



FMLA Louisiana

Federal vs. Louisiana 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, Louisiana has leave laws regarding maternity leave, bone marrow donor leave and leave for genetic testing and cancer screening.</p> <p>Maternity leave: Employers with more than 25 employees in Louisiana for 20 or more calendar weeks in the current or preceding calendar year.</p> <p>Bone marrow donor leave: Employers with 20 or more employees at one or more worksites.</p> <p>Genetic testing and cancer-screening leave: Employers with 20 or more employees for 20 or more calendar weeks in the current or preceding year, including state employers but not private educational and religious institutions or nonprofit corporations.</p>
Employees Eligible	<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</p>	<p>Maternity leave: Female employees affected by pregnancy, childbirth or related medical conditions.</p> <p>Bone marrow donor leave: Employees who have worked for an employer for an average of 20 or more hours per week and</p>

	<p>employees within 75 miles of worksite.</p>	<p>are seeking to undergo a medical procedure to donate bone marrow. Excludes independent contractors.</p> <p>Genetic testing and cancer-screening leave: All employees.</p>
Leave Amount	<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>Maternity leave: Up to six weeks of leave for a normal pregnancy, childbirth or related medical condition, and up to four months for a disability caused by pregnancy, childbirth or a related medical condition.</p> <p>Bone marrow donor leave: Up to 40 work hours of paid leave (or more, if employer agrees).</p> <p>Genetic testing and cancer-screening leave: One day.</p>
Type of Leave	<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 	<p>Maternity leave: Unpaid disability leave for pregnancy, childbirth or related medical conditions.</p> <p>Bone marrow donor leave: Paid leaves of absence to undergo a medical procedure to donate bone marrow.</p> <p>Genetic testing and cancer-screening leave: One day of unpaid leave from work to obtain genetic testing or preventive cancer screening, when medically necessary.</p> <p>Experimental, investigational and cosmetic services are excluded, along with services not approved by the U.S. Food and Drug Administration, unless coverage for early screening and detection is provided for under Louisiana law.</p>

	<ul style="list-style-type: none"> • Caring for a spouse, child, parent or next of kin who is a covered service member with a serious injury or illness. 	
<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 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: 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</p>	<p>No specific provision</p>

	<p>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 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>No specific provision</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 provision for maternity leave</p> <p>Bone marrow donor leave: The combined length of leaves are to be determined by the employee.</p> <p>Genetic testing and cancer-screening leave: No 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>Maternity leave: The employee must be allowed to use any accrued annual leave during leave.</p> <p>Genetic testing and cancer-screening leave: Employees must be allowed to substitute accrued vacation time or other appropriate paid leave during the 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>Maternity leave: Must receive the same benefits or privileges of employment (including disability or sick leaves, or any other accrued leave) granted to other employees who are not affected by pregnancy, childbirth or a related medical condition, but who are similar in their ability or inability to work.</p> <p>Bone marrow donor leave: Employer may not retaliate against an employee for requesting or taking bone marrow donor leave.</p> <p>Genetic testing and cancer-screening leave: No provision.</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>Maternity leave: Must receive the same benefits or privileges of employment (including disability or sick leaves) granted to other employees who are not affected by pregnancy, childbirth or a related medical condition, but who are similar in their ability or inability to work.</p> <p>No provision for bone marrow donor leave or genetic testing and cancer-screening 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>Maternity leave: Employer may require reasonable notice of the date that leave will commence and the estimated duration of leave.</p> <p>Bone marrow donor leave: Employer must agree to leaves exceeding 40 work hours.</p> <p>Genetic testing and cancer-screening leave: Employees must give 15 days' notice to their employer before taking the leave, and they must make a reasonable effort to schedule the leave so as not to unduly disrupt the employer's operations.</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</p>	<p>No provision for maternity leave.</p> <p>Bone marrow donor leave: Employer may require verification by a physician of the purpose and length of each leave requested. If there is a medical determination that the employee does not qualify as a bone marrow donor, the paid leave granted to the employee prior to the medical determination is not forfeited.</p> <p>Genetic testing and cancer-screening leave: Employers may request documentation confirming the testing or screening, but not the results of the procedure.</p>

	or policy requiring such certification.	
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	LA R.S. §§ 23:341 to 23:342 (maternity leave); § 40:1299.124 (bone marrow donor leave); § 23:370 (leave for genetic testing and cancer screening)

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