



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) pregnancy and parenting leave, (2) adoptive parent leave, (3) school activities leave, (4) "kin care" leave, (5) organ donor leave, (6) bone marrow donor leave, (7) family military leave, (8) safety leave and (9) domestic abuse leave.</p> <p>Pregnancy and parenting leave: Employers with at least one employee, 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>Kin care leave: Same as for pregnancy and parenting leave, above, if the employer offers personal sick leave benefits.</p> <p>Organ donor leave: State, county, city, town, school district or other governmental subdivision employers that employ 20 or more employees.</p>

		<p>Bone marrow donor leave: Public and private employers with at least 20 employees.</p> <p>Family military leave: Employers with one or more employees, including the state and all political or other governmental subdivisions.</p> <p>Safety leave: Same as for pregnancy and parenting leave, above, if the employer offers personal sick leave benefits.</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>Pregnancy and parenting leave: All employees except independent contractors.</p> <p>Adoptive parent leave: Any employee who is an adoptive father or mother.</p> <p>School activities leave: All employees except independent contractors.</p> <p>Kin care leave: Same as for pregnancy and parenting leave, above, if the employer offers personal sick leave benefits.</p> <p>Organ donor leave: Employees of public employers who work an average of 20 or more hours per week. Does not include independent contractors.</p> <p>Bone marrow donor leave: Employees who work for an average of 20 or more hours per week. Does not include 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>Safety leave: Same as for pregnancy and parenting leave, above, if the employer offers personal sick leave benefits.</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 injury or illness must be shared by spouses working for same employer.</p>	<p>Pregnancy and parenting leave: Up to 12 weeks for female employees for prenatal care or incapacity due to pregnancy, childbirth or related health conditions. Up to 12 weeks for a child’s birth or adoption. Employee and employer may agree to a longer period of leave. No provision regarding spousal sharing of leave. Leave entitlement for birth or adoption expires 12 months after the birth or adoption (if the child must remain in the hospital longer than the mother, leave entitlement for birth or adoption expires 12 months 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 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>Kin care leave: Reasonable periods of time, on the same terms as the employee is able to use sick leave benefits for their own illness or injury, but at least 160 hours in any 12-month period. This does not apply to absences due to the illness or injury of a minor child as defined in parenting leave.</p> <p>Organ donor leave: Up to 40 work hours for each donation, unless more is agreed to by the employer.</p> <p>Bone marrow donor leave: Up to 40 work hours, unless more is agreed to by the employer.</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>Safety leave: Reasonable periods of time as may be necessary.</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>Pregnancy and 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>Kin care leave: Use of employer-provided sick leave for absences due to an illness of or injury to the employee's minor child, adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or stepparent.</p> <p>Organ donor leave: Paid leave of absence to undergo a medical procedure to donate an organ or partial organ to another person.</p> <p>Bone marrow donor leave: Paid leave of absence to an employee to undergo a medical procedure to donate bone marrow.</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>Safety leave: Use of employer-provided sick leave to provide or receive assistance because of sexual assault, domestic abuse, harassment or stalking, for the employee or the employee’s child, adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or stepparent. Leave must be allowed even if the employer’s sick leave policy does not specifically cover use for these purposes.</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 	<p>No specific provision</p>

	<ul style="list-style-type: none"> 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 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</p>	<p>No specific provision</p>

	<p>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>	
<p>Intermittent Leave</p>	<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</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>Pregnancy and 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>Organ donor leave: Leave does not affect employee rights to any other employment benefit.</p> <p>Bone marrow donor leave: Leave does not affect employee rights to any other employment benefit.</p> <p>Family military leave: Length of leave for injury or death of an immediate family member in active military service may be</p>

		<p>reduced by any period of paid leave provided by employer.</p> <p>No specific provision for kin care leave, safety leave or domestic abuse 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>Pregnancy and 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>Organ donor leave: Employers may not retaliate against employees for requesting or obtaining leave.</p> <p>Bone marrow donor leave: Employers may not retaliate against employees for requesting or obtaining leave.</p> <p>Kin care leave: Employers are prohibited from retaliating against an employee for requesting or obtaining leave.</p> <p>Safety leave: Employers are prohibited from retaliating against an employee for requesting or obtaining leave.</p> <p>Domestic abuse leave: Employers may not discharge, discipline, threaten, otherwise discriminate against or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to obtain or attempted to obtain relief under the law.</p> <p>No specific provision for adoptive parent leave or family military 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>Pregnancy and parenting leave: For pregnancy, 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 specific provision for adoptive parent leave, kin school activities leave, kin care leave, organ or bone marrow donor 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>Pregnancy and parenting leave: For birth or adoption leave, employer may adopt reasonable policies governing the timing of requests for leave and may require reasonable notice of start date and estimated length of leave.</p> <p>No specific 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>Kin care leave: Leave may be used on the same terms as for the employee's own illness or injury.</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</p>

		<p>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>No specific provision for organ or bone marrow donor leave or safety leave.</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>Domestic abuse leave: Employers may request verification that supports the employee's reason for being absent. All information related to the employee's leave must be kept confidential by the employer.</p> <p>Organ donor leave: The employer may require verification by a physician of the purpose and length of each leave requested by the employee for organ donation.</p> <p>Bone marrow donor leave: The employer may require verification by a physician of the purpose and length of each leave requested by the employee to donate bone marrow.</p> <p>No specific provision for parenting leave, adoptive parent leave, school activities leave, kin care leave, safety leave or family military leave.</p>
Executive, Administrative, and Professional Employees	<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>
Statutes	<p>29 USC 2601</p>	<p>MN ST §§ 181.940 to 181.944 (Pregnancy and parenting leave, school activity leave, kin care leave and safety leave); § 181.92</p>

		(adoptive parent leave); §§ 181.945 to 181.9456 (organ and bone marrow donor leave); §§ 181.947 to 181.948 (family military leave); § 609.748 subd. 10 and § 518b.01 subd. 23 (domestic abuse leave)
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SPECIAL NOTE: Please note that the information in the above chart focuses on statewide laws. Cities, towns and counties across the country have also enacted local employee leave ordinances. Employers must comply with local ordinances and statewide law, if applicable.

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