leave must have their problems documented by a physician.

School Leave

- Louisiana has a special law called "The Louisiana School and Daycare Conference and Activities Leave Act."
- The above law says that an employer may grant an employee leave for up to 16 hours of leave per year to "attend, observe, or participate in conferences or classroom activities related to the employee's dependent children...at the child's school or daycare center, if the conferences or activities cannot be scheduled during the non-work hours of the employee."
- Employees must give reasonable notice of the leave.
- Employees must make a "reasonable effort" when scheduling the leave as so not to cause undue disruption of the employer's business.

First Responders

- Employers must grant 15 days of leave for performing the duties of first responder to an emergency or disaster.
- The emergency or disaster response must be as directed by the Governor's Office of Homeland Security and Emergency Preparedness.
- Employers must reinstate employees returning from first responder leave to their original--or similar--positions.

Public Sector Employees:

Leave for Bone Marrow Donation

- Employees must provide paid leave for the purpose of donating bone marrow.
- The employee may determine the length of leave.
- The leave cannot exceed 40 hours without the employer's consent.
- The employer is entitled to verification of the leave's purpose and length from a physician.
- If an employee is found to be an unsuitable donor, the employee does not forfeit leave taken before the unsuitability was determined.

Maine FMLA

All Employers

Maine's Family and Medical Leave Act applies to:

- Private sector employers with 15 or more employees at one location within the state.
- All state employers.
- City, town and municipal agencies with 25 or more employees.
- Any agent of an employer, the state, or a political subdivision of the state.

Employee Eligibility

Employees who have worked for the same employer for 12 consecutive months are may take up to 10 weeks of unpaid family medical leave in any two-year period. More or less leave may be negotiated between employee and employer. Family medical leave applies to domestic partner relationships as well as married couples. It is allowed in the following circumstances:

- A serious health condition of the employee.
- Birth of a child
- Placement of a child 16 years of age or less with the employee for adoption.
- Serious health condition of a child, parent, sibling, spouse or domestic partner.
- Organ donation by employee.
- The death or serious health condition of the employee's spouse, domestic partner, parent, sibling or child if the spouse, domestic partner, parent, sibling or child as a member of the state military forces, or the United States Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty.

A "serious health condition" is an illness, injury, impairment or physical or mental condition that involves either inpatient care in a hospital, hospice or residential medical care facility or a condition that requires continuing treatment by a health care provider.

A "sibling" is defined as a sibling of an employee who is jointly responsible with employee for each other's common welfare as evidenced by joint financial and living arrangements.

Notice Requirement

Employers may require a 30 day notice of when leave with begin and end, unless impracticable.

Certification May Be Required

Certification to verify the leave request may be required by the employer. This can be from a physician or, if the employee relies on faith, prayer or spiritual means, from an accredited spiritual healer.

Intermittent Leave

Family and medical leave may be taken intermittently or on a reduced schedule. If intermittent leave is foreseeable, an employer may require the employee to take on a different work position in order to accommodate this type of leave.

Continuation of Benefits

Employees must be allowed to continue their employee benefits while on leave.

- Continuation of benefits will be at employee's own expense.
- Benefits include group life, health and disability insurance.
- The employer may opt to continue to provide benefits for the employee while the employee is on leave at the employer's expense.
- Employees taking family medical leave will not lose benefits accrued prior to leave.

Reinstatement

When an employee returns to work after family/medical leave, he or she must be reinstated to the same or equivalent position including pay, benefits, schedule and other working conditions.

Paid Leave

Under 26 M.R.S. §636, certain employees may take paid leave to care for an immediate family member who is ill.

In terms of the law, the following definitions are applied:

- "Employer" – a public or private employer with 25 or more employees.
- "Immediate family member" – an employee's child, spouse or parent.
- "Paid leave" – time away from work for which the employee receives compensation. Paid leave is limited to sick time, vacation time, and compensatory time and leave that is provided as an aggregate amount for use of any of these purposes. Paid leave does not include short or long-term disability, catastrophic leave or similar benefits. It only refers to paid leave that has been earned.

- Employees covered by collective bargaining agreement are eligible unless the collective bargaining agreement provides equal or greater benefits than those provided by Maine's Family and Medical Leave Act.

Other provisions of paid leave:

- Employers may limit the number of hours of paid leave, but the number must be no less than 40 hours a week for a 12-month period.
- Unless there is a policy in place that mandates which type of paid leave and the amount of each type of paid leave an employee can use, an employee who receives more than one type of paid leave may decide which type of leave shall be used.
- If an employee is taking leave due to his or her own illness, an employer may require written notice or verification of illness.
- Employers may not discriminate in any way against an employee who decides to exercise his or her rights under this section.

Leave for Crime Victims

Paid or unpaid leave may be taken for employees who are the victim of a crime. This type of leave may be taken for:

Medical treatment to obtain legal assistance, prepare for and attend court; or to obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.

An employer may not take adverse employment action against an employee who is a crime victim when the employee is absent from work for the above reasons if the activity could not be scheduled outside of work hours. Employees should provide employer with reasonable notice of such leave.

Military Leave

Military leave is provided to employees performing active duty in the military reserve or National Guard.

- This leave can be paid or unpaid, for the duration of service.
- Employees are entitled to reinstatement to the same position and benefits upon return to work.
- Employees must give reasonable notice of leave when possible.
- Employees must provide confirmation of military duty if requested by employer.

Family Military Leave:

- Employers with 15 or more employees must provide employees with 15 days of unpaid family military leave.
- Family Military Leave may be used to visit a spouse, domestic partner, parents or child in active duty in the military during deployment or during 15 days immediately before or after deployment.

Employees are entitled to family leave if they have a spouse, domestic partner, parent or child who "dies or incurs a serious health condition" while on active duty.

Leave for Victims of Violence

Employers must grant family leave to employees who are victims of violence. Such leave is granted:

- To prepare for court or attend court proceedings.
- To receive medical treatment or attend medical treatment for a victim who is the employee's child, parent or spouse.
- To obtain services to remedy a crisis caused by domestic violence, sexual assault or stalking.

Employers are not required to grant such leave if:

- The employee's absence will create an undue hardship;
- The employee did not request leave within a reasonable amount of time.
- The leave is impractical, unreasonable or unnecessary based on the facts provided to the employer at that time.

State Employers

Sick Leave

State Employees may use their accrued sick leave for the following reasons:

- Liability to perform work duties.
- Medical or dental care.
- Exposure to contagious disease.
- Illness or death in the immediate family.

"Immediate family" is defined as the employee's spouse, spouse's parents, the employee's guardian, child, brother, sister or a ward of the employee.

Maryland FMLA

Public-Sector Employers

State employers are required to allow unpaid family leave for state employees in the event that care is needed for:

- A newly born child or placement of adopted child.
- Foster child recently placed with employee.
- A seriously ill child, spouse, parent, or legal dependent of employee.
- A school-aged child under, the age of 14, during school vacation periods.

Employee Eligibility

- During family leave, state payment of benefits, including health care, is suspended.
- Benefits may be continued if employee pays the full cost, including the share ordinarily paid by the state.
- Employees may not be required to exhaust his or her accrued leave before taking family leave.
- After termination of the leave period, an employee must be reinstated to his or her original position.

Substitution of Paid Leave

Accrued sick leave may be substituted for unpaid family leave for the following reasons:

- An employee's own illness or disability.
- Death, illness or disability in an employee's immediate family.
- The birth of an employee's child or adoption of a child by employee.
- An employee's medical appointment or the medical appointment for an immediate family member.

Immediate family is defined as an employee's spouse, children, parents, stepparents, foster parents, siblings, grandparents or grandchildren.

Written Certification Required

If five or more consecutive days of sick leave are used to care for a member of his or her immediate family, an employee must submit documentation from the healthcare provider to verify the period of illness.

Birth or Adoption of a Child

An employee may use up to 30 days of accrued sick leave for the period immediately following:

- The birth of employee's child.
- The adoption of a child.

If both parents are an employee of the state, together they may use a total of 40 days of sick leave for the afore mentioned reasons.

Certification may be required for taking such leave.

Disaster Service Leave

State employees who are certified with the American Red Cross may take up to 15 days of paid leave in a 12-month period when called to a level II disaster as designated by the National Office of the American Red Cross. During disaster leave, an employee is deemed not to be a state employee for the purpose of worker's compensation.

Medical Donation Leave

For medical donations, state employees may take the following leave during any 12-month period:

- Up to seven days for bone marrow donation.
- Up to 30 days for organ donation.

Approval of the appointing authority is necessary before using medical donation leave.

Private-Sector Employers

Family Leave

- Employees that have more than 15 or more employees may use accrued paid leave that has been earned, to care for an ill child, spouse or parent.
- Maryland Flexible Leave Act (MFLA) neither extends nor limits the 12 weeks of unpaid leave an employee is entitled to under FMLA.
- Under MFLA, "child" is defined as adopted, biological, foster, step or legal ward under the age of 18, or over the age of 18 and incapable of self-care.
- Under MFLA, "parent" is defined as adoptive, biological, foster, step, legal guardian or standing in loco parentis.
- Under MFLA, "leave with pay" is defined as paid time "earned and available" under an employer's standards or grant to an employee.

- Under MFLA, insurance provided under Employee Retirement Income Security Act plan, workers and unemployment compensation benefits; and disability benefits are excluded from "leave with pay."
- Only those employees who are primarily employed in the state are covered.

Massachusetts FMLA

All Employers

Birth or Adoption of Child

- Private sector employers with more than six employees must provide female, full-time employees with at least eight weeks of unpaid maternity leave.
- All public sector employers must provide female, full-time employees with at least eight weeks of unpaid maternity leave.
- An employee must have completed an initial probationary period and worked for the same employer for at least three consecutive months to be eligible for maternity leave.
- If the employer has not established a probationary period, the employee must have worked for the employer for at least three consecutive months.
- Employees must give two weeks' notice of anticipated leave date and that she expects to return to her job.
- Leave must be granted for pregnancy, miscarriage, abortion, childbirth and recovery.
- Unpaid maternity leave must also be provided for the adoption of a child under 18 years of age or adoption of a mentally or physically disabled person under the age of 23.
- The employer must pay for the benefits associated with maternity leave if the employer pays benefits for other types of temporary disability.

Reinstatement

- Employers may request certification that the employee is physically able to return back to work.
- The employee's position must be held open while the employee is on leave. If needed, the employer may temporarily fill the position.
- If the employer must fill the position on a full-time, permanent basis, it must show that the replacement constituted a business necessity.
- If the employee has been replaced, she must be offered a position that is equivalent in pay and benefits to the position held before taking leave.

Private-Sector Employers

Leave for Certain Family Obligations

The Small Necessities Leave Act provides a total of 24 hours of unpaid leave in any 12-month period to private-sector employees, for the following reasons:

- To participate in school activities directly related to the education of an employee's child (as defined by FMLA).
- For medical or dental appointments for the children of employees.
- For medical, dental or routine elder care appointments for an elderly relative.

An employee may be required to or choose to use accrued paid leave for any leave taken under this provision. However, employers are not required to provide sick or medical leave if the employer would not normally provide such leave. The leave may also be taken intermittently or on a reduced leave schedule.

If the leave for family obligations is foreseeable, the employee must provide 7 day notice before the start of the leave. If the leave is unforeseeable, the employee must provide notice as soon as reasonably possible. Employers may require certification of the employee's need for leave.

Veterans Leave

Employees who are veterans or members of a department of war veterans are entitled to leave, with or without pay, to participate in Veteran's Day or Memorial Day services in their community.

Employees who are essential to public health or safety, or are responsible for the safety and security of the employer are exempt from Veterans leave provision.

Victims of Crime Leave

Employees who are victims of a crime and are required to appear in a court case cannot be penalized by the employer for absence from work if the employer is given advanced notice of the absence.

Minnesota FMLA

All Employers

Parental Leave

Parental leave applies to public and private sector employees with 21 or more employees at one site.

- To be eligible, an employee must have worked for the employer for 12 consecutive months immediately preceding the request for leave.
- To be eligible, an employee must also have worked for "an average number of hours per week equal to half the full-time equivalent position in the employee's job position as defined by the employer's personnel policies or practices".
- Employers must provide employees with up to six weeks of unpaid leave following the birth or adoption of a child.
- A "child" is defined as an individual under 18 years of age or an individual under age 20 who is still attending secondary school.
- Leave must begin within six weeks after birth or adoption unless the child has an extended hospital stay longer than the mother. In such cases, leave must begin within six weeks after the child leaves the hospital
- Employers must also establish a reasonable unpaid break time for employees to express breast milk for their infant children. If possible, the break time should run concurrently with any break time already provided. This type of break time is not required if it would unduly disrupt the employer's operations.

Continuation of Benefits

The employer must maintain insurance benefits while the employee is on leave, however the employer is not responsible for the cost of continued coverage during the period of leave.

Reinstatement

When an employee returns from parental leave, he or she must be restored to his or her former position or equivalent. If the leave was for more than one month, the employee must notify the employer at least 2 weeks before returning from leave.

Use of Sick Leave

Personal sick leave benefits may be used for an illness of or injury to an employee's child "for such reasonable periods as the employee's attendance with the child may be necessary". The terms of leave for employee's own illness are applied to parental leave.

Personal sick leave benefits do not include short or long term disability or other salary continuation benefits.

An employee returning from parental leave must be restored to his or her former position.

School Visits

- All Minnesota employers are required to grant eligible employees unpaid leave of up to 16 hours during any 12-month period to attend school conferences or participate in school-related activities associated with the employee's child if the activities cannot be scheduled during non-work hours.
- To be eligible, employees must have worked for their employer for an average of 20 hours a week for the 12 months immediately preceding the request.
- Accrued paid leave may be used for unpaid school leave.
- Employees must provide reasonable notice, when possible, before taking leave.
- Employees should make every effort to schedule leave at a time that will provide minimum disruption to the operations of the employer.

Family Military Leave

- A minimum of 10 days unpaid leave must be made available to an employee whose immediate family member is injured or killed in active military duty.
- The employee must give as much advance notice as practicable.
- Except when it would unduly disrupt the operations of the employer, employees may take up to 10 days unpaid leave when an immediate family member is called to active military service for a war or an emergency.
- The employer may limit the amount of leave to the time necessary to attend a send-off or homecoming ceremony, not to exceed one day.

Medical Donations

- Public employers with 20 or more employees must grant paid time off for organ donation.
- All employers with 20 or more employees must grant paid time off for blood marrow donation.

- Combined length of either donation may not exceed 40 hours without employer's consent.
- An employer may require verification by a physician regarding length and purpose of leave.
- If it is determined that the employee is ineligible for donation, leave already taken is not forfeited.

Mississippi FMLA

Public-Sector Employers (Miss. Admin. Code 46 000 001)

The Mississippi State Personnel Board has adopted family and medical leave regulations that are almost identical to the FMLA with a few exceptions. All state agencies are covered as employers under the FMLA.

Major Medical Leave (Miss. Code § 25-3-95)

- Major medical leave for an employee's own illness or injury or that of an immediate family member may only be used after the employee has used one day of accrued personal or compensatory leave.
- If the employee does not have accrued paid leave, then one day of leave without pay must be used.
- Medical leave may be used for regularly scheduled visits to a doctor or hospital for treatment of chronic conditions, without prior use of personal leave.
- An employee may use up to 3 days of medical leave for the death of an immediate family member.

Missouri FMLA

Public-Sector Employers (Mo. Code of State Reg. 60-3.040)

Missouri's family and medical leave law conforms closely with the FMLA. The differences are noted below. Otherwise Missouri follows FMLA and is considered a "single public employer" for the law's purposes.

Substitution of Paid Leave

When an employee requests family or medical leave, the employer may require accrued sick leave to be used before taking unpaid leave.

Use of Sick Leave

Accrued paid sick leave may be used for:

- The employee's incapacitating illness, injury, pregnancy, childbirth and recover, medical exams, and treatment or exposure to contagious disease that would jeopardize other's health; or
- The illness of the employee's child, spouse, other relatives or members of household, if the employee's personal care is required.

Annual and sick leave are calculated in multiples of one-quarter hour. Employees must submit a statement indicating that the leave was taken for an allowable reason. Sick leave is not accrued while on leave of absence without pay.

Leave for Adoptive Parents

Missouri's law grants leave to parents when adopting a child.

- Adoptive parents who are employed by the state may use accrued sick leave, annual leave, compensatory time or leave without pay to take time off to arrange for adoption or placement of a child for adoption.
- Only persons who are "primarily responsible for furnishing the care and nurture of the child" are permitted to request adoptive parent's leave.

Medical Donations

- Public employees are entitled to five days of paid leave for bone marrow transplants.
- Written notice is required.
- Public employees are entitled to 30 workdays of paid leave to donate an organ if written verification is provided to the employer.

- For purposes of pay advancement or other benefits, medical donation leave shall be treated as though no interruption in employment occurred.

Montana FMLA

All Employers

Pregnancy Nondiscrimination

It is unlawful:

- To terminate a women's employment because of pregnancy.
- To refuse to grant a reasonable leave of absence for pregnancy related reasons.
- To deny an employee the use of accumulated disability or leave benefits to which she entitled when the employee is disabled by pregnancy (though employer may require medical certification to verify the need for leave); or
- To require that an employee take mandatory maternity leave for an unreasonable amount of time.

Reinstatement

An employee who expresses intent to return to work at the end of maternity leave must be given back her original job or equivalent pay and seniority, retirement, fringe benefits and other service credits.

A private employer does not have to reinstate an employee after maternity leave if "the employer's circumstances have so changed as to make it unreasonable or impossible to do so."

Public-Sector Employers

Montana provides:

- Six weeks of maternity leave for birth mothers employed by the state.
- 15 days of paternity leave for birth fathers or adoptive parents.
- 15 days of other leave for family illness or death.

State law applies to state employees not covered by FMLA.

Employees working for FMLA-covered state agencies often find broader protection under federal law. State employees may secure some greater or additional benefits under state law regarding funeral and death leave because such leave is not covered under FMLA and the state's definition of "immediate family" is broader than the federal law's definition.

Eligibility

- Any Montana state agency, defined as any legally constituted department, board or commission of state, county or city government or any political subdivision of the state, is covered by Montana law.
- Montana state employees with permanent status are eligible for leave under Montana leave law.
- Elected state, county and city officials, schoolteachers, independent contractors and those contracted to perform personal services are not covered under Montana leave law.

Family and Medical Leave

State employees may use accrued sick leave for:

- Their own illness, injury, medical or maternity-related disability, parental leave, quarantine, or medical, dental or eye care appointments.
- "Care or attendance to" immediate family or, at the agency's discretion, another relative, until other provisions can be made.
- The death or funeral of a member of the immediate family, or another person at the agency's discretion.

"Immediate family" is defined as the employee's spouse and any member of the employee's household, or any parent, child, grandparent, grandchild, or corresponding in-law.

Maternity Leave

- A reasonable period of maternity leave is provided to state employees.
- Six weeks after the birth of a child is considered reasonable under Montana law. Additional maternity leave may be requested if necessary.
- Leave may also be requested by female employees for a pregnancy-related disability that occurs before the birth of a child. Advance notice may be required.
- If maternity-leave after the birth of a child is less than six weeks, no medical certification is required.
- If more than six weeks is requested for maternity leave, medical certification may be required stating why the additional leave is necessary.

Paternal Leave

For parental leave:

- State employees may take up to 15 days for the adoption of a child, or for fathers, the birth of a child.
- State employees may use sick leave, annual leave, compensatory time or leave of absence with pay.
- Documentation may be required (For example, an affidavit of intent to adopt may be used).
- The employer may opt to extend additional leave.
- The employer may determine that requested leave is unreasonable and if so, will give the employee a written explanation of its determination, indicating how much leave would be approved.
- Employees may not use sick leave until they've been employed for 90 calendar days.

Nebraska FMLA

All Employers:

Birth/Adoption of a Child

All employers in Nebraska are required to permit a leave of absence to all employees undergoing the birth or adoption of a child unless the child undergoing adoption is:

- Over 8 years of age.
- Over 18 years of age with special needs.
- A stepchild adopted by a stepparent.
- A foster child adopted by a foster parent.

Family Military Leave

Employees who are the spouse or parent of a person called to military service for at least 179 days are eligible for unpaid leave for:

- 15 days if the employer has between 15 and 30 employees.
- 30 days if the employer has more than 50 employees.

Employees must give a notice of their leave 14 days in advance if they are missing five or more consecutive work days, and employers may require certification from proper military authority to verify an employee's eligibility.

Public-Sector Employers:

Leave laws in Nebraska are identical to those seen in the federal FMLA concerning state employees, except employees can take 12 weeks of unpaid leave when the illness, disability or injury of an immediate family member requires the employee's presence ("immediate family member" is defined as the employee's spouse, children or parents). Employees may also use paid leave if they wish during this type of leave.

Nevada FMLA

Most Nevada state leave laws apply to only public-sector employees, except those concerning pregnancy leave (all employers that grant paid or unpaid leave to employees for sickness or disability must do the same for those who are pregnant).

Public-Sector Employers:

Nevada's family and medical leave laws are nearly identical to their federal counterpart. Qualified employees (those employed for at least 12 months by a state agency with 50 or more employees, having worked at least 1,250 in the 12 months prior to the leave) are entitled to 12 workweeks of unpaid leave during a "rolling" 12-month period, measured backwards from the date an employee uses any qualifying family and medical leave for the following reasons:

- For the birth of a child or to care for the employee's newborn child.
- For placement of a child with the employee for adoption or foster care.
- To care for the employee's spouse, parent (not counting parents through law) or child with a serious health condition.
- For the employee's own serious health condition.

Notice and Certification

Employees requesting leave without pay must supply their employer with a notice of their leave at least 30 days prior to it, if possible. Agencies may require certification from a healthcare provider to support the reason for leave. During FMLA leave, employers may also request for the employee to submit a statement of intent to return to work every two weeks.

Continuation of Benefits

During FMLA leave the state must maintain an employee's group health coverage on the same basis as if the employee had been working during the leave period, however employees must continue to pay any share of any health plan premiums they paid before prior to taking the leave.

Substitution of Paid Leave

Accrued annual leave may be substituted, at the agency's or employee's option, for any FMLA-qualifying purpose without limitation. Accrued sick leave may similarly be used as long as the leave is needed to care for a qualified family member with a serious health

condition, or for the employee's own serious health condition (doesn't apply in any situation where the employer wouldn't normally allow the use of sick leave).

Accrued annual and sick leave can also be used during the 12-week period provided for the birth or adoption of a child, though sick leave may only be used in the event the mother of the child is physically incapacitated due to childbirth or if either parent is caring for a child with an authorized medical need. If a husband and wife are both employees of the state, they are entitled to an aggregate total of 12 workweeks of leave for the birth or adoption of a child.

Intermittent Leave

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances, with the approval of the state employer.

New Hampshire FMLA

All Employers:

All employers in the state of New Hampshire are required to grant unpaid leave to an employee who is the victim of a crime, so that the employee can attend court or other proceedings associated with the prosecution of the crime.

- Employees may use accrued paid vacation, personal or sick leave if they choose.
- Employees must provide their employer with a notice for each scheduled hearing, conference or meeting given to the employee by the court or other agency.

Public-Sector Employers:

All employees of state employers may use accrued sick leave for absences due to:

- An illness or injury to the employee
- A physician's indication that the employee's presence exposes other employees to contagious diseases that may endanger their health
- Medical and dental appointments (with prior approval)
- A death in the employee's "immediate family" (defined broadly to include all in-laws).

Up to five sick days per year may be used to care for dependents residing in the employee's household or for a death in the employee's immediate family. Leave won't be counted against bonus computations.

State employers may place employees on sick leave when, in their opinion, the employee appears to be in a physical condition that would prohibit him or her from fulfilling assigned duties.

New Jersey FMLA

Public and Private Sector Employers:

New Jersey's Family Leave Act (FLA) is similar to the federal FMLA, but is generally regarded as more comprehensive. Employees in New Jersey are allowed to combine entitlements under both state and federal laws to maximize their amount of leave.

Definitions

As used in the following descriptions, the terms below are defined by New Jersey:

- "Eligible employee" - one who has been employed by the same employer for 12 months or more. "Employed" persons in New Jersey include those who perform some work or maintain a base of operations in the state.
- "Employer" - includes ongoing, contractual relationships in which the employer retains substantial direct or indirect control over the employee's employment.
- "Child" - a biological, adopted or foster child; stepchild; legal ward; a child with whom the employee has a "parent-child relationship" as defined by law, or child for whom the employee has joint legal or physical custody, care, guardianship or rights of visitation. Must be under 18 or older but incapable of self-care because of a mental or physical impairment.
- "parent" - a biological, adoptive, foster or step-parent; parent-in-law; legal guardian; a person who has a "parent-child relationship" as defined by law, or a person with sole or joint legal or physical custody, guardianship, or visitation rights with a child.
- "Spouse" - a person to whom the employee is lawfully married as defined by law.
- "Partner" - a partner in a civil union as defined by New Jersey law.
- "Care" - is (but not limited to) physical care, emotional support, visitation, assistance in treatment, transportation, assistance with essential daily living matters and personal attendant services.
- "Serious health condition" - an illness, injury impairment or physical or mental condition requiring either inpatient care or continuing medical treatment or continuing supervision by a health care provider.

Covered and Eligible Employees

The FLA applies to all public and private-sector employers with 50 or more employees (the FLA does not require those 50 or more to be employed within a 75 mile radius of the employee seeking leave, nor do they need to be in the state of New Jersey).

An FLA-eligible employee is one who has worked 1,000 hours or more (including overtime) during the preceding 12 months. Hours for which the employee was paid workers compensation benefits may be included in the 1,000 hours to establish eligibility. At the employer's option, other types of paid leave may also be counted toward FLA eligibility.

Note – Under the FLA, employers may deny family leave to only certain highly paid employees (highest-paid 5% of salaried employees), and only if the leave will cause "substantial and grievous economic injury" to the employer's operations.

Duration of Leave

Eligible employees may take family leave for up to 12 weeks within any 24-month period, provided the employee makes a reasonable effort to schedule the leave so as to not unduly disrupt the employer's operation. Public employees may use a voluntary furlough of up to 30 work days for FLA or FMLA purposes. The furlough may not be applied to sick or unpaid disability leave, but may be used for parenting or family care, and a 60-day furlough extension is available for education or family care needs.

Intermittent leave may be taken in intervals of no less than a full week for up to 12 workweeks within a 12-month period. Reduced-schedule leave is leave taken in increments of not less than one workday, but no more than one workweek at a time, for up to 12 workweeks within a 12-month period.

Family Leave

The New Jersey act does not allow an employee to take leave for his or her own serious medical condition, but it may be taken for:

- The birth or adoption of a child, within a year after the birth or adoption placement.
- The serious health condition of a family member (child, parent, spouse or partner) of the employee

The N.J. Family Leave Act forbids employees on leave from performing services full-time for any employer for whom the employee did not provide those services before beginning FLA leave. An employee on FLA leave may work part-time, but not for more than half as many hours weekly as the employee regularly works for the leave-granting employer. Employers may not forbid such part-time work.

Substitution of Paid Leave

Public employees may, at their option, substitute paid vacation, sick or administrative leave for all or part of unpaid family leave, but must meet the usual requirements for use of that leave.

Paid Leave

The Paid Family Leave Act (PFLA) gives eligible employees up to six weeks of paid leave in any 12-month period to care for a newborn or a newly adopted child within 12 months of birth or placement, or to care for a sick family member.

- Eligible employees' paid benefit is two-thirds of their regular weekly salary, capped at \$524/week.
- The PFLA applies to all employers who meet the definition of a covered employer under the Temporary Disability Benefits Law, or any business entity that employs one or more person(s) and pays that worker at least \$1,000 in a calendar year.
- An eligible employee must have earned at least \$142/week for 20 or more consecutive calendar weeks, or earned at least \$7,200 in the 52 weeks before the start of the leave. • Paid leave can be paid on an intermittent basis.
- Paid leave can be paid on an intermittent basis.
- Legal guardians, biological, foster, adoptive and step-parents are the only eligible employees who can qualify for paid leave to care for a newborn or a newly adopted child. Eligible employees qualify for paid leave to care for a spouse, civil union or domestic partner, parent or child who suffers from a serious health condition.
- Employees seeking paid leave to care for family must provide medical certification.

Employee / Employer Notification

A request for leave for the birth or adoption of a child must be made at least 30 days in advance or as soon as possible. If the leave is for a serious health condition of a parent, child, or spouse, notice must be given 15 days in advance or also as soon as possible.

Employers in New Jersey are required by law to designate leave as FLA-qualified. As a result, an employer may require an employee requesting leave to sign a document certifying that the leave is for a purpose covered by the FLA. The employer may also require medical certification from a health care provider.

Maintenance of Benefits & Reinstatement

Employers are required to maintain an employee's coverage under any group health insurance policy or health care plan at the level and under the coverage that would have been provided if the employee had not taken leave.

An employee returning from authorized family leave must be reinstated to the same or similar position, unless he or she is a key employee, or the company experiences a layoff during the employee's leave and he or she would have been laid off had they not been on leave. An employer does not have to permit an employee to return to work before

the prearranged expiration of FLA leave if it would cause undue hardship on the employer.

New Mexico FMLA

Public-Sector Employers:

- New Mexico has a state employees' family and medical leave rule which complies with the federal FMLA.
- Almost all the state's rules are identical to those of the federal law.
- The only exceptions are listed below.

Eligibility

- Eligible employees will have at least 12 months of service in the state classified service or in the exempt service in either the legislative or the judicial branches of state government.

Leave Use

- Instead of unpaid FMLA leave, employees may use
 - Their annual leave; or
 - Their sick leave; or
 - Leave donated by other employees.
- Compensatory time does not count toward the 12 weeks of FMLA to which employees are entitled.

Leave Accrual

- While out on unpaid FMLA leave, New Mexico state employees do not accrue.
 - Annual leave; or
 - Sick leave.

North Carolina FMLA

All Employers

School Leave

- Four hours of leave per year must be granted to all employees who are either a parent or guardian, or stand "in loco parentis" to a school aged child, so the employee may attend or be involved at the school.
- The employer, along with written verification from the school, may require a 48-hour notice.

Family Illness Leave

In addition to FMLA leave, a state employee is entitled to 52 weeks of unpaid leave over a five-year period to care for a child, spouse or parent with serious health condition. This is available for all employees eligible for FMLA, regardless of their schedule and is accounted separate from FMLA.

State Employers

Family and Medical Leave

North Carolina has adopted rules for state employees for the implementation of FMLA. The rules are virtually identical to federal law, with a few exceptions as noted below:

Eligibility

- An employee must work for the employer for at least 12 months and 1,040 hours during the previous 12-month period.
- Temporary and intermittent employees are not covered under state law.
- However, an employee who has worked at least 1,250 in the prior 12-month period may take 12 weeks unpaid leave under FMLA.

Definitions

Stepchildren are defined as children of an employee's spouse from a previous marriage. Unlike FMLA, stepchildren are included in the state medical leave law.

Charging Leave

- An employee may use any or all accrued vacation or sick leave, or unpaid leave for childbirth, or the illness of a child, spouse or parent. (Except that sick leave may only be used during the period of the employee's or family member's actual disability).

- This applied to both mothers and fathers after childbirth.
- An employee may use a maximum of 30 days of any or all accrued vacation or sick leave, or unpaid leave for the adoption of a child.
- When taking leave for the employee's own illness, sick leave must be exhausted before using vacation leave or leave without pay.
- If the employee's illness is more than the 60-day waiting period for short-term disability, the employee may use the balance of available leave or begin drawing short-term disability benefits.

Worker's Compensation

- When an employee is drawing on temporary disability benefits, it may not be substituted for FMLA leave.
- State agencies shall not require employees to use compensatory leave for unpaid FMLA leave.

Maintenance of Benefits

Employees must continue to pay insurance premiums to maintain benefits while on leave. If a premium payment is more than 30 days late, the employer may discontinue health insurance. However, upon the employee's return to work, coverage must be reinstated.

Leave for FMLA-Ineligible State Employees

- State employees who do not qualify for FMLA may use sick leave for a newborn or adopted child.
- Sick leave may be used for a biological mother, or a member of her immediate family employed by the state, during the period after childbirth as certified by a doctor.
- Up to 30 days of sick leave can be used by each parent upon adoption of a child.
- Leave may be taken for siblings, step-relatives, in-laws, grandparents and grandchildren.
- Employees who have a disability or illness may extend unpaid leave up to 12 months. If so, they will be responsible for health benefits coverage.

Definitions:

Employees may take leave for the following relatives for the reason of birth, adoption, foster placement or serious health condition:

- Spouses as recognized by the state of North Carolina.

- Parents, parents-in-law, grandparents, great-grandparents, and any of the same related by marriage (step-relations).
- Children, stepchildren, children-in-law, grandchildren, and great-grandchildren, and any of the same related by marriage (step-relations).
- Siblings, half siblings or siblings-in-law; and
- Other dependents living in the employee's household.

Sick Leave

State employees may use sick leave for:

- Medical appointments of the employee or immediate family members.
- Donation of leave to a family member who qualifies for Voluntary Shared Leave.
- Illness of a family member.
- Death of immediate family member.

Greater benefits may be obtained by using the features of both state and federal leave laws.

Community Service Leave

- State employees may be granted 24 hours of community service leave each year.
- The 24 hours of credit towards community service begins on Jan. 1 of each year.
- An employee may use this leave at a rate of one hour a week for tutoring or mentoring a student.

North Dakota FMLA

State Employers

North Dakota's State Family Leave Law (SEFL) applies only to state government employers, not to employers of any political subdivision or arm of the state.

- It permits unpaid leave for birth, adoption or foster placement of a child, or to care for a child, spouse, or parent with a serious health condition.
- SEFL leave is unpaid unless otherwise noted by employer policy or agreement.
- FMLA is more generous than SEFL. Employees are entitled to take leave under the law that is most beneficial.

Use of Leave

- SEFL provides up to 12 weeks unpaid leave during a 12-month period.
- Leave may be taken intermittently.
- Leave for part-time employees, or those with variable hours, is determined on a pro rata basis.
- Leave may be used for:
 - Care of a child within 12 months of birth or adoption.
 - Care for a child, spouse, or parent with a serious health condition.
 - An employee's serious health condition that interferes with job performance.

Employees may use up to 40 hours of other leave for health reasons to care for a child, spouse or parent with a serious health condition. When leave is used for the employee's own illness, the employer must compensate the employee for the leave.

Definitions

- Leave law: applies to state employees who have worked 1,250 hours in a 12-month period.
- Child: a child, stepchild, or legal ward by birth, adoption or foster placement, who is under 18 years old or older than 17 and incapable of self-care due to serious health condition.
- Parents: by birth, adoption, foster placement or step relationship.
- Spouse: husband or wife of employee
- Serious health condition: disabling physical or mental illness, injury, impairment or condition involving inpatient care or outpatient care that requires continuing treatment.

Husband and Wife Working for Same Employer

May be limited to a combined total of 12 workweeks of leave.

Notice Requirement

An employee must take into account the employer's legitimate needs and give reasonable notice when scheduling any kind of SEFL leave.

Certification

- An employee who requests family leave may be required to provide certification by a health care provider.
- Certification is limited to establishing that the family member has a serious health condition, the date of the onset of the condition and probable duration, and medical facts known to the health care provider.

Continuation of Benefits

During family leave, an employee is responsible for paying group health insurance premiums under the same conditions that applied before taking leave. The employer is not required to pay any cost of insurance.

Reinstatement

- The employee is entitled to be returned to the same job or its equivalent (including compensation, benefits, hours, and other terms and conditions) when returning from leave.
- If the employee's job is eliminated due to layoffs during the leave period, he or she is not entitled to reinstatement. The employee would retain all rights under the layoff and recall system as if no leave were taken.

FMLA in New York State

All Employers

Parental Discrimination

- Any employer who permits employees to take leave upon the birth of an employee's child must also permit the same terms and conditions of leave for an adoption.
- An adoptive parent is not entitled to childcare leave if the child is the minimum age for attending public school.
- There are more extensive entitlements for the adoption of hard to place children.

Medical Donations

When an employee seeks to donate bone marrow, a leave of absence must be granted for up to 24 hours as determined by a doctor. The employer may request verification. In a given year, an employee may take up to 3 hours leave to donate blood.

Family Military Leave

When an employee's spouse is on leave from deployment to a military conflict, the employee may take up to 10 days unpaid leave.

Bereavement Leave

- An employer has the discretion to offer bereavement or funeral leave for the death of a spouse, child, parent or other relative of a spouse. The same benefits must be extended to employees in "committed" same-sex relationships.
- "Same-sex committed partners" are defined as committed in a way common to spouses.

State Employers

Marriage Equality Act

- Grants the same leave rights and responsibilities to same-sex married couples as to heterosexual unions.
- This law affects private sector employees only, for parental discrimination, medical donations, family military leave, and bereavement leave.
- For same-sex couples employed in the public sector, state-mandated maternity, sick and medical donation leave applies.

Sick Leave

- Accumulates at 8 days for every 12 months
- Since Jan.1, 2001, up to 200 days of accumulated sick leave may be used to pay for health insurance upon retirement.
- Accumulates at 4 days for every 6 months of service for part-time employees. Leave is prorated according to the percentage of full-time service the employee provides.
- Certification of illness or disability may be required.
- A fitness-for-duty test may be required before employee may return to work.

Sick leave may be used for:

- Employee's illness or disability including pregnancy and childbirth.
- Illness or death in the employee's family, up to 15 days in a 12-month period.
- For handicapped employees: up to 26 days in a 12-month period may be used to obtain and train a service animal (accompanied by doctor's certification). Proof of need may be required.
- Doctor or dentist appointments.

Medical Donations

- When an employee seeks to donate bone marrow, a paid leave of absence must be granted up to 7 days.
- When an employee seeks to donate an organ, a paid leave of absence must be granted up to 30 days.
- Employee must give at least 14 days written notice.
- Verification of purpose and length of bone marrow donation from the physician may be required by the employer.

Private-Sector Employers

The state of New York does not have a family or medical leave law. Implementation such a law is currently under investigation.

Ohio FMLA

Parental Leave

- Full and part-time permanent employees who work 30 or more hours per week are entitled to up to 6 weeks of leave for birth or adoption.
- An employee must be the biological or legal guardian of the child, and live in the same household as the child.
- Leave may not be more than 6 continuous weeks, which include 4 workweeks or paid leave for full-time employees and a pro-rated amount of paid leave for part-time employees.
- There is a 14-day waiting period during which employees will not receive paid leave.
- During the remaining four weeks, employees will receive 70% of their base rate of pay.
- Accrued sick, personal, or vacation leave, or compensatory time balances, may be used during the 14 day waiting period and to supplement the 70% of pay to give the employee 100% pay during leave.
- Parental leave is counted against FMLA entitlement.

If an employee is eligible under FMLA the employee is entitled to use the provisions of either the FMLA or state law, whichever is more generous.

Sick Leave

Permanent full-time or part-time state employees may use sick leave for personal illness, pregnancy, injury, and exposure to communicable disease. Sick leave may also be used for an illness, injury or death of immediate family members. Verification for need for leave may be required.

Personal Leave

Full-time state employees will accrue 32 hours of personal leave per year, if they are exempt from collective bargaining law. Such leave may be used for any personal reason.

Organ Donor Leave

A full-time state employee may take up to 240 hours of paid leave each calendar year for organ donation, or 56 hours for bone marrow donation.

All Employers

Military Leave

If an employee believes his or her rights have been violated after returning from active duty, they may file a claim under the federal Uniformed Services Employment and Reemployment Rights Act, in state court.

The Ohio Military Family Leave Act:

- Employers with 50 or more employees must provide up to the lesser of 80 hours or 10 days of annual unpaid leave.
- Leave must be extended to an employee who has a spouse, parent or child or former ward who is a member of the armed services and was injured while on active duty.
- Employee must have been employed for at least 12 consecutive months and at least 1,250 hours in the 12 months immediately preceding the start of leave.
- The employee may take leave no more than two weeks prior to the deployment date, or one week after.
- Employee must provide at least 14 day notice prior to taking leave due to a call to active duty.
- Employee must provide at least 2 day notice prior to taking leave due to an injury or hospitalization.
- If the serviceman's injury is critical or life threatening, no notice is required.
- The employee may require certification from the appropriate authority.
- The employee must continue benefits for the employee during leave, with the same level of employee contribution.
- The employee must be restored to the same or equivalent position.
- The employee may be required to exhaust all other forms of leave before taking military leave.

Pregnancy Leave

According to state law, it is unlawful to terminate an employee "because of pregnancy or a related condition without just cause."

Ohio FMLA

Parental Leave

- Full and part-time permanent employees who work 30 or more hours per week are entitled to up to 6 weeks of leave for birth or adoption.
- An employee must be the biological or legal guardian of the child, and live in the same household as the child.
- Leave may not be more than 6 continuous weeks, which include 4 workweeks or paid leave for full-time employees and a pro-rated amount of paid leave for part-time employees.
- There is a 14-day waiting period during which employees will not receive paid leave.
- During the remaining four weeks, employees will receive 70% of their base rate of pay.
- Accrued sick, personal, or vacation leave, or compensatory time balances, may be used during the 14 day waiting period and to supplement the 70% of pay to give the employee 100% pay during leave.
- Parental leave is counted against FMLA entitlement.

If an employee is eligible under FMLA the employee is entitled to use the provisions of either the FMLA or state law, whichever is more generous.

Sick Leave

Permanent full-time or part-time state employees may use sick leave for personal illness, pregnancy, injury, and exposure to communicable disease. Sick leave may also be used for an illness, injury or death of immediate family members. Verification for need for leave may be required.

Personal Leave

Full-time state employees will accrue 32 hours of personal leave per year, if they are exempt from collective bargaining law. Such leave may be used for any personal reason.

Organ Donor Leave

A full-time state employee may take up to 240 hours of paid leave each calendar year for organ donation, or 56 hours for bone marrow donation.

All Employers

Military Leave

If an employee believes his or her rights have been violated after returning from active duty, they may file a claim under the federal Uniformed Services Employment and Reemployment Rights Act, in state court.

The Ohio Military Family Leave Act:

- Employers with 50 or more employees must provide up to the lesser of 80 hours or 10 days of annual unpaid leave.
- Leave must be extended to an employee who has a spouse, parent or child or former ward who is a member of the armed services and was injured while on active duty.
- Employee must have been employed for at least 12 consecutive months and at least 1,250 hours in the 12 months immediately preceding the start of leave.
- The employee may take leave no more than two weeks prior to the deployment date, or one week after.
- Employee must provide at least 14 day notice prior to taking leave due to a call to active duty.
- Employee must provide at least 2 day notice prior to taking leave due to an injury or hospitalization.
- If the serviceman's injury is critical or life threatening, no notice is required.
- The employee may require certification from the appropriate authority.
- The employee must continue benefits for the employee during leave, with the same level of employee contribution.
- The employee must be restored to the same or equivalent position.
- The employee may be required to exhaust all other forms of leave before taking military leave.

Pregnancy Leave

According to state law, it is unlawful to terminate an employee "because of pregnancy or a related condition without just cause."

Oklahoma FMLA

Public Sector Employees

Family Leave

- Oklahoma's Family Leave Law follows the Federal FMLA.
- In addition, the law allows state employees to charge time lost to FMLA leave to.
 - Leave without pay.
 - Accumulated sick or annual leave.
 - Sick or annual leave donated by other state employees.
 - A combination of those leaves.

Shared Leave

- Employees can donate annual or sick leave to eligible fellow state employees.
- To be eligible to receive leave, employees must meet one of the following conditions:
 - Must be eligible for and require sick leave
 - Must be suffering from, or have a relative or household member suffering from, an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused (or is likely to cause) the employee to take leave without pay or to end employment;
 - Must be affected by a presidentially declared national disaster in Oklahoma for six months after the disaster was declared, if as a result of the disaster, the employee or the employee's spouse, relative, household member, or home suffered injury or damage.
- In addition, the employee receiving leave must.
 - Be a permanent classified employee with over six months of continuous service with the state
 - Have used, or will have used all paid leave available
 - Have been found to be eligible by the chief administrative officer.
- The chief administrative officer will decide the amount of donated leave, and will require medical certification of the leave.
- An employee can receive no more than 261 days of donated leave, and will be paid his or her regular rate of pay while on donated leave.

National Disaster Leave

- If an employee is affected by a presidentially declared national disaster, he or she may be granted leave with pay for not more than 15 working days.
- The above leave is granted at the discretion of the appointing authority.
- "Affected" is defined as:
 - Physical injury to the employee or a relative as well as.
 - Destruction of the employee's home.
 - Destruction of the home of a relative of the employee.

Organ Donor Leave

- State employees are entitled to up to five days of leave to serve as a bone marrow donor.
- State employees are entitled to 30 days to serve as a human organ donor.
- The employee will receive base pay during the leave, and benefits and seniority accrue as though there was no absence.
- The employee must provide written verification of the purpose of the leave.

Oregon FMLA

Family Leave Law

Oregon's Family Leave Law covers public and private sector employers. Employees are entitled to 12 weeks unpaid leave within a 12-month period for:

- Care of a newborn or newly adopted child or foster child under the age of 18.
- Care of an adopted or foster child over the age of 18 if he or she has a disability preventing self-care.
- Care of a family member with a serious health condition (including a child, grandchild, spouse, parent or parent-in-law or grandparent).
- Treatment or recovery from employee's own serious condition.
- Care of a child that requires homecare as a result of an illness or injury.

Employer Coverage and Employee Eligibility

- Oregon's law applies to employers with 25 or more employees.
- An employee must have worked at least 180 days, and averaged 25 hours per week at the time medical leave is requested.
- An employee requesting leave for a newborn or a newly adopted or foster child need only have worked 180 days with no weekly average hourly requirement.
- Sick leave, paid vacation or any other paid leave may be substituted for unpaid family leave.

Parenting and Maternity Leave

- When taking 12 weeks of leave for a newborn child, the employee is also entitled to 12 weeks to care for a sick child within the same period.
- It is the employer's discretion whether or not to grant family leave for an employee whose child's condition is not life threatening or terminal, and if another family member is able to care for the child.
- In addition to family leave for a child's illness, a female employee may take a 12-week leave for any condition related to pregnancy or childbirth that disables the employee from her job duties.
- An employee may take leave under the FMLA or Oregon state laws; whichever provides the greater benefit.

Parents Working For Same Employer

Parents working for the same employer may not take concurrent leave unless one spouse has a serious illness and the other is taking leave to care for the spouse.

Serious Health Condition

Oregon's family leave law defines "serious health condition:"

- An illness, injury, impairment or physical or mental condition that requires care in a medical facility.
- An illness, disease or condition that in the medical provider believes poses an imminent danger of death, or is terminal, or requires constant care.
- Pregnancy or prenatal care.

Continuation of Benefits

Benefits only accumulate during the leave period if the accumulation is required in an agreement or employer policy.

Notice Requirement

- Notice of intent to take leave must be given to employer as soon as practicable.
- If possible, notice must be provided 30 days in advance.
- The request for leave must be in writing.
- In case of emergency, an oral request confirmed in writing within 3 days is acceptable.
- An employer may require verification of medical leave that exceeds 3 workdays.

Reinstatement

- The employee is entitled to be returned to the same job or equivalent, without loss of seniority (including compensation, benefits, hours, and other terms and conditions) when returning from leave.
- If the employee's job is no longer available due to job elimination during the leave period, he or she is entitled to reinstatement to any available equivalent position.
- If an equivalent job is not available at the former job site, the employer must restore the employee to a similar job within 20 miles of the site.

Concurrent Benefits

- While an employee is receiving worker's compensation benefits for a serious health condition, the employer may not reduce the amount of state family leave available to the employee.

- This law does not affect federal leave.
- An employee who is eligible for both worker's compensation and family leave does not lose the right to reinstatement by refusing an offer of light-duty employment. In such instances, the employee will begin a period of family leave and no additional notice to the employer will be required.

Coordination with Federal FMLA

- To the extent possible, the Oregon law strives to be consistent with FMLA.
- Leave taken under state law must be concurrent with leave taken under FMLA.
- If an employer offers a non-discriminatory cafeteria plan as an option, and employee leave is at least as generous as that required under statute, requirements of the statute do not apply.

Crime Victim's Leave Law

- Oregon's crime victim's leave law allows leave to attend criminal proceeding when an employee or a member of their family is a victim to a felony crime.
- This law covers employers with 6 or more employees within Oregon during each of 20 or more calendar workweeks, either in the year or the year immediately preceding the year in which the employee takes leave.

Employee Eligibility (for Crime Victim's Leave)

A crime victim or member of the immediate family of the victim, who has worked an average of 25 hours or more per week for at least 180 days before the worker takes leave. Immediate family includes: spouse, domestic partner, parent, grandparent, sibling, child, grandchild, or stepchild.

Notice to take (Crime Victim's) Leave

Reasonable notice along with copies of criminal proceedings is required.

Specifications of (Crime Victim's) Leave

- Victim's leave is unpaid unless employer's policy states otherwise.
- Length of leave is unlimited.
- In order to receive some compensation during leave, employees must be allowed to use any paid accrued leave or other paid time off.

Undue Hardship (while on Crime Victim's Leave)

The court must take the employee's work schedule into consideration when setting time for proceedings if the employee's leave creates "significant difficulty and expense" to the employer. The prosecuting attorney should be notified in such instances.

Domestic Violence Leave Law

This pertains to employers with 6 or more employees. Employees may take leave when the employee or their child is a victim of domestic violence, sexual assault or stalking. Leave may be taken for the following purposes:

- To seek legal assistance to ensure health and safety of the employee or child.
- To seek medical treatment for injuries for the employee or child.
- To obtain counseling or victim's services for employee or child.
- To relocate or secure existing home to ensure the safety of the employee or child.

Reasonable advanced notice is required if possible. To approve domestic violence leave, certification of the domestic violence, sexual assault or stalking may be required by the employer. A protective order or other court order, attorney evidence, or other documentation of treatment will suffice as certification.

Oregon Military Family Leave Act

- Covers employers with 35 or more employees in Oregon.
- Employees are eligible if they have worked an average of 20 hours in a workweek. There is no longevity requirement.
- Employers must provide 14 days of unpaid leave for eligible employees of members of the armed forces on active duty.
- An employer subject to Oregon Family Leave Act is subject to the military leave act.
- Leave shall be granted when an employee's military spouse faces "an impending call or order to active duty."
- Employees are entitled to continuation of their benefits while on leave.
- Accrued paid time off may be used during OMFLA leave.
- Upon return to work, employees are entitled to restoration to the job they left.

Pennsylvania FMLA

Public-Sector Employers

State employees are not covered under the FMLA. Pennsylvania law states that officials and employees under the Commonwealth of Pennsylvania have sovereign immunity from FMLA. State employees are not permitted to take legal action against the state under FMLA. There are certain situations where the state has granted state employees leave.

Birth of Child

State employees are granted temporary leave for pregnancy or childbirth. The employer has the discretion to extend maternity leave beyond the period of disability, but may not pay sick leave or disability compensation.

If the mother must breastfeed her child for medical reasons, leave may be extended.

All Employers

If private or public employers offer childrearing leave, they must do so for both male and female parents, whether biological or adoptive.

Philadelphia Employers

All employers within the city of Philadelphia must provide unpaid leave if an employee or an employee's family or household member has been a victim of domestic or sexual violence.

- Employers with 50 or more employees must grant up to 8 workweeks of leave during any 12-month period.
- Employers with less than 50 employees must grant up to 4 workweeks of leave during any 12-month period.

Family or household member is defined as a spouse or ex-spouse, persons living as spouses or who lived as spouses, a parent, a child, others related by affinity, current or former sexual or intimate partners, or life partners.

Circumstances that permit leave in cases of domestic or sexual violence

If the employee or household member needs:

- Medical attention for physical or psychological reasons.
- Aid from a victim services organization.
- Psychological or other counseling.
- Legal assistance or remedies for protection of his or her safety.

Leave can be intermittent or a reduction in work schedule. Employees must provide 48 hours of notice to the employer for this type of leave unless it is not practicable.

A combined total of 12 weeks of leave is the maximum leave an employee can take under this city ordinance and the FMLA. If an employee takes 9 weeks of leave under FMLA and later requires leave for domestic or sexual abuse, they are only entitled to 3 more weeks of leave for the rest of the 12-month period.

Rhode Island FMLA

All Employers

Rhode Island's Parental and Family Medical Leave Act covers:

- Private employers with 50 or more employees.
- All state employers.
- City, town or municipal agencies with 30 or more employees.
- Any person acting directly or indirectly in the interest of any employer.

Same-sex Unions.

- Rhode Island provides couples in same-sex civil unions with the same rights and benefits afforded to heterosexual married couples, with the exception of religious organizations operating charitable or educational facilities.
- These protections do not extend to the FMLA, therefore it is unclear how state employees in same-sex unions will be affected.

Employee Eligibility

- Employees who have worked for the same employer for an average of 30 hours a week for 12 consecutive months.
- Eligible employees qualify for 13 consecutive weeks of leave over a two-year period.
- The employer has discretion in whether leave is paid, partially paid or unpaid.

Parental Leave

- Leave may be taken for childbirth or the adoption of a child 16 years or younger.
- There is no provision for intermittent parental leave.
- An employer has the discretion to allow employees to use sick leave for childbirth, however this provision also must be extended to the adoption of a child.
- A 30-day notice is required, unless doing so is impracticable.
- An employer may request written certification of the need for leave.

Family Leave

- Includes a parent, spouse, child, mother or father-in-law, or the employee's own serious illness. A serious illness is defined as a disabling physical or mental illness, injury, impairment or condition involving inpatient care; or continuing outpatient care.
- An employee may use both state law and FMLA to receive greater benefits.
- A 30-day notice is required, unless doing so is impracticable.
- An employer may request written certification of the need for leave.

Continuation of Benefits

- An employer must maintain existing health benefits for an employee on leave.
- Before taking leave, an employee must pay the employer an amount equal to the premium in order to continue benefits while on leave.
- Upon the employee's return to work, the employer must return the payment to the employee within 10 days.

Reinstatement

An employee is entitled to the same or similar job position and benefits when returning from leave.

School Leave

- Employees are entitled to 10 hours of leave during a 12-month period for attending school conferences or other school activities for a child of whom the employee is a parent, foster parent, or guardian.
- An employee must have worked for the same employer for 12 consecutive months.
- An employee must give 24 hour notice.
- Leave need not be paid, but an employee may use accrued paid leave for any part of the 10 hours.

Enforcement

The Parental and Family Medical Leave Act may be enforced in a state superior court.

Family Military Leave

- An employee must have worked 1250 hours during a 12-month period for the same employer to be eligible for military leave.
- Employers with 15-50 workers must provide employees with 15 days of unpaid leave if a spouse or child is called to more than 30 days of military service.

- Employers with more than 50 workers must provide employees with 30 days of unpaid leave if a spouse or child is called to more than 30 days of military service.
- If the leave is to last more than 5 consecutive days, the employee must give 14 day notice. Otherwise, notice should be as practicable.
- An employer may require certification to verify employee's eligibility for leave.
- Except for sick and disability leave, employees must use all accrued vacation, personal, compensatory, and any other leave granted them before taking military leave.
- An employee is entitled to the same or similar job position and benefits when returning from leave, unless the employee was not restored because of conditions unrelated to rights under this law.
- Extension of health benefits must be made possible and are negotiable between employee and employer.

South Carolina FMLA

Public and Private Sector Employees

Maternity Leave

- South Carolina law does not dictate length of maternity leave, except in cases where an employer has 15 or more employees. In such instances, leave is to be granted in a non-discriminatory manner.
- All policies and practices applying to disability must be applied identically to conditions related to pregnancy, miscarriage, childbirth, and recovery.
- An employer must make reasonable accommodations for an employee with a disability unless impracticable.

Organ Donation Leave

- Employers with 20 or more employees may grant paid leave to employees choosing to donate bone marrow.
- An employer must agree to any leave extending 40 work hours.

State Employers

Sick Leave

- State employees are entitled to 8 paid sick days annually to care for immediate family.
- Immediate family includes: spouse, children and any of the following relatives of either spouse: parent, sibling, grandparent, legal guardian and grandchild (if the employee lives with and is the primary caretaker of the child).
- Employees may use state and federal law to obtain greater leave benefits.

Adoption

State employees are entitled to 6 weeks of accrued sick leave to care for a child upon adoption. The employee must be the person primarily responsible for the care and nurturing of the child.

Emergency or Extreme Hardship

- A department or agency head may permit an employee to use the rest of his or her annual leave in cases of extreme hardship. To qualify, an employee must have exhausted all sick leave and 30 days of accrued annual leave.

- If a permanent or full-time state employee suffers an attack while on duty, the employee must be granted administrative paid leave rather than sick leave. The period of leave may not exceed 180 calendar days.

Donated Leave

- State employees who have accumulated more than 15 sick days may donate the days to a pool for state employees with personal emergencies.
- A personal emergency is defined as catastrophic and debilitating medical situations, severe disabilities or accident cases, family emergencies or other hardships potentially causing extended absence and pay loss.
- An agency director determines leave recipients and such decision cannot be disputed.

South Dakota FMLA

All Employers

Pregnancy

All employees are required to treat pregnancy as any other temporary disability in terms of employment policies and practices.

Discrimination

Employers may not discriminate on basis of sex or marital status when providing leave or other benefits.

State Employers

The state has adopted FMLA provisions for state employees. For the 12 weeks provided under FMLA, employees may use a combination of sick, personal and vacation leave, and leave without pay.

Sick Leave

- State employees earn 14 days of sick leave per year.
- Sick leave may be used for personal illness, pregnancy and related conditions, exposure to contagious diseases, eye and dental care, medical examinations; or treatment in approved centers for alcohol abuse, psychiatric care or counseling.
- If an employee becomes sick or is injured while on vacation leave, they may choose to take sick leave instead.
- The personnel bureau has the discretion to grant up to 28 days of sick leave to an employee with at least one year of service, if all other leave has been exhausted.

Personal Leave

State employees may use up to 40 hours of accumulated sick leave annually as personal leave for the following reasons:

- Death in the immediate family.
- Temporary care of immediate family member.
- Volunteer police or rescue work.
- State military reserve duty or National Guard duty.
- For other reasons as defined by the state's career service commission

Immediate Family

- Generally, South Dakota law allows up to 12 weeks unpaid leave for immediate family as defined by FMLA. However, for personal leave, the state's definition of immediate family is as follows: A spouse, child (biological, adoptive, step, foster and a child under the age of 18 for which the employee has been appointed guardian), parent, sibling, parent and child in law, grandparent, and grandchild.
- A spouse is a husband or wife as recognized under South Dakota law.
- Because South Dakota has a broader definition of immediate family, state employees may use both state law and the FMLA to obtain greater benefits than those provided by each law by itself.

Leave Without Pay

- Approved leave of up to 12 weeks without pay is permitted for state employees.
- The leave must be approved in writing by the proper authority.
- Leave may be granted even if there is unused accrued annual leave.
- The employee earns no leave credits during the unpaid leave.

Donated Leave

- If an employee has exhausted all leave options, the employee may be eligible to receive up to 2,080 hours of donated leave for a terminal illness, or 1,040 hours for a life threatening injury or illness.
- For every four hours of sick leave donated by an employee, the recipient employee receives one hour of sick leave.
- For every one hour of vacation leave donated by an employee, the recipient employee receives one hour of vacation leave.
- An employee may receive donated leave when a spouse, child or parent is terminally ill or facing life threatening illness or injury.
- Donated leave stops when leave reaches 12 weeks of FMLA leave, when the family member recovers, or 5 days after the family member dies.
- A written request to the bureau commissioner is required for donated leave.
- Sick or vacation leave is not accrued while on donated leave.

State Employers

Military Leave

Public employees who are reservists, members of the National Guard or other organized units or who will go through military training for 15 or fewer days are entitled to be reinstated with same status and pay earned at the time of leave.

FMLA Laws in Texas

State Employees

Employees meeting FMLA eligibility requirements are entitled to FMLA leave as specified by federal law. (12 month or more of service and 1,250 or more hours during 12-month period prior to leave.) When taking FMLA leave, an employee must use all vacation and sick leave before using unpaid leave, except in cases of disability or worker's compensation.

Parental Leave

- Under Texas law, state employees may take 12 weeks of parental leave even if they don't meet eligibility requirements
- State parental leave is intended for the birth or adoption of child, or foster care placement of a child under the age of three with the employee.
- All available paid vacation and sick leave must be used and the remainder of parental leave is unpaid.

Sick Leave

- Sick leave with pay is permitted in cases when an employee's performance of duty is restricted because of sickness, injury, pregnancy or confinement. It is also permitted when an employee is needed to care for an immediate member of the family who is sick.
- Immediate family is defined as: those living in the same household related by kinship, adoption or marriage; minor children whether living with employee or not; and foster children certified by the Department of Protective and Regulatory Services.
- Notice is required as early as practicable.
- Absences for more than 3 consecutive workdays require a doctor's certification.
- Absences for 3 consecutive workdays or less may require a doctor's certification.

Emergency Leave

Emergency leave is permitted for the death of a family member (spouse, parent, grandparent, child, grandchild, sibling or the equivalent of a spouse's relations) without a reduction in pay.

School Visits

Provided reasonable notice is given, parents of a student in grades K-12 may use up to 8 hours of sick leave to attend school conferences.

Medical Donations

- Five days of leave may be taken for bone marrow donation each year.
- Up to 30 days of leave may be taken for organ donation each year.
- Blood donations are allowed a “sufficient time off” for up to four times each year.
- Employees must provide proof of blood donation.
- There is no deduction in salary for this type of leave.

Military Leave

- Employees who are members of state military forces or members of the reserve may take up to 15 days paid leave for training or ordered duty without loss of benefits or stature.
- When returning to work, the employee is to be considered to have been on furlough during his or her leave.

Utah FMLA

State Employees:

- Utah's family and medical leave regulations for state employees mostly follow the federal FMLA rules.
- The Utah laws allow up to 12 weeks of leave each calendar year for:
 - The birth, adoption, or placement of a child.
 - A serious health condition of the employee.
 - The care of the employee's spouse, dependent child, or parent with a serious medical condition.
- Leave taken for purposes of childbirth, adoption, or placement for adoption, or foster care shall not be taken in small pieces unless the employee and employer agree on that arrangement.
- In certain circumstances, Utah FMLA may be extended for up to 12 months without pay, or as long-term disability leave.
- Employees also have a variety of leave options for family and medical leave including accrued sick and annual leave, converted sick leave, and compensatory time.
- These other kinds of leave will be described completely below.

Leave Without Pay

- A Utah state employee may take an approved leave without pay of no longer than 12 months.
- To be eligible for the continuous leave without pay, the employee must apply in writing to the managing agency for approval.
- Medical leave may be approved if a health practitioner certifies that the employee is temporarily disabled.
- Leave without pay for non-disability reasons may be allowed only if there is an expectation that the employee will return to work.
- If an employee receives no compensation for a complete pay period, then that employee is responsible for paying state-provided benefit premiums, unless they are otherwise covered by federal FMLA.
- If an employee returns to work on or before the leave without pay expires, then that employee will be placed in a position with comparable pay and seniority to their previous position.
- The only exception to the above would be if the employee is unable to perform the same or comparable duties without special accommodation.

- An employee returning to work on or before the expiration of leave without pay shall also receive previously accrued annual and sick leave.

Long-Term Disability Leave

- Utah's Department of Human Resource Management's family and medical leave rules allow state employees who have completed at least two full pay periods of work to use accumulated sick leave for:
 - Preventative health and dental care.
 - Maternity, paternity, and adoption care
 - Absence from duty due to illness, injury or temporary disability of an employee, spouse, or dependent living in the employee's home
- If requested sick leave is to cover an absence of more than four successive work days, acceptable evidence such as medical certification must be provided.
- If there is reason to believe that an employee is abusing sick leave, a supervisor may require an employee to produce a medical certification of illness regardless of the length of sick leave.
- Employees may also use converted sick leave.
- Converted sick leave is excess sick leave converted to any other kind of leave.
- Employees who have 144 or more hours of accrued sick leave on the first pay period of the year may convert unused sick leave hours in excess of 64 to converted sick leave.
- Converted sick leave may be used for another purpose including:
 - Annual leave.
 - Family leave.
 - Medical leave.

Compensatory Time

- Compensatory time, earned at the rate of one hour for every one hour of overtime work, may be used for family or medical leave.
- Leave paid from an employee's accrued compensatory time account may not be counted against the employee's 12-week FMLA leave entitlement.

Funeral Leave

- Employees may receive up to 24 hours of leave to attend a funeral of an immediate family member.
- An immediate family member is defined as:
 - Spouses.
 - Children.

- Parents and also includes.
- Some step- and grand-relatives as well as relatives-in-law.
- Funeral leave may not be charged against accrued sick leave or annual leave

Fitness-for-Duty Evaluations

- Medical evaluations to determine fitness-for-duty may be required for the following reasons:
 - Return to work from illness or injury.
 - When management determines there is a direct threat to health or safety of the employee or others.
 - In conjunction with corrective action, performance or conduct issues, or discipline.
 - When a fitness-for-duty evaluation is a bona fide occupational qualification for selection, retention, or promotion.

Temporary Transitional Assignment

- Temporary transitional assignments may follow a return to work from injury or illness.
- Temporary transitional assignments may be a temporarily required while an employee is being evaluated to see if reasonable accommodation is appropriate.

Organ Donor Leave

- State employees are entitled to up to seven days of paid leave for being a bone marrow donor.
- State employees may have up to 30 days of paid leave for being an organ donor.
- The leave periods for these purposes include both donation and recovery.

Vermont FMLA

Public and Private Sector Employers:

- Vermont has a Parental and Family Leave law which covers both public and private employers.
- The Vermont law provides for two types of leave.
- To qualify for either type of leave, an employee must:
 - Be continuously employed for 12 months
 - Have worked for at least 30 hours per week.

Parental Leave

- "Parental leave" rules apply to employers with 10 or more employees.
- The employees must be employed for at least 30 hours per week.
- Eligible employees may take 12 weeks of parental leave per year for:
 - Pregnancy or for the birth of the employee's child.
 - The placement of a child 16 years of age or younger with the employee for adoption.
- For parental leave, an employer may not ask for more than six weeks' advance notice of intent to take leave.

Family Leave

- "Family leave" rules apply to employers with at least 15 employees.
- Employees must have been employed for an average of at least 30 hours per week for one year.
- Qualifying employees may take 12 weeks of family leave per year for the following reasons:
 - Serious illness of the employee.
 - Serious illness of the employee's child, stepchild, ward of the state who lives with the employee, foster child, parent, spouse, or parent of the employee's spouse

Serious Health Condition

- Vermont defines a "serious illness" as an accident, disease, or physical or mental condition that:
 - Poses imminent danger of death.
 - Requires in-patient care in a hospital.

- Requires continuing in-house care under the direction of a physician.
- An employer may require certification from a physician to verify the condition and the amount of leave requested in the case of a serious illness.

Continuation of Benefits

- An employer must continue employment benefits for the duration of the leave.
- The continued benefits must be at the same level and under the same conditions as what would have been provided if the employee worked continuously for the length of the leave.

Substitution of Paid Leave

- An employee may substitute accrued paid sick or vacation leave for unpaid leave.
- This substitution may not exceed six weeks.
- Using accrued paid leave shall not extend the total leave period.

Reinstatement

- When an employee returns from parental or family leave, he or she must be offered the same or a comparable job.
- The job provided must be at the same level of compensation, employment benefits, seniority, or any other term or condition of the employment that existed on the day leave began.
- Reinstatement is not required if the employer can demonstrate clearly that:
 - During the period of leave, the employee's job would have been terminated or the employee would have been laid off for reasons unrelated to the leave.
 - The employee performed unique services, and hiring a permanent replacement during the leave was the only viable alternative to the employer to prevent "substantial and grievous economic injury to the employer's operation."

Retaliation

- Employers are forbidden to retaliate in any way against employees who lodge complaints under the family leave law
- Employers are forbidden to retaliate in any way against employees who assist in an investigation of a violation of the law.

Short-Term Family Leave

- Employees are also entitled to take up to four hours of unpaid leave in a 30 day period, not to exceed 24 hours in a 12-month period, for the following reasons:
 - To participate in school activities directly related to the educational career of the employee's child, stepchild, or foster child.
 - Ward to attend or accompany the employee's child, stepchild, foster child, or ward to routine medical or dental appointments.
 - To accompany the employee's parent, spouse, or parent-in-law to professional services appointments related to their care and well-being.
 - To respond to a medical emergency involving the employee's child, stepchild, foster child, or ward.
- Employers may require workers to take the above mentioned leave in two-hour segments and call on employees to make a "reasonable attempt" to schedule such appointments as described above outside of regular working hours.
- To take short-term family leave, employees must also provide employers with at least seven days; notice, unless there is an emergency.
- An "emergency" is defined as a circumstance that would cause the employee's family member to suffer a "significant adverse impact" if the seven-day notice requirement were enforced.
- Employees may substitute accrued paid vacation and personal leave for the unpaid short-term family leave.

Parties to a Civil Union

- In April 2000, the Vermont legislature enacted a law allowing homosexual couples to enter into "civil unions."
- A marriage in all but name, a civil union provides to same-sex partners in Vermont "all the same benefits, protections, and responsibilities under law as granted to spouses in a marriage."
- Special note: Since Congress enacted the Defense of Marriage Act, other states are not bound to recognize same-sex civil unions.
- Specifically, the terms of Vermont's Parental and Family Leave Law apply to partners in a civil union just as they do to married couples.
- Therefore, the "protections and responsibilities of spouses" in state law shall apply "in like manner to parties to a civil union."
- These rights and responsibilities include, but are not limited to the following:
 - Family leave benefits.
 - Adoption law and procedure.
 - Group insurance for state employees.
 - Prohibitions against discrimination based upon marital status.

- Workers compensation benefits.
- Laws relating to emergency and nonemergency medical care and treatment; hospital visitation and notification, and the state's Patient's and Nursing Home Residents Bills of Rights.
- In addition, the law states that "the rights of parties to a civil union, with respect to a child of whom either becomes the natural parent during the term of the civil union, shall be the same as those of a married couple, with respect to a child of whom either spouse becomes the natural parent during the marriage."

Virginia FMLA

All Employers

Crime Victim Leave

- An employee who is the victim of a crime is entitled to unpaid leave for the purpose of attending criminal proceedings
- To qualify for this unpaid leave, the employee must give to the employer a copy of the form provided by police to crime victims and the notice of the proceeding.

Military Leave

If an employee is a member of the Virginia National Guard, Virginia State Defense Force, or naval militia, that employee will receive benefits of employment during leave taken for active state duty.

Public-Sector Employers

Family/Personal Leave

- Public employees in Virginia are allowed a yearly amount of family and personal leave.
- This leave is in addition to sick and annual leave.
- This leave may be used for absences due to:
 - A short-term incident.
 - Illness.
 - Death of a family member.
 - Any other personal need.
- Employees may use the leave for "any permitted purpose at the sole discretion of the participating employee."
- The employee taking this leave must give "reasonable prior notice to his immediate supervisor. "
- The employee may take the leave, provided that the supervisor does not state that the employee's taking leave will adversely affect the agency's performance of critical work.
- Family/personal leave is given to eligible employees each January 10th.
- The number of hours provided are as follows:
 - Employees with less than 120 months of state service may have 32 hours of family/personal leave.

- Employees with 120 or more months of state service may have 40 hours of family/personal leave.
- At the beginning of either employment or reemployment, participating employees shall be credited as follows:
 - Employees who began employment from January 10-July 9 are eligible for 32 hours of personal leave.
 - Employees who began employment from July 10-January 9 are eligible for 16 hours of family/personal leave.
- This leave cannot be carried forward from year to year.
- The employee will not be paid for unused leave upon termination of employment.

Sick Leave

Participating employees are eligible to take sick leave for absences due to:

- An incident.
- Illness.
- Injury.

The sick leave described above is for periods when disability benefits are not payable

Participating full-time employees receive sick leave on January 10 as follows:

- Employees with less than 60 months of state service may have 64 hours of sick leave.
- Employees with 60 to 119 months of state service may have 72 hours of sick leave.
- Employees with 120 or more hours may have 80 hours of sick leave.

Full-time employees beginning employment or reemployment will be credited as follows when they start:

- Employees who began work January 10 to July 9 may have 64 hours of sick leave.
- Employees who began work July 10 to January 9 may have 40 hours of sick leave.

Part-time employees are credited a yearly amount of sick leave on January 10 as follows:

- Part-time employees with less than 120 months of state service may have 32 hours of sick leave.
- Part-time employees with 120 or more months of state service may have 40 hours of sick leave.

At the beginning of either employment or reemployment, part-time employees shall be credited as follows:

- Part-time employees who began employment January 10 to July 9 may have 32 hours of sick leave.
- Part-time employees who began employment July 10 to January 9 may have 20 hours of sick leave.

This leave cannot be carried forward from year to year.

Employees will not be paid for unused leave upon termination of employment.

Paid Leave Substitution

In addition to the accrued family/personal leave, state employees may substitute up to:

- One-third of accrued paid sick leave.
- Up to 100 percent of any other paid leave.
- Any combination of the two for Family and Medical Leave Act leave

FMLA in Washington State

Private and Public Sector Employees: Family and Medical Leave

- Under Washington's Family Leave Act (FLA) employees are eligible for the same leave and same amount for the same reasons as the federal Family and Medical Leave Act.
- The FLA surpasses the FMLA by providing additional benefits for pregnant women.
- The Washington State Human Rights Commission (WSHRC) regulations against discrimination also provide leave for the time a woman is sick or temporarily disabled due to pregnancy or childbirth.
- Benefits a pregnant employee receives under WSHRC rules depend upon the number of workers the woman's employer has:
 - If the employer has fewer than eight employees, the employee is not guaranteed a job when she is able to return to work.
 - If the employer has eight or more employees, the employee is allowed maternity disability leave and is entitled to return to work when released by her health care provider. The disability leave is based on her individual condition and it may include all the time her health care provider determined she is unable to work.
- Under the commission's regulations against discrimination, employers must treat a woman on pregnancy related leave the same as other employees on leave for sickness or other temporary disability
- Employers must provide the same disability leave benefits to women who are pregnant or have recently given birth--just as they provide to any other employee.
- This also means that disabilities related to pregnancy or childbirth cannot be excluded from an employer's other leave or benefits policies
- This rule applies whether the employees qualify for either federal FMLA or state FLA.
- The described leave for pregnant women is in addition to their other benefits for family leave purposes.
- The allowed amount of leave is that which is medically necessary to address any disability due to pregnancy or childbirth, depending on the woman's individual condition.
- Although the amount of disability leave is not set, the usual amount recommended by health care providers for childbirth without complications is six to eight weeks.
- The amount of disability leave can vary according to an individual's situation.

- Complications due to pregnancy, childbirth, or related conditions may result in extended pregnancy disability leave.
- An employer should consult with the commission to learn how to address special extended disability leave issues.
- If a woman has not worked long enough to qualify for the FMLA, but does work for an employer with eight or more employees, she is entitled to disability leave under the WSHRC rules until she is released to return to work by her health care provider.

FLA Leave

- Employers with 50 or more employees must grant more time off to women who give birth in addition to the 12 weeks of leave under the federal FMLA.
- A woman is entitled to time off for any disability due to pregnancy and childbirth.
- The post-partum period as determined by a health care provider under WSHRC rules also entitles a woman to time off.
- Time allotted for this leave as described above is in addition to the 12 weeks of leave granted under the state FLA or federal FMLA.

Interaction between FLA, FMLA, and Pregnancy Disability

- Pregnancy disability leave may run concurrently with the federal FMLA.
- FLA can only be taken after the woman has exhausted her WSHRC pregnancy disability leave.
- Once a woman's leave for pregnancy disability ends, she is entitled to use the balance of her leave available under federal FMLA and state FLA in order to
 - Care for the newborn baby.
 - Care for a sick spouse, child, or parent.
 - Other personal illness she may have during the 12-month period
- For all other qualifying reasons (other than pregnancy- or childbirth-related disabilities) the FLA may run concurrently with the FMLA.
- The only time FLA and FMLA do not run concurrently is when a woman takes leave for pregnancy- or childbirth-related conditions.
- Where pregnancy- or childbirth-related conditions are present, FMLA will run concurrently with the pregnancy or childbirth-related disability, but the FLA will not.

Paid Family Time Off

- Under Washington's Family Care Act (FCA), if an employer provides employees with paid time off of any type, the employee may use the time for family leave.
- The paid time off may be used for purposes including:
 - Sickness.

- Vacation.
- Personal or disability leave.
- Compensatory time off.
- The FCA covers all employers in the state, in both public and private sectors.
- The FCA covers all employers regardless of the number of their employees.
- Employees do not have to meet any minimum service requirements to be eligible for FCA leave.
- Any employee who accrues and is eligible to use any kind of paid leave may use that leave for family purposes.

Leave Use and Restrictions

- Employers may use accumulated leave to care for:
 - The employee's child who has a health condition that requires treatment or supervision
 - A spouse, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency condition
- An employee is not allowed to take advance leave. In other words, he or she must wait until the leave has been earned
- An employee taking FCA leave must comply with the terms of any applicable collective bargaining agreement or employer policy, with the exception of any terms relating to the choice of leave.

Definitions of Family Members

- "Child" means a biological, adopted or foster child, a stepchild, a legal ward or a person standing in loco parentis who is under 18 years of age.
- " Child " can also mean a biological, adopted or foster child, a stepchild, a legal ward or a person standing in loco parentis who is 18 years of age or older and incapable of self-care because of a mental or physical disability.
- "Grandparent" means a parent of a parent of an employee.
- "Parent" means a biological or adoptive parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child.
- "Parent-in-law " means a parent of the spouse of an employee.
- "Sick leave or other paid time off" means time allowed under the terms of an appropriate collective bargaining agreement or employer policy, as applicable, to an employee for illness, vacation, and personal holiday.
- "Spouse " means a husband or wife, as the case may be.

Military Leave

- Under Washington's military leave law, an employee who is the spouse of a member of the armed forces, National Guard or Reserves who has been notified of an impending call or order to active duty, or who has been deployed, is entitled to up to 15 days of unpaid leave.
- The maximum of 15 days of unpaid leave is per deployment after the military spouse has been notified of the impending call or when the military spouse is on leave from deployment.
- An employee is a person who performs service for hire for an employer for an average of 20 or more hours per week.
- An employer who takes this kind of leave is entitled to be restored to a position of employment as an employee taking FMLA leave.
- The employee must notify his or her employer of the employee's intention to take this leave within five business days of receiving official notice of an impending call or order to active duty, or of a leave from deployment.
- Any employee who is a member of the Washington National Guard or Reserves is entitled to military leave for up to 21 days during each year (October 1-September 30).
- The above leave may be used so that the employee may take part in active training duty.
- The leave is granted in addition to any vacation or sick leave to which the employee might otherwise be entitled.
- The leave shall not result in any loss of efficiency rating, privileges, or pay.

Domestic Violence

- Under Washington's domestic violence law, an employee may take reasonable leave from work, including intermittent leave, or leave on a reduced leave schedule in order to:
 - Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or employee's family members.
 - This includes preparation for, or participating in, any civil or criminal proceeding related to or derived from domestic violence, sexual assault, or stalking.
 - Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault or stalking, or to attend health care treatment for a victim who is the employee's family member.
 - Obtain, or assist a family member in obtaining, services from a domestic violence shelter, rape crisis center, or social services program for relief from domestic violence, sexual assault or stalking.

- Obtain, or assist a family member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault or stalking, in which the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future domestic violence, sexual assault or stalking.
- A family member is defined as a person whose relationship to the employee can be classified as a:
 - Child.
 - Spouse.
 - Parent.
 - Parent-in-law.
 - Grandparent.
 - Person with whom the employee has a dating relationship.
- An employee is required to give an employer advance notice of the employee's intention to take leave that is in compliance with the employer's stated policy for requesting such leave.
- The employer may require that the need for leave be verified.
- An employee who is absent from work for this type of leave may use the employee's sick leave and other paid time off, compensatory time or unpaid leave time.
- The taking of this leave may not result in the loss of any pay or benefits to the employee.
- The employee must be restored to his or her position of employment that he or she held when the leave began.
- All employers, regardless of size, are covered.
- Family members may also take reasonable leave to help a victim obtain necessary treatment or services.

State Laws—Enforced by Labor and Industries Family Care Act (FCA)

- Employees can use paid leave, such as sick leave, vacation, holiday, PTO, and some short term disability plans
- Employees can use paid leave to care for sick family members, including
 - Spouse.
 - Child.
 - Parent.
 - Parent-in-law.
 - Grandparent with a serious health condition

- Family Care Act covers care of a child < 18 years old with a routine childhood illness or needed preventative care, and also for the disability of an adult child
- FCA covers short-term care of pregnant spouse during or after childbirth, as needed
- FCA applies to all employers who provide a paid leave benefit

Family Leave Act (FLA)

- Applies only to women who are pregnant
- FLA covers employers with ≤ 50 employees within a 75 mile radius, and employees with 1,250 work hours in the past year [same as FMLA]
- FLA is typically unpaid leave unless employer policy covers employee for paid leave.
- FLA Leave for disability due to pregnancy or childbirth is in addition to 12 weeks under either FMLA and/or state FLA for the care of a newborn, sick spouse, parent, child, or other personal illness.
 - Pregnancy disability leave is typically 6-8 weeks as determined by a healthcare provider and based on an individual's condition.
 - Pregnancy disability leave could include the period of time before childbirth.
- Elements identical to FMLA will be enforced by USDOL (United States Department of Labor)

Leave for Victims of Domestic Violence and their Family Members

- Allows victims of domestic violence, sexual assault, or stalking to take reasonable leave from work for legal or law-enforcement assistance, medical treatment, or counseling.
- Allows family members to take reasonable leave to help a victim obtain needed treatment or services.
- This kind of leave is unpaid.
- Family members are defined as:
 - Child
 - Spouse
 - Parent-in-law
 - Grandparent
 - Person the employee is dating.
- All employers are covered by this leave provision regardless of size.
- Whenever possible, an employee must give advance notice of the need for this leave.

Leave for Spouses of Deployed Military Personnel

- This provision allows spouses of military personnel deployed or on leave from deployment during times of military conflict to take 15 days unpaid leave from work per deployment.
- Spouses of returning military personnel whose deployment orders have ended are not covered by this provision.
- Leave is without pay, but accrued leave may be substituted.
- This provision covers all employers, public and private, regardless of size.
- An employee as defined by this provision is one who works on average 20 hours or more per week.

Family Leave Insurance

- Passed by legislature in 2007
- Allows parents to take time off to bond with a newborn or newly placed child.
- Establishes a benefit of \$250 per week, effective October 1, 2009.
- Employees who have worked 680 hours over four quarters are eligible for income benefits.
- Employees are eligible for job protection if an employer has more than 25 employees who work 1,250 hours or more per year.
- This insurance is administered by the Employment Security Department

State Laws-Enforced by Washington State Human Rights Commission Sex Discrimination

- Covers employers with ≥ 8 employees.
- Pregnant employees are covered for the period of time before and after childbirth.

Pregnancy Disability Leave

- A healthcare provider determined when an employee can no longer work.
- Typically 6-8 weeks of leave is provided, as determined by a healthcare provider and based on the condition of the individual.
- Employees who use this leave are entitled to the same benefits that an employer offers other employees on temporary disability leave.
- Employees who use pregnancy disability leave are allowed to return to the same or similar job after leave.

**Family Medical and Leave Act (FMLA) - State Laws-Enforced by U.S.
Department of Labor**

- FMLA applies to employers with ≥ 50 employees within a 75 mile radius; employees must have worked 1,250 hours in the past year.
- FMLA covers unpaid leave-12 weeks of care of self or family member with a serious health condition. This includes spouse, child, or parent.

West Virginia FMLA

Public-Sector Employers:

- West Virginia's Parental Leave Act provides all state and county employees with up to 12 weeks of unpaid leave during any 12-month period.
- This unpaid leave is provided after the exhaustion of the employee's entire annual and personal leave.
- This means that public employees can extend their paid time off by the 12 weeks of unpaid leave for a greater benefit than that which is provided by the federal FMLA.
- The unpaid leave may be used for:
 - The birth of a son or daughter of the employee.
 - The placement of a son or daughter with the employee for adoption.
 - Care for the employee's son, daughter, spouse, parent, or dependent who has a serious health condition.
- If family leave is foreseeable, the employee must provide his or her employer with at least two weeks written notice of an expected birth, adoption, or planned medical treatment.

Terms Defined

- An employee means any individual hired for permanent employment who has worked for at least 12 consecutive weeks (about three months) for the employer.
- A dependent means anyone living with the employee or dependent upon the employee's income, whether related by blood or marriage, or unrelated.
- A serious health condition is defined as:
 - A physical or mental illness, injury, or impairment; which requires inpatient or continuing care under the supervision of a health care provider.
- A son or daughter is defined as a:
 - Biological.
 - Adopted.
 - Foster child.
 - Stepchild.
 - Legal ward.

The son or daughter as defined here must be either under 18 years of age or be incapable of self-care because of a mental or physical disability.

Written Certification May Be Required

- An employer may require an employee requesting leave to provide certification by a health care provider of the serious health condition of the employee's family member.
- There is no allowance for second opinions if the employer doubts the validity of the original certification.

Continuation of Benefit

- During the parental leave, an employer must continue group health insurance coverage for the employee.
- In order for group health insurance coverage to be continued by an employer, the employee must pay the employer the premium costs of such coverage.

Intermittent Leave Permitted

Leave may be taken intermittently when medically necessary to care for a:

- Son.
- Daughter.
- Parent.
- Dependent with a serious health condition.

Reinstatement

- An employee returning from leave shall be returned to his or her original position.
- However, the employer may employ a temporary employee to fill the position for the period of the parental leave.

Wisconsin FMLA

All Employers:

To be eligible for the conditions in Wisconsin's Family and Medical Leave Act (WFMLA), an employer must employ at least 50 individuals on a permanent basis in Wisconsin, while an employee must have worked under the same employer for more than 52 consecutive weeks and at least 1,000 hours during the preceding 52-week period.

Family & Medical Leave

In a 12-month period, no employee may take more than:

- Six weeks of family leave for the birth or placement of a child.
- Two weeks to care for the serious health condition of a child, spouse or parent.
- Eight weeks for any combination of those reasons.

An employee may take family leave as partial absence from employment; employees who do so shall schedule all partial absences so it does not unduly disrupt the employer's operations.

An employee with a serious health condition may take no more than two weeks of medical leave during a 12-month period. A "serious health condition" is defined as a disabling physical or mental illness, injury, impairment or condition involving:

- Inpatient care in a hospital, nursing home or hospice.
- Outpatient care that requires continuing treatment or supervision by a health care provider.

Stipulations of Leave

An employee may substitute, for portions of family or medical leave, paid or unpaid leave of any other type provided by the employer.

Employers may require certification which confirms the following:

- That the child, spouse, parent or employee has a serious health condition.
- The date the serious health condition commenced and its probable duration.
- Within the knowledge of the health care provider or Christian Science practitioner, the medical facts regarding the serious health condition
- An explanation of the extent to which the employee is unable to perform his or her employment duties (if the employee requests medical leave)

The employer may require the employee to obtain the opinion of a second healthcare provider.

Employees should give their employer advance notice of leave for an expected birth or placement of a foster child if possible. If an employee plans on taking family leave for a planned medical treatment or for the supervision of a child, spouse, parent or for the employee him/herself, the employee must:

- Make a reasonable effort to schedule the medical treatment or supervision so that it does not unduly disrupt the employer's operations, subject to the approval of the health care provider of the child, spouse, parent or employee.
- Give the employer advance notice of the medical treatment or supervision in a reasonable and practicable manner.

Alternative Employment:

An employer must maintain group health insurance coverage for an employee on family or medical leave as if the employee had not taken the leave. An employer may require an employee to have, in escrow with the employer, an amount equal to the entire premium or similar expense for eight weeks of the employer's group health insurance coverage (if coverage is required).

The WFMLA permits an employer and an employee with a serious health condition to agree upon alternative employment for the employee while the condition lasts. No period of alternative employment reduces the employee's right to family or medical leave.

State Employers:

State employees may take up to five workdays of leave to serve as a bone marrow / organ donor, and up to 30 days of leave to serve as an organ donor. Medical certification is required for this type of leave.

Wyoming FMLA

Difference from FMLA

While the federal FMLA defines "immediate family" as a spouse, child or parent, Wyoming's definition includes any stepparents, parents-in-law, stepchildren, children-in-law, siblings, half-siblings, step-siblings, siblings-in-law, grandparents, step-grandparents, grandparents-in-law and grandchildren.

Bereavement Leave

Wyoming employees are granted three regularly scheduled work days of bereavement leave upon being notified of the death of an immediate family member. This leave is only used for purposes associated with the death of the family member and shall be used before the use of any other leave authorized for this purpose.

Donated Leave

Employees with at least 80 hours of accrued sick leave are allowed to donate four to 16 hours of that leave per calendar year to one recipient who had an immediate and reasonable need for such assistance.

- Donations between immediate family members who are state employees are not subject to the 16-hour maximum
- Donors must notify their agency head in writing of the transfer, and the head can either approve or disapprove of it.
- Donations can be made to employees in other agencies under the agency head's discretion.
- Employees must deplete all annual and sick leave before using donated leave.
- Unused donated sick leave will be returned to the original owner when the recipient returns to work or no longer needs it.