



FMLA Maryland

Federal vs. Maryland 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, Maryland has family and medical leave laws regarding (1) adoption leave, (2) paid family leave (contained in the Flexible Leave Act), (3) pregnancy disability leave (4) parental leave and (5) sick and safe leave.</p> <p>Adoption Leave: Employers that provide paid leave to employees following the birth of a child.</p> <p>Family Leave: Employers that provide paid leave and employ 15 or more employees in at least 20 weeks of the current or preceding calendar year.</p> <p>Pregnancy Disability Leave: Employers with 15 or more employees in at least 20 calendar weeks in the current or preceding calendar year.</p> <p>Parental Leave: Employers with 15-49 employees in the state for each working day during 20 or more calendar workweeks in the current or preceding calendar year.</p> <p>Sick and Safe Leave: All employers. Employers with 15 or more employees must provide paid sick and safe leave.</p>
Employees Eligible	<p>Worked for employer for at least 12 months (which need not be</p>	<p>Adoption Leave: Employees who adopt a child.</p>



	<p>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>Family Leave: Employees who are primarily employed in Maryland.</p> <p>Pregnancy Disability Leave: Female employees affected by pregnancy, childbirth or related medical conditions.</p> <p>Parental Leave: Employees who have worked for the employer for at least a 12-month period and worked at least 1,250 hours during the 12-month period prior to the parental leave. An employee must also be employed at a worksite with at least 15 employees within 75 miles of the worksite.</p> <p>Sick and Safe Leave: Employees who regularly work 12 or more hours per week. Certain types of employees are excluded.</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>Adoption Leave: Employers who provide paid leave to employees following the birth of a child must provide the same paid leave when a child is placed with an employee for adoption.</p> <p>Family Leave: Employee may only use paid leave that has been earned and is available to the employee. The employee must follow the terms of a collective bargaining agreement (CBA) or employment policy, and the leave is subject to the same conditions and policy rules that would apply if the employee took leave for his or her own illness.</p> <p>Pregnancy Disability Leave: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes (including receipt of benefits under fringe benefit programs) as other persons not so affected, but similar in their ability or inability to work.</p> <p>If an employee requests a reasonable accommodation, the employer must explore all possible means of providing the reasonable accommodation, including providing leave. "Reasonable accommodation" means an accommodation for an employee's disability caused or contributed to by pregnancy that does not impose an undue hardship on the employee's employer.</p> <p>Parental Leave: Six workweeks of unpaid leave during any 12-month period.</p> <p>Sick and Safe Leave: Employees accrue one</p>

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		<p>hour of sick and safe leave for every 30 hours worked, up to 40 hours per year.</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>Adoption Leave: Paid leave, if the employer provides paid leave to employees following the birth of a child.</p> <p>Family Leave: If an employer provides paid leave that includes sick leave, vacation time, paid time off and compensatory time, employees may use leave with pay to care for an immediate family member (child, spouse or parent) who is ill under the same conditions and policy rules that would apply if the employee took leave for his or her own illness.</p> <p>Paid leave does not include: a benefit provided under an ERISA employee welfare benefit plan; an insurance benefit, including benefits from a self-insured plan; worker's compensation; unemployment compensation; a disability benefit; or a similar benefit.</p> <p>Pregnancy Disability Leave: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes (including receipt of benefits under fringe benefit programs) as other persons not so affected, but similar in their ability or inability to work.</p> <p>If an employee requests a reasonable accommodation, the employer must explore all possible means of providing it, including changing the employee's job duties, changing the employee's work hours, relocating the employee's work area, providing mechanical or electrical aids, transferring the employee to a less strenuous or less hazardous position or providing leave. "Reasonable accommodation" means an accommodation for an employee's disability caused or contributed to by pregnancy that does not impose an undue hardship on the employer.</p> <p>If an employee requests a transfer to a less strenuous or less hazardous position as a reasonable accommodation, the employer must transfer the employee for a period of time up to the duration of the employee's pregnancy if:</p> <ul style="list-style-type: none"> • The employer has a policy, practice or CBA requiring or authorizing the transfer of a temporarily disabled employee to a less

		<p>strenuous or less hazardous position for the duration of the disability; or</p> <ul style="list-style-type: none"> • The employee's health care provider advises the transfer and the employer can provide the reasonable accommodation by transferring the employee without: <ul style="list-style-type: none"> ○ Creating additional employment that the employer would not otherwise have created; ○ Discharging any employee; ○ Transferring any employee with more seniority than the employee requesting the reasonable accommodation; or ○ Promoting any employee who is not qualified to perform the job. <p>Parental Leave: Unpaid leave for:</p> <ul style="list-style-type: none"> • The birth of an employee's child; or • The placement of a child with the employee for adoption or foster care. <p>Sick and Safe Leave: Paid or unpaid leave (based on employer size):</p> <ul style="list-style-type: none"> • To care for or treat the employee's own mental or physical illness, injury or condition; • To obtain preventive medical care for the employee or the employee's family member; • To care for a family member with a mental or physical illness, injury or condition; • For maternity or paternity leave; or • For certain reasons related to domestic violence, sexual assault or stalking committed against the employee or the employee's family member.
<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</p>	<p>No specific provision</p>

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	<p>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 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</p>	<p>No specific provision</p>

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	<p>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>	
<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>Adoption Leave: No provision</p> <p>Family Leave: Employee must follow the terms of an applicable CBA or employment policy. Paid leave to care for an immediate family member who is ill is subject to the same conditions and policy rules that would apply if the employee took leave for his or her own illness.</p> <p>Pregnancy Disability Leave: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes (including receipt of benefits under fringe benefit programs) as other persons not so affected, but similar in their ability or inability to work.</p> <p>Parental Leave: No provision</p> <p>Sick and Safe Leave: Employees may use leave in the smallest increment that the employer's payroll system uses to account for absences, but may not be required to use in increments greater than four hours.</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>Adoption Leave: No provision</p> <p>Family Leave: Employee may only use paid leave that has been earned, and may elect the type and amount of paid leave to be used if he or she earns more than one type of paid leave. Employee must follow the terms of an</p>

		<p>applicable CBA or employment policy.</p> <p>Pregnancy Disability Leave: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes (including receipt of benefits under fringe benefit programs) as other persons not so affected, but similar in their ability or inability to work.</p> <p>Parental Leave: An employer may require an eligible employee, or an employee may elect, to substitute paid leave for any part (or all) of the period of parental leave.</p> <p>Sick and Safe Leave: No specific provision. Employers that maintain paid leave policies are not required to modify these policies if they (1) allow employees to access and accrue paid leave at a rate that is equivalent to (or greater than) the rate that is required under the law and (2) allow employees to use leave for the same sick and safe leave purposes.</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>Adoption Leave: No provision</p> <p>Family Leave: Must follow the terms of an applicable CBA or employment policy. Employer may not discharge, demote, suspend, discipline or otherwise discriminate against an employee (or threaten to take any of these actions) because the employee has taken paid family leave.</p> <p>Pregnancy Disability Leave: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes (including receipt of benefits under fringe benefit programs) as other persons not so affected, but similar in their ability or inability to work.</p> <p>An employer may not interfere with, restrain or deny the exercise of (or the attempt to exercise) an employee's right to pregnancy disability leave.</p> <p>Parental Leave: Similar to federal FMLA</p> <p>Sick and Safe Leave: No specific provision. Employers may not retaliate against employees for exercising rights to sick and safe leave.</p>
<p>Key Employee Exception to</p>	<p>Limited exception for salaried employees if among highest paid</p>	<p>Adoption Leave: No provision</p>

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<p>Reinstatement Rights</p>	<p>10 percent of workforce within 75 miles of worksite, restoration would lead to grievous economic harm to employer and other conditions met.</p>	<p>Family Leave: No provision</p> <p>Pregnancy Disability Leave: No provision</p> <p>Parental Leave: An employer may deny reinstatement if:</p> <ul style="list-style-type: none"> • It is to prevent substantial and grievous economic injury to the employer's operations; • The employer notifies the employee of the intent to deny restoration of the employee's position at the time the employer determines that economic injury would occur; and • Parental leave has already begun, the employee elects not to return to employment after receiving notice of the employer's intention to deny restoration of employment. <p>Sick and Safe Leave: 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>Adoption Leave: No provision</p> <p>Family Leave: Must follow the terms of an applicable collective bargaining agreement or employment policy. Employer may not discharge, demote, suspend, discipline or otherwise discriminate against an employee (or threaten to take any of these actions) because the employee has taken paid family leave.</p> <p>Pregnancy Disability Leave: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work.</p> <p>Parental Leave: Similar to federal FMLA</p> <p>Sick and Safe Leave: No 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</p>	<p>Adoption Leave: No provision</p> <p>Family Leave: Employee may only use paid leave that has been earned, and may elect the type and amount of paid leave to be used if he or she earns more than one type of paid leave. Employee must follow the terms of an applicable CBA or employment policy.</p> <p>Pregnancy Disability Leave: Women</p>

	<p>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>affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes (including receipt of benefits under fringe benefit programs) as other persons not so affected, but similar in their ability or inability to work.</p> <p>Parental Leave: Employers may require 30 days written notice of an employee's intention to take parental leave. Eligible employees may begin taking leave without prior notice following a premature birth, unexpected adoption or unexpected foster placement.</p> <p>Sick and Safe Leave: When the need to use leave is foreseeable, employers may require employees provide up to seven days advance notice of leave. If the need for leave is not foreseeable, employees must provide notice as soon as practicable.</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>Adoption Leave: No provision</p> <p>Family Leave: Employee must follow the terms of an applicable CBA or employment policy. Leave is subject to the same conditions and policy rules that would apply if the employee took leave for his or her own illness.</p> <p>Pregnancy Disability Leave: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes (including receipt of benefits under fringe benefit programs) as other persons not so affected, but similar in their ability or inability to work.</p> <p>An employer may require certification from the employee's health care provider regarding the medical advisability of a reasonable accommodation to the same extent certification is required for other temporary disabilities. Certification must include:</p> <ul style="list-style-type: none"> • The date the reasonable accommodation became medically advisable; • The probable duration of the reasonable accommodation; and • An explanatory statement as to the medical advisability of the reasonable accommodation. <p>Parental Leave: No provision</p> <p>Sick and Safe Leave: An employer may</p>

		require documentation verifying that an employee used leave for a permitted reason only if an employee uses sick and safe leave for three or more consecutive scheduled shifts. Employers may also require this verification for employees who use leave between the first 107 and 120 calendar days of employment, if employees agree to provide this verification at the time of their hiring.
Executive, Administrative, and Professional Employees	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.	No specific provision
Statutes	29 USC 2601	MD Labor & Empl § 3-801 (adoption leave); § 3-802 (family leave); MD State Gov't § 20-609 (pregnancy disability leave); MD Labor & Empl §§ 3-1201-3-1211 (parental leave); Healthy Working Families Act (sick and safe leave)

SPECIAL NOTE: Please note that the information in this chart focuses on statewide laws. Employers must be aware that numerous cities and counties across the country have enacted local ordinances that require employers to provide paid sick leave to employees. An employer that is located in a city or county with a paid sick leave law must generally comply with the local ordinance and statewide law, if applicable. The Healthy Working Families Act only preempts local ordinances related to paid sick leave that are effective on or after Jan. 1, 2017.

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