



# FMLA Colorado

## Federal vs. Colorado Family & Medical Leave Laws

	FEDERAL ELEMENTS	STATE ELEMENTS
<b>Employers Covered</b>	<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, Colorado has laws requiring (1) paid family and medical leave (contributions began Jan. 1, 2023, benefits are available Jan. 1, 2024), (2) paid sick leave, (3) leave for adoptive parents and (4) leave for victims of domestic violence.</p> <p><b>Paid family and medical leave</b> (Contributions started Jan.1, 2023): All employers, including the state but not federal government. Funding is provided through employer and employee contributions, but <b>employers with fewer than 10 employees are exempt</b> from contributing. The state Division of Family and Medical Leave Insurance administers the program.</p> <p><b>Paid sick leave:</b> All employers.</p> <p><b>Adoptive parents' leave:</b> Employers who permit paternity or maternity time off for biological parents.</p> <p><b>Domestic violence leave:</b> Employers with 50 or more employees.</p>

<p><b>Employees Eligible</b></p>	<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><b>Paid family and medical leave:</b> Workers who earned at least \$2,500 during the first four of the last five completed calendar quarters before the benefit year.</p> <p><b>Paid sick leave:</b> All employees except workers subject to the federal Railroad Unemployment Insurance Act. Migrant workers are covered, and immigration status is irrelevant to an employee’s right to leave.</p> <p><b>Adoptive parents’ leave:</b> Employees who are adopting a child and request leave.</p> <p><b>Domestic violence leave:</b> Employees who have worked for the employer for 12 months or more and are victims of domestic abuse, stalking, sexual assault or any other crime involving domestic violence.</p>
<p><b>Leave Amount</b></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><b>Paid family and medical leave:</b> Workers may take up to 12 weeks of leave per year, or 16 weeks for a serious health condition related to pregnancy or childbirth complications.</p> <p><b>Paid sick leave:</b> Workers accrue one hour for every 30 hours worked, capped at 48 hours annually. Employees begin accruing leave at the start of work and may use leave as it accrues. Front-loading and carry-over provisions apply.</p> <p>Employers are also required to provide employees with <b>supplemental paid sick leave</b> for specified purposes during a <b>public health emergency</b>. The amount of this leave is based on the number of hours the employee works, up to a maximum of <b>80 hours</b>.</p> <p><b>Adoptive parents leave:</b> If the employer has a policy providing paternity or maternity leave for biological parents, that period of time is the minimum period of leave available for adoptive parents. Requests for additional leave must be considered on the same basis as for biological parents.</p>

		<p><b>Domestic violence leave:</b> Up to three days of leave in any 12-month period.</p>
<p><b>Type of Leave</b></p>	<p>Unpaid leave for:</p> <ul style="list-style-type: none"> <li>• Birth of employee’s newborn child;</li> <li>• Placement of child with employee for adoption or foster care;</li> <li>• Providing care for employee's parent, child or spouse with serious health condition;</li> <li>• Employee’s own serious health condition;</li> <li>• 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</li> <li>• Caring for a spouse, child, parent or next of kin who is a covered service member with a serious injury or illness.</li> </ul>	<p><b>Paid family and medical leave:</b> Beginning Jan. 1, 2024, employees may use leave for the following reasons:</p> <ul style="list-style-type: none"> <li>• To care for a new child during the first year after the child’s birth, adoption or foster care placement;</li> <li>• To care for a family member with a serious health condition;</li> <li>• For the worker’s own serious health condition;</li> <li>• For a qualifying military exigency; or</li> <li>• Because the worker has a need for safe leave.</li> </ul> <p><b>Paid sick leave:</b> Employees may use paid sick leave for their own or a family member’s:</p> <ul style="list-style-type: none"> <li>• Mental or physical illness, injury or health condition that prevents the employee from working;</li> <li>• Need to obtain a medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or</li> <li>• Need to obtain preventive medical care.</li> </ul> <p>Leave may also be used by employees to relocate or seek medical, legal or other specified services if they or a family member are a victim of domestic abuse, sexual assault or harassment. Employees may also use leave if their workplace or child’s school or place of care has been ordered closed during a public health emergency. In addition, effective Aug. 7, 2023, employees may use leave for the following reasons:</p> <ul style="list-style-type: none"> <li>• To grieve, attend funeral services or a memorial, or deal with financial and legal matters that arise after the death of a family member.</li> </ul>

		<ul style="list-style-type: none"> <li>• To care for a family member whose school or place of care has been closed due to inclement weather; loss of power, heating or water; or other unexpected occurrence or event.</li> <li>• When the employee needs to evacuate their home due to inclement weather; loss of power, heating or water; or other unexpected occurrence or event.</li> </ul> <p><b>Adoptive parents leave:</b> Leave for employees who are adopting a child on the same terms as leave provided for biological parents.</p> <p><b>Domestic violence leave:</b> Leave, with or without pay, for the employee to protect themselves by: seeking a restraining order; obtaining related medical care or psychological treatment for the employee or children; making the employee's home secure; seeking legal assistance; or attending and preparing for court-related proceedings.</p>
<p><b>Serious Health Condition/Serious Injury or Illness</b></p>	<p><b>Serious Health Condition:</b> 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"> <li>• A health condition lasting more than three consecutive full calendar days and involving a certain level of treatment;</li> <li>• A chronic serious health condition or a permanent or long-term condition for which treatment may be ineffective;</li> </ul>	<p><b>Paid family and medical leave:</b> Similar to FMLA.</p> <p><b>Paid sick leave:</b> No provision.</p> <p><b>Adoptive parents leave:</b> No provision.</p> <p><b>Domestic violence leave:</b> No provision.</p>

	<ul style="list-style-type: none"> <li>• 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</li> <li>• Any incapacity related to pregnancy or for prenatal care.</li> </ul> <p><b>Serious Injury or Illness:</b></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><b>Health Care Provider</b></p>	<p>Doctors of medicine or osteopathy authorized to practice medicine or surgery; podiatrists, dentists, clinical psychologists, clinical social workers, physician assistants,</p>	<p><b>Paid family and medical leave:</b> Any person licensed, certified or registered under federal or Colorado law to provide medical or emergency services, including but not limited to physicians, doctors,</p>

	<p>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>nurses, emergency room personnel and midwives.  <b>Paid sick leave:</b> No provision.  <b>Adoptive parents leave:</b> No provision.  <b>Domestic violence leave:</b> No provision.</p>
<p><b>Intermittent Leave</b></p>	<p>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.</p>	<p><b>Paid family and medical leave:</b> Workers may take intermittent leave in increments of an hour, or for shorter periods consistent with the employer's leave policies. However, benefits under the program are not payable until at least eight hours of leave are accumulated.  <b>Paid sick leave:</b> No provision.  <b>Adoptive parents leave:</b> No provision  <b>Domestic violence leave:</b> No provision</p>
<p><b>Substitution of Paid Leave</b></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><b>Paid family and medical leave:</b> If they provide written notice to their employees, employers may require that PFML leave and payment run concurrently with, or be coordinated with, benefits under a disability policy or separate bank of time off provided solely for the purpose of family and medical leave.                  However, employees may not be required to use any accrued vacation leave, sick leave or other paid time off before or while receiving PFML benefits, unless the aggregate amount an employee would receive would exceed their average weekly wage.</p>

		<p>The PFML law does not diminish an employee’s rights under any law that provides more leave benefits.</p> <p><b>Paid sick leave:</b> Employers who provide employees with the amount of paid leave required by the paid sick leave law under an alternate policy need not provide additional paid sick leave, if the leave may be used for the same purposes and under the same conditions as provided in the Act, provided the employers provide advance written notice to employees of those facts.</p> <p><b>Adoptive parents leave:</b> Any benefits provided by the employer to biological parents must be available to adoptive parents on an equal basis.</p> <p><b>Domestic violence leave:</b> Employer may require the employee to first use up all available vacation, personal and sick leave before taking domestic violence leave.</p>
<p><b>Reinstatement Rights</b></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><b>Paid family and medical leave:</b> Workers who have been employed with their current employer for at least 180 days before taking leave are entitled to be restored to their previous position—or an equivalent—with equivalent benefits, pay and terms on returning from leave.</p> <p><b>Paid sick leave:</b> Employers may not retaliate against employees for:</p> <ul style="list-style-type: none"> <li>• Requesting or using leave;</li> <li>• Filing a complaint concerning leave;</li> <li>• Informing anyone about an employer’s alleged violation of the Act;</li> <li>• Participating in an investigation concerning alleged violations of the Act; or</li> <li>• Informing anyone of their rights under the Act.</li> </ul> <p><b>Adoptive parents leave:</b> Any benefits provided by the employer to biological parents must be available to adoptive parents on an equal basis.</p> <p><b>Domestic violence leave:</b> No provision.</p>



<p><b>Key Employee Exception to Reinstatement Rights</b></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><b>Maintenance of Health Benefits During Leave</b></p>	<p>Health insurance must be continued under same conditions as prior to leave.</p>	<p><b>Paid family and medical leave:</b> Employers are required to maintain health care benefits for employees on leave as if they had not taken leave. Employees must continue to pay any share of health benefits required before the leave.</p> <p><b>Paid sick leave:</b> Any health care benefits must be continued during leave.</p> <p><b>Adoptive parents leave:</b> Any benefits provided by the employer to biological parents must be available to adoptive parents on an equal basis.</p> <p><b>Domestic violence leave:</b> No provision</p>
<p><b>Leave Requests</b></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><b>Certification Requirement</b></p>	<p>Employer may require certification for the following:</p>	<p><b>Paid family and medical leave:</b> To be established by the state Division of Family and Medical Leave Insurance.</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><b>Paid sick leave:</b> For leave of <b>four or more consecutive days</b> on which the employee would have worked, employers may require reasonable documentation. For a health-related leave, a document from a health or social services provider indicating a qualifying purpose will suffice. If the employee did not receive these services, or if the employee cannot receive a document from the provider in a reasonable time or without added expense, the employee can provide their own written statement indicating that the leave was for a qualifying purpose.</p> <p>To document leave taken for a safety reason related to domestic abuse, sexual assault or criminal harassment, the reasonable documentation standard is met by a document from a health provider or a non-health provider of legal services, shelter services, social work or other similar services. An employee writing will also suffice, as will a legal document indicating a safety need that was the reason for the leave (for example, a restraining order, other court order or a police report).</p> <p>Employers cannot require details about the employee’s (or their family’s) health or safety information. Any such information that employers receive must be kept confidential and stored in a separate file.</p> <p><b>Adoptive Parents:</b> No provision.</p> <p><b>Domestic Violence:</b> An employee seeking leave must provide the employer with appropriate documentation as may be required by the employer.</p>
<p><b>Executive, Administrative, and Professional Employees</b></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><b>Other</b></p>		<p>The Colorado Civil Union Act legalizes same- and opposite-sex civil unions that offer all state-level rights and protections available through marriage. As a result, parties to a civil union have the same rights to family leave benefits as a spouse.</p>
<p><b>Statutes</b></p>	<p>29 USC 2601</p>	<p>CO ST § 8-13.3-501 et seq. (paid family and medical leave), § 8-13.3-401 et seq. (paid sick leave), § 19-5-211 (adoptive parent leave); § 24-34-402.7 (domestic violence leave)</p>

**SPECIAL NOTE:** The [Colorado Family Care Act](#) covers all Colorado employers that are covered under the federal FMLA. The Family Care Act provides employees in a civil union or domestic partnership the right to take a leave from work to care for the employee’s partner (same-sex or opposite-sex) with a serious health condition. The Family Care Act states that leave must run concurrently with federal FMLA leave, and that the Family Care Act does not increase the amount of leave to which an employee is entitled. However, state law cannot deny an employee his or her FMLA rights by counting toward FMLA leave usage the employee’s time off to care for a person in a relationship that is not covered by the FMLA (for example, a civil union or domestic partnership).

**SPECIAL NOTE:** The information in this chart focuses on statewide laws. Cities, towns and counties across the country have also enacted ordinances that require employers to provide employee leave. Employers must generally comply with both the local ordinance and statewide law where they apply.

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