

# WISCONSIN

## 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, such as 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, Wisconsin has employee leave laws regarding:

- **Voting leave;**
- **Election leave;**
- **Jury duty leave;**
- **Judicial witness leave;**
- **Civil air patrol leave;**
- **Emergency responder leave;**
- **Military leave;**
- **Family and medical leave;** and
- **Bone marrow and organ donor leave.**

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

#### OVERVIEW OF EMPLOYEE LEAVE LAWS

TYPE OF LEAVE	REQUIREMENTS
Voting Leave	Employees may be absent from work for up to <b>three consecutive hours</b> to vote. Notice requirements apply. Leave is unpaid.
Election Official Leave	Employees may be absent from work on an election day to serve as an election official. Leave is for the <b>entire 24-hour period</b> of each election day during which the employee serves as an election official. Advance notice requirements apply. Leave is unpaid.
Jury Duty Leave	Employers must provide unpaid leave to employees summoned to jury duty. Job protections apply to employees taking jury duty leave.

#### STATE RESOURCES

**Wisconsin Department of Workforce Development (DWD)**

<https://dwd.wisconsin.gov>

#### FAQs

The DWD has published these [answers](#) to frequently asked questions regarding Wisconsin's family and medical leave law.

#### Military Service

The Wisconsin DWD provides information on [military service discrimination](#) under state law.

#### Bone Marrow and Organ Donation

Information, including the model posting, specific to [bone marrow and organ donation leave](#) is also available.

# WISCONSIN EMPLOYMENT LAW

## Employee Leave Laws - Overview



<p>Leave for Judicial Witnesses</p>	<p>An employer may not discharge an employee who takes time off from work to testify in a criminal, juvenile or children’s court proceeding pursuant to a subpoena. Advance notice requirements apply. Leave is unpaid, unless the proceeding arises from a crime against the employer or an incident involving the employee in the course of his or her employment.</p>
<p>Civil Air Patrol Leave</p>	<p>Leave requirement applies to employers with <b>at least 11 permanent employees</b>. Employers must provide employees with up to <b>15 days</b> of leave per year to participate in emergency service operations of the Civil Air Patrol. Employees may not take more than <b>five consecutive days</b> of leave. Notice and authorization requirements apply to the leave. Leave is unpaid. Job protections apply to employees taking Civil Air Patrol leave.</p>
<p>Emergency Responder Leave</p>	<p>Employers must permit employees who are volunteer firefighters, emergency medical technicians, first responders or ambulance drivers to be late for or absent from work if they are responding to an emergency that begins before the workday starts. Notification and certification requirements apply. Leave is unpaid. Job protections apply to employees taking emergency responder leave.</p>
<p>Military Leave</p>	<p>In addition to USERRA, Wisconsin provides the following employment protections for returning military members:</p> <ul style="list-style-type: none"> <li>• Reemployment requirements for military members enlisted in the U.S. Armed Forces;</li> <li>• Reemployment requirements for people in active state service, including the National Guard; and</li> <li>• Fair employment protections prohibiting workplace discrimination on the basis of military service.</li> </ul>
<p>Wisconsin Family and Medical Leave (WFMLA)</p>	<p>Employers with <b>at least 50 permanent employees</b> must provide eligible employees with family and medical leave. To be eligible for leave, an employee must have worked for an employer for <b>more than 52 consecutive weeks</b> and must have completed <b>1,000 hours of work</b> in the preceding 52 weeks.</p> <p>Eligible employees may take up to:</p> <ul style="list-style-type: none"> <li>• <b>Six weeks</b> of leave in a calendar year for the birth or adoption of a child;</li> <li>• <b>Two weeks</b> of leave in a calendar year for the care of a child, spouse, domestic partner* or parent with a serious health condition; and</li> <li>• <b>Two weeks</b> of leave in a calendar year for the employee’s own serious health condition.</li> </ul> <p>Leave is unpaid. Employees may substitute any other type of available paid or unpaid leave; however, employers cannot require substitution of other types of leave.</p>



	<p>Employees must provide advance notice for leave due to the birth or adoption of a child or a planned medical treatment or supervision. Employers may require certification for leave taken because of a serious health condition. Job protections apply to employees taking family and medical leave.</p> <p>Employers with <b>50 or more employees</b> are also subject to the federal Family and Medical Leave Act (FMLA). When an employee leave is covered by just one law, either the FMLA or the WFMLA, then the provisions of the applicable law apply. When an employee leave is covered by both the FMLA and WFMLA, employers must apply the provisions of federal and state law that are more generous to employees.</p>
<p>Bone Marrow and Organ Donation Leave</p>	<p>Employers with <b>50 or more permanent employees</b> must allow eligible employees up to <b>six weeks</b> of unpaid leave in a 12-month period for bone marrow or organ donation.</p> <p>To be eligible for bone marrow or organ donation leave, an employee must:</p> <ul style="list-style-type: none"> <li>• Have been employed with the employer for more than 52 consecutive weeks; and</li> <li>• Worked at least 1,000 hours during the preceding 52-week period.</li> </ul> <p>An employee may choose to substitute available paid leave provided by the employer for the otherwise unpaid leave.</p> <p>An employee seeking leave must try to schedule the bone marrow or organ donation procedure to avoid unduly disruption of the employer’s operations. In addition, the employee must give his/her employer advance notice of the leave.</p> <p>An employer may require a certification completed by a health care provider to verify the employee’s leave request, including the anticipated length of leave.</p> <p>During leave, an employer must maintain the employee’s health insurance benefits on the same terms and conditions as prior to the leave. Job protections also apply.</p> <p>Employers must conspicuously post a notice in the workplace regarding bone marrow and organ donation leave.</p>

\*The 2017-2019 Wisconsin state budget eliminates Wisconsin’s domestic partnership registry, effective April 1, 2018. Due to the legalization of same-sex marriage, same-sex couples will no longer be allowed to register as domestic partners under state law. This does **not** affect an eligible employee’s right to take WFMLA leave for a registered domestic partner.

### COMPLIANCE STEPS

It is important for Wisconsin 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 may be subject to government investigations, fines, employee lawsuits and significant penalties, fees and damage awards. To minimize this risk, employers should review applicable federal and state leave law requirements and determine whether they have any compliance gaps to address. This compliance review may be complex, especially in areas where federal and state leave laws overlap.

# WISCONSIN EMPLOYMENT LAW

## Employee Leave Laws - Overview



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 that they 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.