



FMLA Nevada

Federal vs. Nevada 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, Nevada has leave laws regarding pregnancy, school activities and leave for victims of domestic violence. Domestic violence leave takes effect for Nevada employers on Jan. 1, 2018.</p> <p>Pregnancy: Employers with 15 or more employees in at least 20 calendar weeks of the current or preceding calendar year (except the U.S. government, any corporation owned by the U.S. government, any Indian tribe or any private membership club exempt from taxation).*</p> <p>School Activities: Employers with 50 or more employees in at least 20 calendar weeks of the current calendar year. However, <i>all</i> employers are prohibited from threatening or retaliating against an employee for:</p> <ul style="list-style-type: none"> • Appearing at a school conference requested by an administrator of the school attended by the child; • Receiving notification during work hours from a school of an emergency regarding the child; or • Taking a school leave (if the employer is required to provide



		<p>school leave).</p> <p>Victims of Domestic Violence: All employers.</p>
Employees Eligible	<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>Pregnancy: Female employees who are pregnant and have a condition related to pregnancy, childbirth or a related medical condition.</p> <p>School Activities: Employees who are a parent, guardian or custodian of a child enrolled in public or private school.</p> <p>Victims of Domestic Violence: An employee who has been employed with the employer for at least 90 days and who is a victim, or whose family or household member is a victim of domestic violence.</p> <p>“Family or household member” includes a spouse, domestic partner, minor child or parent or any other adult person who is related within the first degree of consanguinity or affinity to the employee or any other adult person who is or was actually residing with the employee at the time of the domestic violence.</p>
Leave Amount	<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>Pregnancy: If the employer grants leave with or without pay or leave without loss of seniority to employees for sickness or disability because of medical condition, the employer must extend the same benefits to any female employee for a condition related to pregnancy, childbirth or related medical condition.</p> <p>It is unlawful for an employer to force a pregnant employee to take leave, if another reasonable accommodation is available that will enable the employee to continue working.</p> <p>School Activities: Up to four hours per school year for each child enrolled in school. Leave must be taken in increments of at least one hour. Employers cannot threaten or retaliate against an employee who appears at a school conference requested by an administrator of the school attended by the child, receives notification</p>

		<p>during work hours from a school of an emergency regarding the child or takes a school leave (if the employer is required to provide school leave).</p> <p>Victims of Domestic Violence: Up to 160 hours during the 12-month period immediately following the date on which an act of domestic violence occurred.</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>Pregnancy: If the employer grants leave with or without pay or leave without loss of seniority to employees for sickness or disability because of medical condition, the employer must extend the same benefits to any female employee for a condition related to pregnancy, childbirth or related medical condition.</p> <p>The employee must be allowed to use the leave before and after childbirth, miscarriage or other natural resolution of her pregnancy, if the leave is granted, accrued or allowed to accumulate as a part of her employment benefits.</p> <p>School Activities: Unpaid leave to:</p> <ul style="list-style-type: none"> • Attend parent-teacher conferences; • Attend school-related activities during regular school hours; • Volunteer or otherwise be involved at school during regular school hours; and • Attend school-sponsored events. <p>Employers cannot threaten or retaliate against an employee who appears at a school conference requested by an administrator of the school attended by the child, receives notification during work hours from a school of an emergency regarding the child or takes a school leave (if the employer is required to provide school leave).</p> <p>Victims of Domestic Violence: Paid or unpaid leave for any of the following reasons:</p> <ul style="list-style-type: none"> • For the diagnosis, treatment or care of a health condition related to an act of domestic violence;

		<ul style="list-style-type: none"> • To obtain counseling or assistance related to domestic violence; • To participate in any court proceeding related to domestic violence; or • To establish a safety plan, including, any action to increase the safety of the employee or the employee’s family or household member from a future act of domestic violence.
<p>Serious Health Condition/Serious Injury or Illness</p>	<p>Serious Health Condition: 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>Pregnancy: “Condition relating to pregnancy, childbirth or related medical condition” is defined to mean a physical or mental condition intrinsic to pregnancy or childbirth that includes, without limitation, lactation or the need to express milk.</p> <p>“Related medical condition” means any medically recognized physical or mental condition related to pregnancy, childbirth or recovery from pregnancy or childbirth. This may include, without limitation, mastitis or other lactation-related medical condition, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, loss or end of pregnancy and recovery from loss or end of pregnancy.</p> <p>School Activities: No provision</p> <p>Victims of Domestic Violence: No provision</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 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</p>	<p>No provision</p>

	<p>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>	
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>Pregnancy: No provision</p> <p>School Activities: Permitted. Leave must be taken in increments of at least one hour.</p> <p>Victims of Domestic Violence: Permitted. Leave may be taken consecutively or on an intermittent basis.</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>Pregnancy: If the employer grants leave with or without pay or leave without loss of seniority to employees for sickness or disability because of medical condition, the employer must extend the same benefits to any female employee for a condition relating to pregnancy, childbirth or a related medical condition.</p> <p>School Activities: No specific provision</p> <p>Victims of Domestic Violence: No specific provision; leave may be paid or unpaid at the employer's discretion. The law is not intended to prohibit, preempt or discourage any contract or other agreement that provides a more generous leave benefit or paid leave benefit.</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>Pregnancy: If the employer grants leave with or without pay or leave without loss of seniority to employees for sickness or disability because of medical condition, the employer must extend the same benefits to any female employee for a condition related to pregnancy, childbirth or related medical condition.</p> <p>School Activities: No provision</p> <p>Victims of Domestic Violence: Employers are prohibited from retaliating against an employee for using hours of 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 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>Pregnancy: If the employer grants leave with or without pay or leave without loss of seniority to employees for sickness or disability because of medical condition, the employer must extend the same benefits to any female employee for a condition relating to pregnancy, childbirth or related medical condition.</p> <p>School Activities: No provision</p> <p>Victims of Domestic Violence: No specific provision.</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>Pregnancy: No provision</p> <p>School Activities: Leave must be at a mutually agreed upon time. Employer may require the employee to provide a written leave request at least five school days before leave is taken.</p> <p>Victims of Domestic Violence: After taking any hours of leave due to the occurrence of domestic violence, an employee must provide 48 hours' advance notice to his or her employer of the need to use additional hours of leave.</p>
<p>Certification Requirement</p>	<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</p>	<p>Pregnancy: No provision</p> <p>School Activities: Employer may require the employee to provide documentation that during the time of leave, the employee attended or was otherwise involved at the school or appropriate school-related</p>

	<p>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>activity.</p> <p>Victims of Domestic Violence: Employers may require documentation to support an employee's need for leave due to domestic violence. Documentation may include police reports, a copy of an application for an order of protection, an affidavit from an organization which provides services to victims of domestic violence or documentation from a physician.</p> <p>Any documentation received by an employer must be kept confidential and maintained in accordance with the rules under the federal FMLA.</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 provision</p>
<p>Other</p>		<p>Under the Nevada's domestic partnership law, the rights and obligations of domestic partners with respect to a child of either domestic partner are the same as those of spouses.</p> <p>Victims of domestic violence must also be provided reasonable accommodation (absent undue hardship) due to domestic violence. This may include transfer or reassignment, a modified work schedule, a new telephone number for work or any other reasonable accommodations deemed necessary to ensure the safety of the employee, the workplace, the employer and other employees.</p>
<p>Statutes</p>	<p>29 USC 2601</p>	<p>NV ST § 613.4383 (pregnancy leave); §§ 392.920 and 392.4577 (public school leave); §§ 394.179; 394.1795 (private school leave) and § 608 and 613.</p>

*The [Nevada Pregnant Workers' Fairness Act](#) (Act requires employers to provide female employees who are affected by a condition relating to pregnancy, childbirth or a related medical condition with reasonable accommodations, including leave considerations as described above. Employers must post a notice, provide the notice to new employees upon hire and provide a notice to an employee within 10 days after she notifies her employer of a pregnancy.

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