



FMLA District of Columbia

Federal vs. DC Family & Medical Leave Laws

| | FEDERAL ELEMENTS | STATE ELEMENTS |
|--------------------------|---|---|
| Employers Covered | <p>Private employers with 50 or more employees in at least 20 weeks of the current or preceding year.</p> <p>Public agencies, including state, local and federal employers.</p> <p>Local education agencies covered under special provisions.</p> | <p>In addition to the federal FMLA, the District of Columbia (D.C.) has leave laws regarding (1) family and medical leave (contained within the D.C. Family and Medical Leave Act), (2) parental leave (contained in the D.C. Parental Leave Act) and (3) paid sick leave (contained in the D.C. Accrued Sick and Safe Leave Act, as amended).</p> <p>Family and medical: Any employer with 20 or more employees in D.C., including D.C. government employers (local education agencies are subject to special provisions).</p> <p>Parental leave: Any employer with at least one employee in D.C.</p> <p>Paid sick leave: Any employer who (directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity) employs or exercises control over the wages, hours or working conditions of employees.</p> |



| | | |
|----------------------------------|---|--|
| <p>Employees Eligible</p> | <p>Worked for employer for at least 12 months (which need not be consecutive); worked at least 1,250 hours for employer during 12 months preceding leave; and employed at a worksite with 50 or more employees within 75 miles of worksite.</p> | <p>Family and medical: Worked for employer for one year without a break in service (except for regular holiday, sick or personal leave granted by employer) with at least 1,000 hours of service during the 12-month period prior to the leave request. No worksite provision.</p> <p>Parental leave: Any employee working in D.C.</p> <p>Paid sick leave: All employees are eligible to accrue paid sick leave beginning on their date of hire, except: volunteers of educational, charitable, religious or nonprofit organizations; certain religious officials; casual babysitters; independent contractors; student workers; and certain healthcare workers. Eligible employees can use accrued paid sick leave after 90 days of service.</p> |
| <p>Leave Amount</p> | <p>Generally, up to a total of 12 weeks during a 12-month period.</p> <p>Up to 26 weeks during a single 12-month period to care for spouse, child, parent or next of kin who is a covered service member with a serious injury or illness.</p> <p>However, leave for birth, adoption, foster care, care for a parent with a serious health condition or care for a covered service member with a serious injury or illness must be shared by spouses working for same employer.</p> | <p>Family and medical: Up to 16 weeks for family leave <i>and</i> up to 16 weeks for medical leave (employee's own serious health condition) during a 24 month period. For example, if a pregnant employee experiences complications during the birth of her child and is medically disabled for 10 weeks, she can take 26 weeks of leave (10 weeks of medical leave and 16 weeks of family leave).</p> <p>Leave for birth or placement of a child must be taken within 12 months of the birth or placement. Spouses working for the same employer are required to share leave if leave is taken for the birth or placement of a child.</p> <p>Parental leave: A total of 24 hours during any 12-month period to attend or participate in a school-related event.</p> <p>Paid sick leave: Paid sick leave must be provided as follows:</p> <ul style="list-style-type: none"> Employers with 100 or more employees must provide each employee at least one hour of paid leave for every 37 hours worked, up to seven days per calendar year. |

| | | |
|-----------------------------|---|---|
| | | <ul style="list-style-type: none"> • Employers with 25-99 employees must provide each employee at least one hour of paid leave for every 43 hours worked, up to five days per calendar year. • Employers with 24 or fewer employees must provide each employee at least one hour of paid leave for every 87 hours worked, up to three days per calendar year. • Restaurants or bars must provide tipped employees at least one hour of paid leave for every 43 hours worked, up to five days per calendar year. |
| <p>Type of Leave</p> | <p>Unpaid leave for:</p> <ul style="list-style-type: none"> • Birth of employee's newborn child; • Placement of child with employee for adoption or foster care; • Providing care for employee's parent, child or spouse with serious health condition; • Employee's own serious health condition; • Any qualifying exigency when employee's spouse, child or parent is on active duty or is notified of impending call or order to active duty in Armed Forces; or • Caring for a spouse, child, parent or next of kin who is a covered service member with a serious injury or illness. | <p>Family and medical: Similar to federal FMLA, but applied in terms of "family membership," defined to include a person to whom the employee is related by blood, legal custody or marriage, sharing mutual residence and a committed relationship with the employee. Also includes a foster child and a child who lives with the employee and for whom the employee permanently assumes and discharges parental responsibility.</p> <p>No military leave provisions</p> <p>Parental leave: Unpaid leave to attend or participate in a school-related event for an employee who is a parent of the child. Parent includes:</p> <ul style="list-style-type: none"> • The natural father and mother; • A person with legal custody of the child; • A person who acts as guardian, regardless of whether the person has been legally appointed; • An aunt, uncle or grandparent of the child; or • A person who is married to, or in a domestic partnership with, a person who otherwise qualifies as a parent. <p>Paid sick leave: Paid leave for:</p> <ul style="list-style-type: none"> • The employee's own illness or injury; • Caring for a family member with an |

| | | |
|--|--|--|
| | | <p>illness or injury; or</p> <ul style="list-style-type: none"> Obtaining social or legal services pertaining to stalking, domestic violence or sexual abuse of the employee or employee's family member. |
| <p>Serious Health Condition/Serious Injury or Illness</p> | <p>Serious Health Condition:</p> <p>Illness, injury, impairment, or physical or mental condition involving incapacity or treatment connected with inpatient care in hospital, hospice, or residential medical-care facility, or continuing treatment by a health care provider involving a period of incapacity due to:</p> <ul style="list-style-type: none"> A health condition lasting more than three consecutive full calendar days and involving a certain level of treatment; A chronic serious health condition or a permanent or long-term condition for which treatment may be ineffective; Absences to receive multiple treatments (including recovery periods) for a restorative surgery or for a condition that if left untreated likely would result in incapacity of more than three days; or Any incapacity related to pregnancy or for prenatal care. <p>Serious Injury or Illness:</p> <p>In the case of a member of the Armed Forces, including a member of the National Guard or Reserves, an injury or illness incurred by the member in line</p> | <p>Family and medical: Similar to federal FMLA, except for military leave provisions.</p> <p>Parental leave: No provision</p> <p>Paid sick leave: No provision</p> |

| | | |
|------------------------------------|--|--|
| | <p>of duty on active duty in the Armed Forces (or which existed before the beginning of active duty and was aggravated by service in the line of duty on active duty) that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating.</p> <p>For a veteran of the Armed Forces, including a veteran of the National Guard or Reserves, an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces (or which existed before the beginning of active duty and was aggravated by service in the line of duty on active duty) and that manifested itself either before or after the member became a veteran.</p> | |
| <p>Health Care Provider</p> | <p>Doctors of medicine or osteopathy authorized to practice medicine or surgery; podiatrists, dentists, clinical psychologists, clinical social workers, physician assistants, optometrists, chiropractors (limited to manual manipulation of spine to correct subluxation shown to exist by x-ray), nurse practitioners, and nurse-midwives, if authorized to practice under state law and consistent with the scope of their authorization; Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, MA; any provider so recognized by the employer or its group health plan's benefits manager; and any health provider listed above who practices and is authorized to practice in a country other than the United</p> | <p>Family and medical: Any person licensed under federal, state or D.C. law to provide health care services.</p> <p>Parental leave: No provision</p> <p>Paid sick leave: No provision</p> |

| | | |
|---|---|--|
| | States. | |
| Intermittent Leave | <p>Permitted for serious health condition, for care of covered service member when medically necessary and for active duty leave.</p> <p>Not permitted for care of newborn or new placement by adoption or foster care, unless employer agrees.</p> | <p>Family and medical: Permitted when a family member or the employee has a serious health condition. Upon agreement between the employer and employee, family leave for the birth, adoption or foster care or other placement of a child may be taken on a reduced leave schedule over a period not to exceed 24 consecutive weeks.</p> <p>Parental leave: Permitted</p> <p>Paid sick leave: Permitted</p> |
| Substitution of Paid Leave | <p>Employees may elect, or employers may require, accrued paid leave to be substituted in some cases. Employee must follow terms and conditions of employer's normal paid leave policies.</p> | <p>Family and medical: Employee may elect accrued paid family, vacation, personal or compensatory leave to be substituted, plus the employee may utilize a program run by the employer to use paid leave of another employee if certain conditions have been met.</p> <p>Parental leave: Employees may elect to substitute any accrued paid family, vacation, personal, compensatory or leave bank leave.</p> <p>Paid sick leave: Leave may not run concurrently with other leaves.</p> |
| Reinstatement Rights | <p>Must be restored to same position or one equivalent to it in all benefits and other terms and conditions of employment.</p> | <p>Family and medical: Similar to federal FMLA, with the addition that if the employee accepted alternative employment with employer throughout the duration of the serious health condition, the employee must be returned to his or her original employment upon their return from leave.</p> <p>Parental leave: No provision</p> <p>Paid sick leave: No provision</p> |
| Key Employee Exception to Reinstatement Rights | <p>Limited exception for salaried employees if among highest paid 10 percent of workforce within 75 miles of worksite, restoration would lead to grievous economic harm to employer and other conditions</p> | <p>Family and medical: Similar to federal FMLA, but for employers with less than 50 employees, employment restoration may be denied to a salaried employee if the employee is among the five highest paid employees.</p> <p>Parental leave: No provision</p> |

| | | |
|--|--|--|
| | met. | Paid sick leave: No provision |
| Maintenance of Health Benefits During Leave | Health insurance must be continued under same conditions as prior to leave. | Family and medical: Similar to federal FMLA. Parental leave: No provision Paid sick leave: No provision |
| Leave Requests | <p>To be made by employee at least 30 days prior to date leave is to begin where need is known in advance or, where not foreseeable, as soon as practicable.</p> <p>If due to a planned medical treatment or for intermittent leave, the employee, subject to health care provider's approval, shall make a reasonable effort to schedule it in a way that does not unduly disrupt employer's operations.</p> <p>If due to foreseeable active duty of family member, notice must be made as soon as practicable.</p> | <p>Family and medical: Similar to federal FMLA.</p> <p>Parental leave: For a foreseeable school-related event, notice to be provided at least 10 days in advance.</p> <p>Paid sick leave: When the need for leave is foreseeable, employee must provide written notice at least 10 days in advance. If not foreseeable, employee must provide an oral request before the start of the shift for which paid leave is requested. In the case of an emergency, notice must be provided before the start of the employee's next work shift or within 24 hours, whichever is sooner.</p> |
| Certification Requirement | <p>Employer may require certification for the following:</p> <p>Request for leave because of serious health condition or to care for covered service member with a serious illness or injury.</p> <p>Request for qualifying exigency leave because of family member's active duty or call to active duty in the Armed Forces.</p> <p>To demonstrate employee's fitness to return to work from medical leave where employer has a uniformly applied practice or policy requiring such certification.</p> | <p>Family and medical: Similar to federal FMLA, except for military leave. No provision relating to certification of fitness to return to work.</p> <p>Parental leave: No provision</p> <p>Paid sick leave: Employer may require employee to provide reasonable certification if absent for three or more consecutive days.</p> |

| | | |
|---|--|--|
| <p>Executive, Administrative, and Professional Employees</p> | <p>These individuals are entitled to FMLA benefits. However, their use of FMLA leave does not change their status under the Fair Labor Standards Act (FLSA), i.e., an employer does not lose its exemption from the FLSA's minimum wage and overtime requirements.</p> | <p>Family and medical: Similar to federal FMLA.</p> <p>Parental leave: No provision</p> <p>Paid sick leave: No provision</p> |
| <p>Other</p> | | <p>Registered domestic partners must be treated the same as spouses for most purposes under D.C. law, including for employee leave purposes.</p> |
| <p>Statutes</p> | <p>29 USC 2601</p> | <p>D.C. Code §§ 32-501 to 32-517 (family and medical leave); DC ST §§ 32-521.01 to 32-521.06 (parental leave); §§ 32-531.01 to 32-531.16 (paid sick leave)</p> <p>4 D.C. ADC § 1601 (family and medical leave); 4 DCMR § 1620 (DC family and medical leave interaction with federal law)</p> |

SPECIAL NOTE: The D.C. Council approved the [Universal Paid Leave Act](#) (Act) requiring virtually all employers to fund paid family and medical leave for employees through a 0.62 percent increase in payroll taxes (to be collected beginning March 1, 2019). The Act provides eligible employees with up to eight weeks of parental leave to care for a newborn, adopted or foster child; six weeks of family leave to care for family members with serious health conditions; and two weeks of medical leave for an employee's own serious health condition. Employees are limited to a total of eight weeks of paid family and medical leave in any 52-week period. The program will be administered by the D.C. government.

Office of Human Rights
 441 4th Street NW
 Suite 570 North
 Washington, DC 20001
 PH: (202) 727-4559
<http://ohr.dc.gov/>