



# FMLA Michigan

## Federal vs. Michigan Family & Medical Leave Laws

	FEDERAL ELEMENTS	STATE ELEMENTS
<b>Applicable laws</b>	<a href="#">The Family and Medical Leave Act</a> (FMLA)	<a href="#">Michigan Paid Medical Leave Act</a> (PMLA), effective March 29, 2019
<b>Covered employers</b>	<p>Employers subject to the FMLA include:</p> <ul style="list-style-type: none"> <li>• Private-sector employers with <b>50 or more employees</b> in at least 20 weeks of the current or preceding year;</li> <li>• Public agencies, including state, local and federal employers; and</li> <li>• Local education agencies, including elementary and secondary schools (public and private).</li> </ul>	<p>Employers that have <b>50 or more employees</b> must provide paid medical leave under the PMLA. Employers with fewer than 50 employees are exempt.</p>
<b>Eligible employees</b>	<p>To be eligible for FMLA leave, an employee must:</p> <ul style="list-style-type: none"> <li>• Have worked for the covered employer for at least 12 months (which need not be consecutive);</li> <li>• Have at least 1,250 hours of service for the employer during the 12-month period immediately before the leave; and</li> <li>• Work at a location where the</li> </ul>	<p>All employees are entitled to accrue and use paid medical leave, except :</p> <ul style="list-style-type: none"> <li>• Employees who are exempt from federal overtime requirements as executive, administrative, professional or outside sales employees;</li> <li>• Employees who are covered by a collective bargaining agreement;</li> <li>• Employees whose primary work</li> </ul>



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	<p>employer has 50 or more employees within 75 miles of that worksite.</p>	<p>location is outside of Michigan; and</p> <ul style="list-style-type: none"> <li>Variable-hour employees, seasonal employees and part-time employees. (A part-time employee is an employee who worked, on average, fewer than 25 hours per week during the immediately preceding calendar year.)</li> </ul>
<b>Leave amount</b>	<p>In general, employees may take up to <b>12 weeks</b> of FMLA leave during a 12-month period.</p> <p>Employees may take up to <b>26 weeks</b> of leave 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>Spouses that work for the same employer are limited to a combined total of 12 weeks of leave to care for a parent with a serious health condition, to care for a covered service member with a serious injury or illness or following the birth, adoption or placement of a child.</p>	<p>Eligible employees must accrue a minimum of one hour of paid medical leave for every 35 hours worked, up to 40 hours per year. An employer may limit an employee's paid medical leave accruals to one hour per calendar week.</p> <p>Employees begin to accrue paid medical leave on March 29, 2019, or upon hire, whichever date is later. Employees must be permitted to carry over unused, accrued paid medical time from year to year, up to a limit of 40 hours per year.</p> <p>As an alternative to the paid medical leave accrual requirements, an employer may provide at least 40 hours of paid medical leave to an eligible employee at the beginning of a benefit year. If an employer provides at least 40 hours of paid medical leave at the start of each benefit year, it is not required to allow employees to carry over any unused paid medical leave to another benefit year.</p> <p>In addition, employers that provide at least 40 hours of paid leave to eligible employees each benefit year are presumed to comply with the paid medical leave requirements. Paid leave includes, but is not limited to, paid vacation days, paid personal days and paid time off.</p>
<b>Type of leave</b>	<p>Eligible employees may take unpaid leave under the FMLA for the following reasons:</p> <ul style="list-style-type: none"> <li>The birth of the employee's newborn child;</li> </ul>	<p>Employers may limit employees' use of paid medical leave to 40 hours per year. Also, employers may require employees to wait 90 calendar days after beginning employment to start using accrued paid</p>

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	<ul style="list-style-type: none"> <li>• The placement of a child with the employee for adoption or foster care;</li> <li>• A serious health condition that makes the employee unable to perform the functions of his or her job;</li> <li>• To care for the employee's spouse, child or parent who has a serious health condition;</li> <li>• Any qualifying exigency arising out of the fact that the employee's spouse, child or parent is a military member on covered active duty (or call to covered active duty status); or</li> <li>• To care for a spouse, child, parent or next of kin who is a covered service member with a serious injury or illness.</li> </ul>	<p>medical leave.</p> <p>Employers must permit employees to use accrued medical leave for:</p> <ul style="list-style-type: none"> <li>• Physical or mental illness, injury or health condition of the employee or his or her family member;</li> <li>• Medical diagnosis, care or treatment of the employee or employee's family member;</li> <li>• Preventative care of the employee or his or her family member;</li> <li>• Closure of the employee's primary workplace by order of a public official due to a public health emergency;</li> <li>• Care of the employee's child whose school or place of care has been closed by order of a public official due to a public health emergency; or</li> <li>• The employee's (or his or her family member's) exposure to a communicable disease that would jeopardize the health of others as determined by health authorities or a health care provider.</li> </ul> <p>Employees may use paid medical leave for any of the following resulting from domestic violence or sexual assault:</p> <ul style="list-style-type: none"> <li>• Medical care or psychological or other counseling;</li> <li>• Receiving services from a victim services organization;</li> <li>• Relocation;</li> <li>• Obtaining legal services; or</li> <li>• Participation in any civil or criminal proceedings related to or resulting from the domestic violence or sexual assault.</li> </ul>
<b>Serious health condition</b>	<p><b>Serious health condition:</b> An illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. Serious health conditions may include:</p>	No provision.

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	<ul style="list-style-type: none"> <li>• An overnight stay in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment in connection with the overnight stay;</li> <li>• A period of incapacity of more than three consecutive full calendar days that involves a certain level of treatment from a health care provider;</li> <li>• A period of incapacity due to (or treatment for) a chronic serious health condition;</li> <li>• A period of incapacity which is permanent or long-term due to a condition for which treatment may be ineffective;</li> <li>• 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</li> <li>• Any incapacity related to pregnancy or for prenatal care.</li> </ul> <p>Incapacity means inability to work, or inability to attend school, or perform other regular daily activities due to the serious health condition.</p>	
<b>Intermittent leave</b>	<p>Employees are entitled to take FMLA leave on an intermittent or reduced schedule basis when:</p> <ul style="list-style-type: none"> <li>• There is a medical need for this type of leave for an employee's own serious health condition;</li> <li>• To care for a spouse, parent or child with a serious health condition; or</li> <li>• To care for a covered service member with a serious injury or illness.</li> </ul> <p>An employee is also entitled to use intermittent or reduced schedule leave for qualifying exigencies.</p>	<p>Paid medical leave must be used in one-hour increments, unless the employer has a different increment policy and the policy is in writing in an employee handbook or other employee benefits document.</p>

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	An employee is not entitled to take intermittent leave for the birth and care of a newborn child or for the placement with the employee of a child for adoption or foster care unless the employer agrees to the arrangement.	
<b>Substitution of paid leave</b>	An eligible employee may choose, or an employer may require the employee to substitute, accrued paid leave for unpaid FMLA leave. Substitute means that the accrued paid leave will run concurrently with the unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.	Leave under PFMLA is paid. Employees must be paid at a pay rate equal to the employee's normal hourly wage or, if greater, the minimum wage when the employee uses paid medical leave.
<b>Reinstatement rights</b>	Must be restored to same position or one equivalent to it in all benefits and other terms and conditions of employment.	No provision.
<b>Key employee exception to reinstatement rights</b>	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.	No provision.
<b>Maintenance of health benefits during leave</b>	Health insurance must be continued under same conditions as before leave.	No provision.
<b>Leave requests</b>	An employee must give at least 30 days' advance notice of the need to take FMLA leave when he or she knows about the need for the leave in advance and it is possible and practical to do so.  For planned medical treatment, the employee must consult with his or her employer and try to schedule the treatment at a time that minimizes the	When requesting paid medical leave, an eligible employee must comply with his or her employer's usual and customary notice, procedural and documentation requirements for requesting leave. An employer must give an employee at least three days to provide the employer with documentation.

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	<p>disruption to company operations.</p> <p>When the need for leave is unexpected, the employee must provide notice as soon as possible and practical.</p>	
<b>Certification requirement</b>	<p>An employer may require an employee to submit a certification to support the employee's need for FMLA leave when the leave request is for:</p> <ul style="list-style-type: none"> <li>• The employee's serious health condition;</li> <li>• The serious health condition of the employee's parent, spouse or child; or</li> <li>• Military family leave (qualifying exigency leave or leave to care for a covered service member with a serious illness or injury).</li> </ul> <p>An employer may also, in certain circumstances, require a fitness-for-duty certification at the end of the employee's leave as a condition to returning the employee to the job.</p>	<p>When requesting paid medical leave, an eligible employee must comply with his or her employer's usual and customary notice, procedural and documentation requirements for requesting leave. An employer must give an employee at least three days to provide the employer with documentation.</p> <p>Employers must maintain the confidentiality of health, domestic violence and sexual assault information about an employee or his or her family member and cannot disclose the information to others without the employee's permission.</p>
<b>Statutes</b>	29 U.S.C. § 2601, <i>et. seq.</i>	MI ST § 408.961, <i>et. seq.</i>

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