

National Conference of State Legislatures

State Family and Medical Leave Laws that Differ from the Federal FMLA

The provisions of the federal Family Medical Leave Act (FMLA) are outlined in the first row of the table below. The FMLA allows states to set standards that are more expansive than the federal law, and many states have chosen to do so. This table includes the statutory provisions that states with laws differing from the federal FMLA have adopted to expand family and medical leave for many employees.

Only three states, California, New Jersey, and Washington, offer paid, or partially paid, family and medical leave. In California, paid leave is funded by a payroll tax on employees. New Jersey extended its existing temporary disability insurance (TDI) system to administer paid leave, and also funds the program through an employee payroll tax. In Washington, the Legislature has allocated start-up funds of \$6.2 million to set up computer systems, create application forms, and hire staff for the program that is scheduled to begin in October 2009. However, a funding mechanism has not yet been determined.

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<p>FEDERAL Family and Medical Leave Act of 1993 (FMLA)</p> <p>FEDERAL (continued)</p>	<p>All employers with 50 or more employees.</p> <p>Employees who have worked for an individual employer for at least 12 months, which need not be consecutive, and who have at least 1250 hours of service during the 12 months prior to the leave.</p>	<p>12 weeks of unpaid leave during a 12-month period.</p> <ul style="list-style-type: none"> - To care for a newborn, adopted, or foster child. - To care for a family member (parent, under 18 child, dependant adult child, or spouse) with a serious health condition. - To attend to the employee's own serious health condition. <p>Leave for birth, adoption, foster care, or to care for a parent with a serious health condition must be shared by spouses working for the same employer.</p>	<p>Employees may elect or employers may require that paid leave be substituted under certain circumstances, so that the total paid and unpaid leave equals 12 weeks. Paid leave may not be substituted for any situation not covered by the employer's leave plan.</p> <p>Requires that leave requests be made at least 30 days before leave is to begin when need for leave is known in advance. If need is not foreseeable, leave should be requested as soon as practicable.</p> <p>Allows intermittent leave for a serious health condition when medically necessary. Disallows intermittent leave for the care of a newborn or newly-placed adopted or foster care child unless the employer agrees. Encourages employees to make a reasonable effort to schedule intermittent leave in a way that is not unduly disruptive to the employer.</p> <p>Requires an employer to restore an employee who uses family and medical leave to the same or an equivalent position upon his or her return.</p>
<p>California Cal. Government Code § 12945.2</p>	<p>All employers with 50 or more employees, and the state and political subdivisions.</p>	<p>12 weeks of family leave plus 4 months of maternity disability may be combined for a total of 28 weeks/year.</p>	<p>Provides a qualified employee with 55% of his or her wages, up to \$882/week, for 6 weeks.</p> <p>No requirement that business with fewer than 50 employees</p>

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	Employees who have worked for an employer for at least 12 months, and who have 1250 hours of service during the 12 months prior to the leave.	Provides 40 hours/year, but no more than 8 hours/month to participate in children's educational activities.	hold a job for an employee returning from paid leave.
Connecticut Conn. Gen. Stat. § 31-51kk to 31-51qq	<p>All employers with 75 or more employees, except private or parochial elementary or secondary schools.</p> <p>Employees who have 1000 hours service with an employer during the 12-month period before the leave.</p>	<p>16 weeks/2 years.</p> <p>Includes leave to be an organ or bone marrow donor.</p>	Allows an employer to transfer a returning employee who is medically unable to perform his or her original job to work suitable to the employee's physical condition, if such work is available.
District of Columbia D.C. Code Ann. §§ 501 to 517	<p>Any individual, firm, association, or corporation, their receiver or trustee, or the legal representative of a deceased employer, including the District of Columbia government, who uses the services of another individual for pay.</p> <p>An employee who has at least 1000 hours of service with an employer during the 12-month period prior to leave.</p>	<p>16 weeks of family leave plus 16 weeks of medical leave for employee's own serious health condition during a 2 year period.</p> <p>"Family member" includes all relatives by blood, legal custody, or marriage, and anyone with whom an employee lives and has a committed relationship.</p> <p>24 hours/year to participate in children's educational activities.</p> <p>Leave must be shared by family members working for the same employer.</p>	<p>Provides that leave rights for a child's birth or placement expire 12 months after the event.</p> <p>Allows intermittent leave when either the employee or a member of the employee's family has a serious health condition.</p> <p>Allows an employee to elect to substitute paid family, vacation, personal, or compensatory leave. Also allows an employee to use another employee's paid leave under an employer's program.</p> <p>For employers with fewer than 50 employees, provides that employment restoration may be denied to a salaried employee if the employee is among the employer's 5 highest paid employees.</p>
Hawaii Hawaii Rev. Stat. §§ 398-1 to 398-29	<p>Private employers with 100 or more employees.</p> <p>Excludes the state and its political subdivisions.</p> <p>Employees who have worked for 6 consecutive months.</p>	<p>4 weeks/year.</p> <p>"Family member" includes in-laws, grandparents, and grandparents-in-law.</p> <p>Does not apply to employee's own health condition or placement of a foster child.</p> <p>Does not require spouses to share leave.</p>	<p>Permits intermittent leave for birth, adoption placement, and to care for a family member with a serious health condition.</p> <p>Either the employer or the employee may elect to substitute paid leave. However, sick leave may not be substituted unless sick leave is normally granted for family leave purposes, or if both the employer and employee agree to the substitution.</p>
Illinois 820 ILCS 147/1 et seq.	<p>All employers.</p> <p>Employees who have worked for an employer for 6 consecutive months and whose weekly hours during that time averaged at least one-half of a full-time</p>	<p>Up to 8 hours during any school years, but no more than 4 hours on any given day.</p> <p>Leave is available only to attend school conferences or participate in a child's classroom activities.</p>	<p>Allows school activity leave to be taken only when the employee has no available vacation leave, personal leave, compensatory leave, or other leave except sick leave or disability leave.</p> <p>Requires that employee request leave in writing at least 7</p>

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	equivalent position.		days in advance, except in an emergency.
Kentucky Ky. Rev. Stat. § 337.015	All employers.	Provides "reasonable personal leave," not to exceed 6 weeks. Adoption leave is available only for a child under age 7.	Requires an employee to request leave in writing.
Louisiana La. Rev. Stat. § 1501.1-2	All employers.	16 hours/year (at the employer's discretion). The employer is not obliged to grant leave. Leave is available only to participate in children's educational activities.	Permits an employee to substitute any accrued vacation time or other appropriate paid leave for any leave taken to participate in his or her children's educational activities.
Maine Me. Rev. Stat. Ann. tit. 26, §§ 843 - 848	Private employers with 15 or more employees. All branches, departments, and agencies of the state. Any city, town or municipal agency with 25 or more employees. Employees employed by the same employer for 12 consecutive months.	10 weeks/2 years. Includes leave to be an organ donor. Adoption leave is only available if the child is 16 or younger. Offers no leave for the placement of a foster child. Also provides leave in the case of the death or serious health condition of the employee's spouse, domestic partner, parent or child if that person is a member of the military who dies or incurs a serious health condition while on active duty. Does not require spouses to share leave.	Requires employees to request leave 30 days in advance, unless a medical emergency prevents it.
Massachusetts Mass. Gen. Laws ch. 149, § 52D	Applies the terms of the federal act regarding employer coverage and employee eligibility. Currently, covers all employers with 50 or more employees.	Provides an additional 24 hours/year to the 12 weeks/12 months allowed under the federal FMLA. Includes leave to participate in children's educational activities. Allows leave to accompany a child, spouse, or elderly relative to routine medical, dental, or other professional medical appointments.	Requires that where the need for leave is foreseeable, employees notify the employer at least 7 days in advance. Where the need for leave is not foreseeable, notice must be provided as soon as practicable.
Minnesota Minn. Stat. §§ 181.940 to 944	All employers with 21 or more employees.	6 weeks for the birth or adoption of a child. 16 hours/year to participate in children's	Allows parental leave to be reduced by any period of paid parental or disability leave, but not sick leave, so that the total leave does not exceed 6 weeks, unless agreed to by the

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<p>Minn. Stat. § 181.945</p> <p>Minn. Stat. § 181.9456</p> <p>Minn. Stat. § 181.947</p>	<p>All employers with at least 1 employee for school activities leave only.</p> <p>An employee who has worked for an employer for at least 12 consecutive months immediately preceding the request, and whose average number of hours per week equal one-half the full-time equivalent position.</p> <p>All employers with 20 or more employees.</p> <p>All employers with 20 or more employees.</p> <p>All employers.</p>	<p>educational activities.</p> <p>Does not require spouses to share leave.</p> <p>Up to 40 hours to undergo a medical procedure to donate bone marrow.</p> <p>Up to 40 hours to donate an organ or partial organ.</p> <p>Up to 10 working days when a person's parent, child, grandparents, siblings, or spouse who is a member of the United States armed forces, has been injured or killed while in active service.</p>	<p>employer.</p> <p>Permits employees to use personal sick leave benefits provided by the employer to care for an ill or injured child, on the same terms as for the employee's own use.</p> <p>Does not provide for intermittent leave.</p> <p>Requires an employee returning from an absence of longer than 1 month to notify the employer at least 2 weeks in advance.</p> <p>Permits the employer to establish reasonable request policies for birth or adoption leave.</p> <p>Allows the amount of leave to be reduced by any employer-provided paid leave.</p> <p>Requires an employee to give as much notice as practicable before taking leave.</p>
<p>Nevada</p> <p>Nev. Rev. Stat. § 392.920</p>	<p>All employers.</p>		<p>Makes it unlawful to terminate an employee for attending school conferences or for receiving notification of a child's emergency at work.</p>
<p>New Jersey</p> <p>N.J. Rev. Stat. § 34:11B-1 to 15</p> <p>N.J. Rev. Stat. § 43:21-25 et seq. (Payroll deductions begin</p>	<p>All employers with 50 or more employees.</p> <p>Employees who have worked for an employer for 12 months and who have at least 1000 hours of service during those 12 months.</p> <p>All employers subject to New Jersey Unemployment Compensation Law.</p> <p>Employees who have worked 20</p>	<p>12 weeks/24 months.</p> <p>"Family member" includes in-laws.</p> <p>Does not provide leave for the employee's own serious health condition.</p> <p>Does not require spouses to share leave.</p> <p>6 weeks/12 months.</p> <p>- To care for a child anytime during the first year after that child's birth or adoption.</p>	<p>Provides that leave may be paid, unpaid, or a combination of both.</p> <p>Exempts employees who are among the top 5% or the 7 highest paid from the reinstatement provision.</p> <p>Requires an employee to provide notice of leave in a reasonable and practicable manner.</p> <p>Provides up to 2/3 of wages up to \$524/week for 6 weeks.</p> <p>Allows employers to establish a "private" TDI plan if the majority of employees agree.</p>

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<i>January 1, 2009 Benefits will be available July 1, 2009).</i>	calendar weeks OR who have earned at least 1000 times the state minimum wage during the 52 weeks prior to leave.	- To care for a seriously ill child, spouse, parent or domestic partner. If taken intermittently, limits leave to 42 days/12 months.	An employer may require an employee to use up to two weeks of employer-provided leave before taking Paid Family Leave. An employer may permit the employee to use all available sick, vacation, or other employer-provided paid time off before using Paid Family Leave. Provides that any Paid Family Leave runs concurrently with FMLA or NJFLA. Requires employees who are taking leave to care for a newborn or newly-placed adopted child to provide at least 30 days prior notice. Employees who fail to provide this notice will lose 2 weeks worth of benefits, unless the failure is due to unforeseen circumstances. Requires employees who are taking intermittent leave to provide at least 15 days prior notice, unless an emergency or unforeseen circumstances prevents it. Requires employees to make a reasonable effort to avoid disrupting the employer's operations. Establishes penalties for filing a false claim.
North Carolina N.C. Gen. Stat. § 95-28.3	All employers. Any employee who is a parent, guardian, or person standing in <i>loco parentis</i> of a school-aged child.	4 hours/year to participate in children's educational activities.	Applies the following conditions to leave for children's educational activities: (1) The employer and the employee must mutually agree on when the leave is to occur. (2) The employer may require the employee to provide a written request at least 48 hours in advance. (3) The employer may require written verification from the child's school that the employee attended or was otherwise involved at that school during the time of the leave.
Oregon Or. Rev. Stat. § 659A.150 to 186	All employers with 25 or more employees. Employees who have worked at least 25 hours per week in the past 180 days.	12 weeks/year. Provides an additional 12 weeks/year to care for the employee's ill or injured child who does not have a serious health condition but who does require home care. "Family member" includes the employee's grandparent, grandchild, or parent-in-law, or a person with whom the employee has or had an in <i>loco parentis</i> relationship.	Prohibits two family members working for the same employer from taking concurrent family leave except under certain conditions. Allows an employee to substitute any available paid vacation or sick leave. Provides that where 30 days notice is not possible, an oral request must be made within 24 hours after leave begins followed by written notice within 3 days after the employee returns to work.
Rhode Island	Any person, sole proprietorship,	13 weeks/2 years.	Requires an employee to give at least 30 days notice prior to

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R.I. Gen. Laws § 28-48-1 to 11	<p>partnership, corporation, or other business entity with 50 or more employees.</p> <p>Any state department or agency with any employees.</p> <p>Any city or town or municipal agency with 30 or more employees.</p> <p>Full time employees who have been employed for 12 consecutive months and who work an average of 30 or more hours per week.</p> <p>Full time employees who have been employed for 12 consecutive months and who work an average of 30 or more hours per week.</p>	<p>"Family member" includes the employee's spouse's parent.</p> <p>10 hours/year to participate in children's educational activities.</p>	<p>taking leave, unless prevented from doing so by a medical emergency.</p>
<p>Rhode Island (continued)</p> R.I. Gen. Laws § 28-48-12	<p>Any person, sole proprietorship, partnership, corporation, or other business entity with 50 or more employees.</p> <p>Any state department or agency with any employees.</p> <p>Any city or town or municipal agency with 30 or more employees.</p>	<p>10 hours/12 months to attend school conferences or other school-related activities for a child of whom the employee is the parent, foster parent or guardian.</p>	<p>Requires the employee to give 24 hours notice prior to the leave and to make a reasonable effort to schedule the leave so as not to unduly disrupt the employer's operations.</p>
<p>Vermont</p> Vt. Stat. Ann. tit. 21, § 470 to 474	<p>All employers with 10 or more employees for leaves associated with a new child or adoption.</p> <p>All employers with 15 or more employees for leaves related to a family member's or employee's own serious medical condition.</p> <p>Employees who have worked for an employer for one year for an average of 30 or more hours per week.</p>	<p>12 weeks/12 months for parental or family leave.</p> <p>Provides an additional 24 hours/12 months to attend to the routine or emergency medical needs of a child, spouse, parent, or parent-in-law or to participate in children's educational activities. Limits this leave to no more than 4 hours in any 30-day period.</p> <p>Does not require spouses to share leave.</p>	<p>Allows the employee to substitute available sick, vacation, or other paid leave, not to exceed 6 weeks.</p> <p>Does not require the employer to reinstate an employee if the employee performed unique services and hiring a permanent replacement was necessary to prevent substantial and grievous injury to the employer.</p> <p>Requires employees to provide reasonable notice.</p> <p>Provides that for birth or adoption placement, the employer may not require more than 6 weeks advance notice.</p>
<p>Washington</p> Wash. Rev. Code	<p>Employers who provide sick leave or</p>	<p>Establishes a family leave insurance program that</p>	<p>Requires employers to allow employees to use paid leave to</p>

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<p>§ 49.12.265</p> <p>Wash. Rev. Code § 49.86 (Effective October 1, 2009.)</p>	<p>other paid time off.</p> <p>All employers.</p> <p>An employee who has been employed for at least 680 hours during his or her qualifying year.</p>	<p>provides up to 5 weeks/year of paid leave to care for a newborn child or a newly-placed adopted child.</p> <p>Provides a benefit amount of \$250/week for an individual working at least 35 hours/week.</p> <p>Offers a pro-rated schedule for individuals who work less than 35 hours/week or who use leave in an amount greater than 8 hours but less than 35 hours in a week.</p>	<p>care for a sick child, spouse, parent, parent-in-law, or grandparent.</p> <p>Requires reinstatement only by employers with at least 25 employees for individuals who have been employed for at least 12 months and who have at least 1250 hours of service with that employer during 12-month period prior to the leave.</p> <p>Allows the employer to require that spouses or people involved in another type of covered relationship not take concurrent family leave.</p>
<p>Wisconsin</p> <p>Wis. Stat. § 103.10</p>	<p>Employers who employ at least 50 individuals on a permanent basis, including any state government entity.</p> <p>An employee who has been employed by the same employer for more than 52 consecutive weeks and who has at least 1,000 hours of service during that time.</p>	<p>Provides up to 10 total weeks of family and medical leave comprised of the following:</p> <ul style="list-style-type: none"> - Care for a newborn or adopted child (6 weeks). - Care for a child, spouse, or parent with a serious health condition (2 weeks). - The employee's own serious health condition (2 weeks). <p>Does not require spouses to share leave.</p>	<p>Allows an employee to substitute employer-provided paid or unpaid leave for portions of family or medical leave.</p> <p>Allows an employee to take family leave as a partial absence provided that the employee schedules the partial absence so it does not unduly disrupt the employer's operations.</p> <p>Requires that leave requests be made in a reasonable and practicable manner.</p>

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