



FMLA Arizona

Federal vs. Arizona Family & Medical Leave Laws

	FEDERAL ELEMENTS	STATE ELEMENTS
Applicable laws	The Family and Medical Leave Act (FMLA)	Fair Wages and Healthy Families Act – Arizona law requiring employers to provide earned paid sick time
Covered employers	<p>Employers subject to the FMLA include:</p> <ul style="list-style-type: none"> • Private-sector employers with 50 or more employees in at least 20 weeks of the current or preceding year; • Public agencies, including state, local and federal employers; and • Local education agencies, including elementary and secondary schools (public and private). 	<p>All private-sector employers. There is no exception for small businesses. However, employers that offer “equivalent paid time off” under a paid leave policy are not required to provide additional paid sick time. Equivalent paid time off means that the employer provides at least the same amount of leave (and allows employees to use leave for the purposes) as required by the state’s paid sick leave law.</p>
Eligible employees	<p>To be eligible for FMLA leave, an employee must:</p> <ul style="list-style-type: none"> • Have worked for the covered employer for at least 12 months (which need not be consecutive); • Have at least 1,250 hours of service for the employer during the 12-month period immediately before the leave; and • Work at a location where the employer has 50 or more employees within 75 miles of that worksite. 	<p>All employees working for an Arizona employer are eligible to accrue and use paid sick time. Employees must generally be allowed to use earned paid sick time as it is accrued. However, an employer may require newly hired employees to wait 90 days before using any accrued paid sick time.</p>

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<p>Leave amount</p>	<p>In general, employees may take up to 12 weeks of FMLA leave during a 12-month period.</p> <p>Employees may take up to 26 weeks of leave during a single 12-month period to care for a spouse, child, parent or next of kin who is a covered service member with a serious injury or illness.</p> <p>Spouses that work for the same employer are limited to a combined total of 12 weeks of leave to care for a parent with a serious health condition, to care for a covered service member with a serious injury or illness or following the birth, adoption or placement of a child.</p>	<p>Employees must begin accruing earned paid sick time upon hire. Employees must accrue at least one hour of earned paid sick time for every 30 hours worked. For employees who are considered exempt under the federal Fair Labor Standards Act, the employer may assume the employee works 40 hours per week for purposes of earned paid sick time accrual.</p> <p>Employers may limit the accrual of earned paid sick time based on their employer size, as follows:</p> <ul style="list-style-type: none"> • Employers with 15 or more employees may limit employee earned paid sick time accrual and use to no more than 40 hours per year; and • Employers with fewer than 15 employees may limit employee earned paid sick time accrual and use to no more than 24 hours per year. <p>For this purpose, a “year” is any consecutive 12-month period (for example, calendar year, fiscal year or year from employee’s hire date), as chosen by the employer.</p>
<p>Type of leave</p>	<p>Eligible employees may take unpaid leave under the FMLA for the following reasons:</p> <ul style="list-style-type: none"> • The birth of the employee’s newborn child; • The placement of a child with the employee for adoption or foster care; • A serious health condition that makes the employee unable to perform the functions of his or her job; • To care for the employee’s spouse, child or parent who has a serious health condition; • Any qualifying exigency arising out of the fact that the employee’s spouse, child or parent is a military member on covered active duty (or call to covered active duty status); or • To care for a spouse, child, parent or next of kin who is a covered 	<p>Eligible employees must be able to use their accrued paid sick time (or equivalent paid time off) 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 a public health emergency or an employee’s need to care for a child whose school or place of care has been closed by order of a public

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	<p>service member with a serious injury or illness.</p>	<p>official due to a public health emergency; or</p> <ul style="list-style-type: none"> • Time off due to domestic violence, sexual violence, abuse or stalking involving the employee or the employee’s family member.
<p>Serious health condition</p>	<p>Serious health condition: An illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. Serious health conditions may include:</p> <ul style="list-style-type: none"> • An overnight stay in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment in connection with the overnight stay; • A period of incapacity of more than three consecutive full calendar days that involves a certain level of treatment from a health care provider; • A period of incapacity due to (or treatment for) a chronic serious health condition; • A period of incapacity which is permanent or long-term due to a 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>Incapacity means inability to work, or inability to attend school, or perform other regular daily activities due to the serious health condition.</p>	<p>No provision.</p>
<p>Intermittent leave</p>	<p>Employees are entitled to take FMLA leave on an intermittent or reduced schedule basis when:</p> <ul style="list-style-type: none"> • There is a medical need for this type of leave for an employee’s own serious health condition; 	<p>Employers may require paid sick time to be used in the smaller of:</p> <ul style="list-style-type: none"> • Hourly increments; or • The smallest increment that the employer uses, by policy or practice, to account for other types of

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	<ul style="list-style-type: none"> To care for a spouse, parent or child with a serious health condition; or To care for a covered service member with a serious injury or illness. <p>An employee is also entitled to use intermittent or reduced schedule leave for qualifying exigencies.</p> <p>An employee is not entitled to take intermittent leave for the birth and care of a newborn child or for the placement with the employee of a child for adoption or foster care unless the employer agrees to the arrangement.</p>	<p>absences or paid time off in the employer's payroll system.</p> <p>For example, where an employer's practice is to account for absences or use of other paid leave in six-minute increments (a tenth of an hour), an employee may use earned paid sick time in this same increment.</p>
Substitution of paid leave	<p>An eligible employee may choose, or an employer may require the employee to substitute, accrued paid leave for unpaid FMLA leave. Substitute means that the accrued paid leave will run concurrently with the unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.</p>	<p>Leave is paid. Earned paid sick time is compensated at the same hourly rate as the employee would earn for hours actually worked. In no case may the same hourly rate be less than the minimum wage.</p>
Reinstatement rights	<p>Must be restored to same position or one equivalent to it in all benefits and other terms and conditions of employment.</p>	<p>Employers are prohibited from:</p> <ul style="list-style-type: none"> Interfering with or denying an employee his or her rights to earned paid sick time; Retaliating or discriminating against an employee for using earned paid sick time or exercising any of his or her rights under the law; Requiring an employee to find a replacement to cover for the employee's earned sick time absence; and Counting earned sick time absences against an employee under the employer's attendance policy.
Key employee exception to reinstatement rights	<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>

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Maintenance of health benefits during leave	<p>Health insurance must be continued under same conditions as before leave.</p>	<p>No provision.</p>
Leave requests	<p>An employee must give at least 30 days' advance notice of the need to take FMLA leave when he or she knows about the need for the leave in advance and it is possible and practical to do so.</p> <p>For planned medical treatment, the employee must consult with his or her employer and try to schedule the treatment at a time that minimizes the disruption to company operations.</p> <p>When the need for leave is unexpected, the employee must provide notice as soon as possible and practical.</p>	<p>Earned paid sick time is to be provided upon an employee's request. When the need for sick time is foreseeable, employees are expected to make a good faith effort to provide the employer with advance notice of the need for leave (including expected duration, if possible) and schedule the time off in a way that avoids disrupting the employer's operations. If an employer requires notice of the need to use earned paid sick time when it is not foreseeable, it must establish a written policy that includes procedures for employees to provide the notice.</p>
Certification requirement	<p>An employer may require an employee to submit a certification to support the employee's need for FMLA leave when the leave request is for:</p> <ul style="list-style-type: none"> • The employee's serious health condition; • The serious health condition of the employee's parent, spouse or child; or • Military family leave (qualifying exigency leave or leave to care for a covered service member with a serious illness or injury). <p>An employer may also, in certain circumstances, require a fitness-for-duty certification at the end of the employee's leave as a condition to returning the employee to the job.</p>	<p>An employer may require reasonable documentation to verify that earned paid sick time was used for a permitted reason only when an employee uses paid sick leave for three or more consecutive days. Documentation that is signed by a health care professional and indicates sick time is necessary is considered reasonable. An employer may not require that the documentation explain the nature of the health condition or the details of domestic violence, sexual violence, abuse or stalking.</p> <p>If earned paid sick time is used due to domestic violence, sexual violence, abuse or stalking, the law specifies various forms of acceptable documentation, including a police report, protective order, signed statement from an attorney or advocacy organization, or signed statement by the employee.</p>
Statutes	<p>29 U.S.C. § 2601, <i>et. seq.</i></p>	<p>AZ ST § 23-371, <i>et seq.</i></p>