



FMLA Minnesota

Federal vs. Minnesota 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, Minnesota has leave laws regarding (1) parenting leave, (2) adoptive parent leave, (3) school activities leave, (4) family military leave and (5) domestic abuse leave.</p> <p>Parenting leave: Employers with at least 21 employees at any one worksite, including a state, county, town, city, school district or other governmental subdivision.</p> <p>Adoptive parent leave: Employers who provide paid or unpaid paternity or maternity time off to a biological father or mother.</p> <p>School activities leave: Employers with one or more employees.</p> <p>Family military leave: Employers with one or more employees, including the state and all political or other governmental subdivisions.</p> <p>Domestic abuse leave: All employers.</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>Parenting leave: Worked for employer for at least 12 consecutive months prior to leave request; worked an average number of hours equal to one-half the full-time equivalent position in the employee's job classification in the preceding 12 months. No worksite provision. Excludes independent contractors.</p> <p>Adoptive parent leave: Any employee who is an adoptive father or mother.</p> <p>School activities leave: Worked for employer for an average number of hours equal to one-half the full-time equivalent position in the employee's job classification in the preceding 12 months. No worksite provision. Excludes independent contractors.</p> <p>Family military leave: All employees who have an immediate family member in active military service (excludes independent contractors for leave to attend military ceremonies, but includes independent contractors for leave for immediate family members of military personnel injured or killed in active service). Immediate family members include a grandparent, parent, sibling, child or spouse (also includes legal guardian, grandchild, fiancé or fiancée for leave to attend military ceremonies).</p> <p>Domestic abuse leave: Any employee seeking a harassment or restraining order or an order for protection.</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</p>	<p>Parenting leave: Up to 6 weeks for birth or adoption (unless employee and employer agree to a longer period). No provision regarding spousal sharing of leave. Leave entitlement for birth or adoption expires six weeks after the birth or adoption (if the child must remain in the hospital longer than the mother, leave entitlement for birth or adoption expires six weeks after the child leaves the hospital).</p> <p>Employee may use personal sick leave benefits to attend to a sick or injured child for a reasonable period of time.</p> <p>Adoptive parent leave: A minimum of</p>

	<p>injury or illness must be shared by spouses working for same employer.</p>	<p>four weeks, unless employer has an established policy which sets a shorter period, for arranging the child's placement or caring for the child after placement.</p> <p>School activities leave: Up to 16 hours during a 12-month period to attend a child's school conferences and school-related activities (includes a foster child).</p> <p>Family military leave: Up to 10 working days for injury or death of immediate family member while engaged in active military service.</p> <p>Up to one day to attend a homecoming or send-off ceremony for a mobilized service member (unless leave would unduly disrupt employer's operations).</p> <p>Domestic abuse leave: Reasonable time off to attempt to obtain a harassment restraining order or an order of protection.</p>
<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>Parenting leave: Unpaid leave for birth or adoption and personal sick leave to care for a sick or injured child.</p> <p>Adoptive parent leave: Leave must be provided to adoptive parents for arranging a child's placement or caring for a child after placement, on the same terms as paternity or maternity leave provided by the employer to biological parents.</p> <p>School activities leave: Unpaid leave for school-related activities.</p> <p>Family military leave: Unpaid leave for the injury or death of immediate family member while engaged in active military service or for attending a military ceremony for an immediate family member ordered into active service.</p> <p>Domestic abuse leave: Unpaid leave to seek a harassment restraining order or an order of protection.</p>

<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 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</p>	<p>No specific provision</p>
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Health Care Provider	<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 States.</p>	No specific provision
Intermittent Leave	<p>Permitted for serious health condition, for care of covered service member when medically necessary and for</p>	No specific provision

	<p>active duty leave.</p> <p>Not permitted for care of newborn or new placement by adoption or foster care, unless employer agrees.</p>	
<p>Substitution of Paid Leave</p>	<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>Parenting leave: Length of leave for birth or adoption may be reduced by any period of paid parental or disability leave, but not accrued sick leave, provided by employer.</p> <p>Adoptive parent leave: Leave must be provided to adoptive parents for arranging a child's placement or caring for a child after placement, on the same terms as paternity or maternity leave provided by the employer to biological parents.</p> <p>School activities leave: Employee may elect to substitute any accrued paid vacation leave or other appropriate paid leave.</p> <p>Family military leave: Length of leave for injury or death of an immediate family member in active military service may be reduced by any period of paid leave provided by employer.</p> <p>Domestic abuse leave: Employers may allow or require employees to use paid time off or vacation time for the period of leave.</p>
<p>Reinstatement Rights</p>	<p>Must be restored to same position or one equivalent to it in all benefits and other terms and conditions of employment.</p>	<p>Parenting leave: For birth or adoption leave, employee is entitled to return to former position or in a position of comparable duties, hours, and pay. Employee returning from an absence of longer than one month must notify employer at least two weeks prior to return from leave.</p> <p>For personal sick leave to care for a sick or injured child, employee is entitled to return to former position.</p> <p>School activities leave: Employee is entitled to return to former position.</p> <p>No provision for adoptive parent leave, family military leave or domestic abuse leave</p>

<p>Key Employee Exception to Reinstatement Rights</p>	<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 met.</p>	<p>No specific provision</p>
<p>Maintenance of Health Benefits During Leave</p>	<p>Health insurance must be continued under same conditions as prior to leave.</p>	<p>Parenting leave: For birth or adoption leave, employer must make coverage available under any group insurance policy, group subscriber contract or health care plan for employee and dependents. Employer is not required to pay insurance costs.</p> <p>No provision for adoptive parent leave, school activities leave, family military leave or domestic abuse leave</p>
<p>Leave Requests</p>	<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>Parenting leave: For birth or adoption leave, employer may adopt reasonable policies governing the timing of requests for leave.</p> <p>No provision for adoptive parent leave</p> <p>School activities leave: If leave is foreseeable, employee must provide reasonable prior notice of the leave and must make a reasonable effort to schedule the leave so as to not interrupt the employer's operations.</p> <p>Family military leave: For leave for injury or death of an immediate family member in active military service, employee must give as much notice to employer as practicable of employee's intent to take leave.</p> <p>Domestic abuse leave: Employee must give 48 hours' advance notice of the absence, unless the situation presents an imminent danger to the health or safety of the employee or the employee's child or if notice is impracticable.</p>
<p>Certification</p>	<p>Employer may require</p>	<p>No provision for parenting leave, adoptive</p>

<p>Requirement</p>	<p>certification for the following: Request for leave because of serious health condition or to care for covered service member with a serious illness or injury. Request for qualifying exigency leave because of family member's active duty or call to active duty in the Armed Forces. 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>parent leave, school activities leave or family military leave Domestic abuse leave: Employers may request verification that supports the employee's reason for being absent.</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>No specific provision</p>
<p>Statutes</p>	<p>29 USC 2601</p>	<p>MN ST §§ 181.940 to 181.944 (parenting leave and school activity leave); § 181.92 (adoptive parent leave); §§ 181.947 to 181.948 (family military leave); § 609.748 subd. 10 and § 518b.01 subd. 23 (domestic abuse leave)</p>

SPECIAL NOTE: Please note that the information in the above chart focuses on statewide laws. Employers must be aware that numerous cities across the country have enacted local ordinances that mandate employers to provide paid sick leave to employees. An employer located in a city with a local paid sick leave law must comply with the local ordinance and statewide law, if applicable.

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