



FMLA Vermont

Federal vs. Vermont 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, Vermont has leave laws regarding (1) parental leave, (2) family leave, (3) short-term family leave and (4) paid sick leave.</p> <p>Parental leave: Private and public employers with 10 or more employees.</p> <p>Family leave: Private and public employers with 15 or more employees.</p> <p>Short-term family leave: Private and public employers with 15 or more employees.</p> <p>Paid sick leave: Employers with six or more employees are covered by the paid sick leave law effective Jan. 1, 2017.</p> <p>Employers with five or fewer employees must comply with paid sick leave requirements effective Jan. 1, 2018.</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>Parental leave: Worked for employer for at least one year for an average of 30 hours per week. No worksite provision.</p> <p>Family leave: Worked for employer for at least one year for an average of 30 hours per week. No worksite provision.</p> <p>Short-term family leave: Worked for employer for at least one year for an average of 30 hours per week. No worksite provision.</p> <p>Paid sick leave: Worked for the employer for more than 20 weeks in a 12-month period for an average of at least 18 hours per week. An employee must also be at least 18 years of age to be eligible for paid sick leave.</p> <p>Employees may be required to satisfy a one-year waiting period before using paid sick time.</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>Parental leave: Up to 12 weeks in a 12-month period. No provision requiring spouses to share leave.</p> <p>Family leave: Up to 12 weeks in a 12-month period. No provision requiring spouses to share leave.</p> <p>Short-term family leave: Up to 4 hours in any 30-day period, not to exceed 24 hours in any 12-month period. Employer may require that leave be taken in a minimum of two-hour segments. No provision requiring spouses to share leave.</p> <p>Paid sick leave: Eligible employees accrue at least one hour of paid sick time for every 52 hours worked up to the following maximums:</p> <ul style="list-style-type: none"> • Jan. 1, 2017-Dec. 31, 2018 – Maximum sick time accrual of 24 hours in a 12-month period; • After Dec. 31, 2018 – Maximum sick time accrual of 40 hours in a 12-month period
<p>Type of Leave</p>	<p>Unpaid leave for:</p>	<p>Parental leave: Unpaid leave for the birth</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>of the employee's child or the initial placement of a child 16 years of age or younger with the employee for adoption.</p> <p>Family leave: Unpaid leave to care for the employee's own serious illness or the serious illness of the employee's child, stepchild or ward who lives with the employee, foster child, parent, spouse or parent of the employee's spouse.</p> <p>Short-term family leave: Unpaid leave to:</p> <ul style="list-style-type: none"> • Respond to a medical emergency involving the employee's child or ward who lives with the employee or the employee's parent, spouse or parent-in-law; • Participate in certain preschool or school activities for the employee's child or ward who lives with the employee; or • Attend routine medical and dental appointments or other professional services related to well-being for the employee's child, ward, parent, spouse or parent-in-law. <p>Paid sick leave: Eligible employees may use accrued paid sick time for any of the following:</p> <ul style="list-style-type: none"> • The injury or illness of the employee or for the employee to obtain diagnostic, preventive, routine or therapeutic health care; • For the employee to care for a sick or injured parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild or foster child, including helping that family member obtain diagnostic, preventive, routine or therapeutic health care; • To accompany the employee's parent, grandparent, spouse or parent-in-law to an appointment related to his or her long-term care; • For the employee to arrange for social or legal services or obtain medical care or counseling for the employee or for the employee's family member who is a
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		<p>victim of domestic violence, sexual assault or stalking; and</p> <ul style="list-style-type: none"> • For the employee to care for a child or other family member because the school or business where that individual normally is during the employee's workday is closed for public health or safety reasons.
<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: In the case of a member of the Armed Forces, including a</p>	<p>Serious Illness: An accident, disease or physical or mental condition that:</p> <ul style="list-style-type: none"> • Poses imminent danger of death; • Requires inpatient care in a hospital; or <p>Requires continuing in-home care under the direction of a physician.</p>

	<p>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 plan's benefits manager; and any health provider listed</p>	<p>No specific provision</p>

	above who practices and is authorized to practice in a country other than the United 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>No specific provision, but short-term family leave requires employees to make a reasonable attempt to schedule appointments outside regular work hours and to provide earliest possible notice.</p> <p>Paid sick leave: Permitted. An employer may require that an employee use sick time in at least one hour increments or in the smallest increments that the employer's payroll system uses to account for other absences.</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>Parental leave: Employee has the option of using accrued sick, vacation or other accrued paid leave, not to exceed six weeks.</p> <p>Family leave: Employee has the option of using accrued sick, vacation or other accrued paid leave, not to exceed six weeks.</p> <p>Short-term family leave: Employee has the option to use accrued paid leave, including vacation and personal leave.</p> <p>Paid sick leave: An employer that has a paid time off from work policy that provides at least the same amount of leave and allows employees to use leave for the same purposes as required by the paid sick leave law is not required to change its paid time off policy or provide additional paid leave.</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>Parental leave: Similar to federal FMLA</p> <p>Family leave: Similar to federal FMLA</p> <p>No provision for short-term family leave</p> <p>Paid sick leave: No specific provision. However, employers may not retaliate against an employee for using accrued paid sick time or require an employee to find a replacement worker in order to use sick time.</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>Parental leave: Limited exception if employee performed unique services and hiring a permanent replacement during the leave, after giving reasonable notice to the employee of the intent to do so, was the only alternative available to the employer to prevent substantial and grievous economic injury.</p> <p>Family leave: Limited exception if employee performed unique services and hiring a permanent replacement during the leave, after giving reasonable notice to the employee of the intent to do so, was the only alternative available to the employer to prevent substantial and grievous economic injury.</p> <p>No provision for short-term family leave or paid sick leave.</p>
<p>Maintenance of Health Benefits During Leave</p>	<p>Health insurance must be continued under same conditions as prior to leave.</p>	<p>Parental leave: Employer must continue all employment benefits under the same conditions as if employee was continuously employed. Employee may be required to pay the entire cost of benefits during the leave at existing employee rate of contribution.</p> <p>Family leave: Employer must continue all employment benefits under the same conditions as if employee was continuously employed. Employee may be required to pay the entire cost of benefits during the leave at existing employee rate of contribution.</p> <p>No provision for short-term family leave</p> <p>Paid sick leave: Employer must maintain group health benefits at the same level and conditions as would be provided if the employee did not take leave, with the employee continuing to contribute his or her existing cost for coverage.</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>Parental leave: Employee must provide employer with reasonable written notice of intent to take leave. Employer may not require more than six weeks' advance notice. Employee must also provide notice of intent to extend leave.</p> <p>Family leave: Employee must provide employer with reasonable written notice of intent to take leave. Employee must also provide notice of intent to extend leave.</p> <p>Short-term family leave: Employee must provide employer with the earliest possible notice, not later than seven days before leave is to be taken, except in the case of emergency.</p> <p>Paid sick leave: Employee can be required to make reasonable efforts to schedule routine or preventive health care appointments outside of working hours.</p> <p>Employee must notify the employer as soon as practicable of the intent to take sick time, including the expected duration 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 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 leave: Employer may request certification from a physician for a serious illness. No provision relating to employee certification for return to work.</p> <p>No provision for parental leave, short-term family leave or paid sick leave.</p>
<p>Executive, Administrative, and</p>	<p>These individuals are entitled to FMLA benefits. However, their</p>	<p>No specific provision</p>

Professional Employees	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.	
Other		Registered domestic partners must be treated the same as spouses for most purposes under Vermont law, including for employee leave purposes.
Statutes	29 USC 2601	21 V.S.A. §§ 471-474 21 V.S.A. §§ 481-486 (paid sick leave)

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