


**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.

In many states, state public employees receive even more generous family and medical leave. See **Leave Provisions for State Employees** (available soon). In addition, most states require that both public and private employers, at least those of a certain size, offer maternity leave. See **Maternity Leave Requirements** (available soon).

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.

<b>Jurisdiction/ Statute</b>	<b>Employers Covered/ Employee Eligibility</b>	<b>Length of Leave/Types of Leave Allowed (Leave is unpaid unless noted otherwise.)</b>	<b>Other Key Provisions or Requirements</b>
<b>FEDERAL</b> <a href="#">Family and Medical Leave Act of 1993 (FMLA)</a>  <b>FEDERAL</b> (continued)	All employers with 50 or more employees. 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.	12 weeks of unpaid leave during a 12-month period. - 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. 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.	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. 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. 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.  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.
<b>California</b> <a href="#">Cal. Government Code § 12945.2</a>	All employers with 50 or more employees, and the state and political subdivisions. Employees who have worked for an employer for at least 12 months, and who have 1250 hours of service during	12 weeks of family leave plus 4 months of maternity disability may be combined for a total of 28 weeks/year. Provides 40 hours/year, but no more than 8 hours/month to participate in children's educational activities.	Provides a qualified employee with 55% of his or her wages, up to \$882/week, for 6 weeks. No requirement that business with fewer than 50 employees hold a job for an employee returning from paid leave.

Jurisdiction/ Statute	Employers Covered/ Employee Eligibility	Length of Leave/Types of Leave Allowed (Leave is unpaid unless noted otherwise.)	Other Key Provisions or Requirements
	the 12 months prior to the leave.		
<b>Connecticut</b>  <a href="#">Conn. Gen. Stat. § 31-51kk to 31-51qq</a>	All employers with 75 or more employees, except private or parochial elementary or secondary schools. Employees who have 1000 hours service with an employer during the 12-month period before the leave.	16 weeks/2 years. Includes leave to be an organ or bone marrow donor.	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.
<b>District of Columbia</b>  <a href="#">D.C. Code Ann. §§ 501 to 517</a>	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. An employee who has at least 1000 hours of service with an employer during the 12-month period prior to leave.	16 weeks of family leave plus 16 weeks of medical leave for employee's own serious health condition during a 2 year period. "Family member" includes all relatives by blood, legal custody, or marriage, and anyone with whom an employee lives and has a committed relationship. 24 hours/year to participate in children's educational activities. Leave must be shared by family members working for the same employer.	Provides that leave rights for a child's birth or placement expire 12 months after the event. Allows intermittent leave when either the employee or a member of the employee's family has a serious health condition. 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. 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.
<b>Hawaii</b>  <a href="#">Hawaii Rev. Stat. §§ 398-1 to 398-29</a>	Private employers with 100 or more employees. Excludes the state and its political subdivisions. Employees who have worked for 6 consecutive months.	4 weeks/year. "Family member" includes in-laws, grandparents, and grandparents-in-law. Does not apply to employee's own health condition or placement of a foster child. Does not require spouses to share leave.	Permits intermittent leave for birth, adoption placement, and to care for a family member with a serious health condition. 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.
<b>Illinois</b>  <a href="#">820 ILCS 147/1 et seq.</a>	All employers. 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 equivalent position.	Up to 8 hours during any school years, but no more than 4 hours on any given day. Leave is available only to attend school conferences or participate in a child's classroom activities.	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. Requires that employee request leave in writing at least 7 days in advance, except in an emergency.
<b>Kentucky</b>  <a href="#">Ky. Rev. Stat. § 337.015</a>	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.
<b>Louisiana</b>  <a href="#">La. Rev. Stat.</a>	All employers.	16 hours/year (at the employer's discretion). The	Permits an employee to substitute any accrued vacation time or other appropriate paid leave for any leave taken to

Jurisdiction/ Statute	Employers Covered/ Employee Eligibility	Length of Leave/Types of Leave Allowed (Leave is unpaid unless noted otherwise.)	Other Key Provisions or Requirements
<a href="#">§ 1501.1-2</a>		employer is not obliged to grant leave. Leave is available only to participate in children's educational activities.	participate in his or her children's educational activities.
<b>Maine</b> <a href="#">Me. Rev. Stat. Ann. tit. 26, §§ 843 - 848</a>	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.
<b>Massachusetts</b> <a href="#">Mass. Gen. Laws ch. 149, § 52D</a>	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.
<b>Minnesota</b> <a href="#">Minn. Stat. §§ 181.940 to 944</a>  <a href="#">Minn. Stat. § 181.945</a>  <a href="#">Minn. Stat. § 181.9456</a>	All employers with 21 or more employees. All employers with at least 1 employee for school activities leave only. 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.  All employers with 20 or more employees. All employers with 20 or more employees. All employers.	6 weeks for the birth or adoption of a child. 16 hours/year to participate in children's educational activities. Does not require spouses to share leave.  Up to 40 hours to undergo a medical procedure to donate bone marrow. Up to 40 hours to donate an organ or partial organ. Up to 10 working days when a person's parent, child, grandparents, siblings, or spouse who is a	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 employer. 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. Does not provide for intermittent leave. Requires an employee returning from an absence of longer than 1 month to notify the employer at least 2 weeks in advance. Permits the employer to establish reasonable request policies for birth or adoption leave.







