



FMLA Kansas

Federal vs. Kansas 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 leave laws, Kansas has leave laws regarding (1) pregnancy and childbirth (contained in the Kansas Act Against Discrimination) and (2) victims of domestic violence or sexual assault.</p> <p>Pregnancy/childbirth leave: Employers with four or more employees.</p> <p>Domestic violence/sexual assault leave: All employers.</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 employees within 75 miles of worksite.</p>	<p>Pregnancy/childbirth leave: Female employees.</p> <p>Domestic violence/sexual assault leave: Employees who are the victim of domestic violence or sexual assault.</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</p>	<p>Pregnancy/childbirth leave: Following childbirth, leave for a reasonable period of time. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the</p>

	<p>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>accrual of seniority and other benefits and privileges, reinstatement and payment under any health or temporary disability insurance or sick leave plan, formal or informal, must be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.</p> <p>Domestic violence/sexual assault leave: Employee may use accrued paid leave or, if not available, unpaid leave up to a total of eight days per calendar 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>Pregnancy/childbirth leave: Leave following childbirth and for disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth and related recovery.</p> <p>Domestic violence/sexual assault leave: Leave for a victim to:</p> <ul style="list-style-type: none"> • Obtain a restraining order or other injunctive relief to help ensure the health, safety or welfare of the victim or the victim’s children; • Seek medical attention for injuries caused by domestic violence or sexual assault; • Obtain services from a domestic violence shelter, domestic violence program or rape crisis center as a result of the domestic violence or sexual assault; or • Make court appearances stemming from domestic violence or sexual assault.
<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</p>	<p>No provision</p>

	<p>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:</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</p>	
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Health Care Provider	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.	No provision
Intermittent Leave	Permitted for serious health condition, for care of covered service member when medically necessary and for active duty leave. Not permitted for care of newborn or new placement by adoption or foster care, unless employer agrees.	No provision
Substitution of Paid	Employees may elect, or employers may require,	Pregnancy/childbirth leave: Written or unwritten employment policies and

<p>Leave</p>	<p>accrued paid leave to be substituted in some cases. Employee must follow terms and conditions of employer’s normal paid leave policies.</p>	<p>practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement and payment under any health or temporary disability insurance or sick leave plan, formal or informal, must be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.</p> <p>Domestic violence/sexual assault leave: Employee may use any available accrued paid 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>Pregnancy/childbirth leave: Following childbirth, and upon signifying her intent to return within a reasonable time, a female employee must be reinstated to her original job or to a position of like status and pay without loss of service, credits, seniority or other benefits.</p> <p>Domestic violence/sexual assault 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 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>Pregnancy/childbirth leave: Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement and payment under any health or temporary disability insurance or sick leave plan, formal or informal, must be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.</p>

		<p>Domestic violence/sexual assault 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 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>Pregnancy/childbirth leave: Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement and payment under any health or temporary disability insurance or sick leave plan, formal or informal, must be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.</p> <p>Domestic violence/sexual assault leave: When possible, the employee must give reasonable advance notice of the intention to take time off.</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>Pregnancy/childbirth leave: Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement and payment under any health or temporary disability insurance or sick leave plan, formal or informal, must be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.</p> <p>Domestic violence/sexual assault leave: Within 48 hours after returning from leave (or, if advance notice for leave is not feasible, within 48 hours of BEGINNING the unscheduled absence), the employee must provide documentation which may include a police report, a court order or documentation indicating that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence or sexual assault.</p>

<p>Executive, Administrative, and Professional Employees</p>	<p>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.</p>	<p>No provision</p>
<p>Statutes</p>	<p>29 USC 2601</p>	<p>Kansas Statutes § 44-1002 (pregnancy/childbirth leave); § 44-1132 (domestic violence/sexual assault leave) K.A.R. § 21-32-6 (pregnancy/childbirth leave)</p>

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