

WASHINGTON EMPLOYMENT LAW Employee Leave Laws - Overview



Employers may provide their employees with various types of paid or unpaid leave as part of their overall compensation packages, including vacation time, personal leave and sick leave. Employers have some flexibility when it comes to establishing or negotiating employee leave policies. However, federal laws such as the Family and Medical Leave Act (FMLA) require covered employers to provide employees with leave in certain situations.

In addition to federal leave laws, Washington has employee leave laws regarding:

- Jury duty leave;
- Pregnancy disability leave;
- Emergency services leave;
- Domestic violence leave;
- Family sick leave;
- Family leave;
- Military and military spouse leave;
- Paid sick leave; and
- Paid family and medical leave.

This Employment Law Summary includes a chart that provides a high-level overview of Washington’s employee leave laws and suggests compliance steps for employers.

OVERVIEW OF EMPLOYEE LEAVE LAWS

TYPE OF LEAVE	REQUIREMENTS
Jury Duty Leave	Employers must grant unpaid leave to employees who are summoned to jury service. Job protections apply.
Pregnancy Disability Leave	Employers with eight or more employees must provide leave to female employees who are disabled by pregnancy, childbirth or a related medical condition for the period of the disability or sickness. Leave runs concurrently with FMLA leave. Leave is unpaid. Job protections apply to employees taking pregnancy disability leave.

STATE RESOURCES

Washington State Department of Labor and Industries (Department)
<http://www.lni.wa.gov/>

Leave Law Information

The Department provides helpful [information](#) for employers on various leave laws, including links to model notices and FAQs.

FAQs

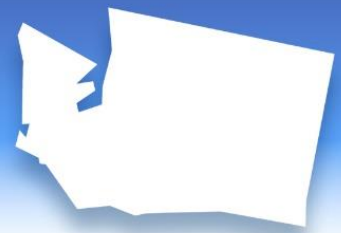
The Department has published these [answers](#) to frequently asked questions on the Family Care Act. These [answers](#) to FAQs on paid sick leave are also available.

Employee Leave Chart

The Department has published this [chart](#) outlining various employee leave requirements.

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<p>Emergency Services Leave</p>	<p>An employer may not discharge or discipline an employee who is a volunteer firefighter, reserve officer or civil air patrol member because of leave taken related to:</p> <ul style="list-style-type: none"> • Responding to, working at or returning from a fire alarm or emergency call that began before the employee was scheduled to work; or • An emergency service operation of the Civil Air Patrol. <p>Employers are encouraged, but not required, to allow employees who are already at work leave to respond to an emergency. Leave is unpaid.</p>
<p>Domestic Violence Leave</p>	<p>Employers must grant a reasonable amount of leave time to employees who are victims of domestic violence, sexual assault or stalking, or who are family members of a victim in order to:</p> <ul style="list-style-type: none"> • Seek and obtain legal, law enforcement or social services assistance; • Seek and obtain medical treatment or counseling; or • Participate in safety planning or take other actions to increase safety. <p>Leave is unpaid. Notice and certification requirements apply. Employees may elect to use any of their sick leave and other paid time off, compensatory time or unpaid leave time.</p>
<p>Family Sick Leave</p>	<p>The Washington Family Care Act requires all employers who provide paid sick leave for employees to allow employees to use that accrued sick leave to care for an ill child, parent, parent-in-law, grandparent, spouse or domestic partner of the employee. Leave runs concurrently with FMLA leave and Washington family leave. Effective Jan. 1, 2018, most Washington employers must provide paid sick leave to employees.</p>
<p>Family Leave (unpaid) <i>Effective until Dec. 31, 2019</i></p>	<p>Employers with 50 or more employees must provide eligible employees with family leave. To be eligible, an employee must:</p> <ul style="list-style-type: none"> • Have at least 12 months of service with the employer; • Have worked at least 1,250 hours in the 12-month period prior to the date of the requested leave; and • Be employed at a worksite with 50 or more employees within 75 miles of the employee's worksite. <p>Eligible employees may take up to 12 weeks of family leave in a 12-month period for:</p> <ul style="list-style-type: none"> • Childbirth; • Adoption or foster care; or • Caring for the serious health condition of the employee or of the employee's child, parent, spouse or registered domestic partner. <p>Leave runs concurrently with FMLA leave. Notice and certification requirements apply. Leave is unpaid. Employers that choose to offer child care leave to biological parents must extend leave on the same terms to adoptive parents and stepparents, and to men and women.</p>

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Military and Military Spouse Leave	<p>In addition to USERRA, Washington law provides employment protections for military members.</p> <ul style="list-style-type: none">• Reemployment rights for military personnel following a period of military service.• Employers must provide up to 15 days of unpaid leave to eligible spouses or registered domestic partners of military service members when their spouse is about to be deployed or on leave from deployment. Notice requirements apply.
Paid Sick Leave	<p>Effective Jan. 1, 2018, all employers covered by the Washington Minimum Wage Act must provide employees with paid sick leave.</p> <p>Employees must accrue at least one hour of paid sick leave for every 40 hours worked. The law does not provide any annual usage or accrual caps for paid sick leave. Employers may choose to “front-load” an amount of paid sick leave to employees each year that meets or exceeds the accrual, use and carryover requirements of the law.</p> <p>Employees must be permitted to carryover up to 40 hours of unused paid sick leave to the following year. This carryover requirement also applies to employers that front-load paid sick leave.</p> <p>Eligible employees (that is, all employees covered under the Washington Minimum Wage Act) must be able to use accrued paid sick leave for any of the following reasons:</p> <ul style="list-style-type: none">• An employee’s own mental or physical illness, injury or health condition, including the need for medical diagnosis, care or treatment, and preventive medical care;• To care for the employee’s family member with a mental or physical illness, injury or health condition, including the family member’s need for medical diagnosis, care or treatment, and preventive care;• Closure of the employee’s place of business by order of a public official due to any health-related reason or closure of an employee’s child’s school or place of care by order of a public official due to any health-related reason; and• Employees who are victims of domestic violence, sexual assault or stalking (or who are family members of a victim) in order to seek and obtain legal and social services, medical treatment, counseling or participate in safety planning. <p>An employer may require new employees to wait 90 days after hire before using any accrued paid sick leave (accrual begins upon hire).</p> <p>An employer may also require reasonable documentation to verify that use of paid sick leave was for a permitted reason for paid sick leave absences exceeding three days.</p> <p>An employee that is rehired within 12 months of separation by the same employer (or a different location of the same employer) is entitled to have his or her paid sick leave reinstated. Employer notice and anti-retaliation provisions apply.</p>



Paid Family and Medical Leave

Washington enacted a paid family and medical leave program that covers virtually all Washington employers. Paid family and medical leave will be funded with employer and employee contributions, **effective Jan. 1, 2019**. The program will be administered by a state agency. Employers with **fewer than 50 employees** are not required to make employer premium contributions.

Effective Jan. 1, 2020, eligible workers may begin receiving benefit payments under the paid family and medical leave program due to the employee's own serious health condition, or to care for a family member.

Any employee who **works at least 820 hours** during the "qualifying period" is eligible for paid family and medical leave benefits. The qualifying period is defined as the first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately before the employee's application for leave.

The paid family and medical leave program provides the following leave amounts **during a consecutive 52-week period**:

- **Family leave:** Up to 12 weeks;
- **Medical leave:** Up to 12 weeks (14 weeks for a female employee who experiences a serious health condition related to pregnancy that results in incapacity); and
- **Combined family and medical leave:** Up to 16 weeks (18 weeks for a female employee who experiences a serious health condition related to pregnancy that results in incapacity).

"Family member" is defined to include a child of any age, a parent, the employee's spouse or registered domestic partner, and grandparents, grandchildren and siblings of the employee.

Employee notice requirements apply for leave that is foreseeable. Job-protection and reinstatement rights apply to employees who satisfy federal FMLA eligibility requirements.

Employers are required to post a notice in the workplace. In addition, employers must provide a written notice to an employee of his or her rights under the program within five business days after the employee's seventh consecutive day of absence due to family or medical leave, or within five business days after the employer has received notice that the employee's absence is due to family or medical leave, whichever is later.

SPECIAL NOTE: Please note that the information in the above chart focuses on statewide laws. Employers must be aware that numerous cities and counties across the country have enacted local ordinances that mandate employers to provide paid sick leave to employees. An employer located in a city or county with a local paid sick leave law must generally comply with the local ordinance and statewide law, if applicable. For example, employers that are located in [Seattle](#), [Tacoma](#) and/or [Spokane](#) may be subject to local paid sick leave ordinances, in addition to the statewide paid sick leave law.

COMPLIANCE STEPS

It is important for Washington employers to understand when their employees are entitled to take time off from work, and the legal protections associated with such leaves. Employers that violate state or federal leave law requirements

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may be subject to government investigations, fines, employee lawsuits, and significant penalties, fees and damage awards.

To minimize these risks, employers should review applicable federal and state leave law requirements and determine whether they have any compliance gaps to correct. This compliance review may be complex, especially in areas where federal and state leave laws overlap.

As part of the compliance review, employers should confirm that:

- Employee handbooks and written policies and procedures have been updated to accurately describe employee leaves;
- Human resources personnel, as well as managers and supervisors, are educated on how to administer employee leaves and receive ongoing training;
- Employee leaves are administered on a consistent basis, and employees are educated on leave rights and requirements;
- Recordkeeping systems accurately track and document employee leaves; and
- Required notices and posters regarding leave laws are provided.