

FMLA Rhode Island

Federal vs. Rhode Island 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, Rhode Island has laws regarding (1) parental and family medical leave, (2) school involvement leave, (3) family military leave (4) pregnancy accommodation leave;* and (5) paid sick leave.</p> <p>Parental/family medical leave: Employers with 50 or more employees (as well as the state and any city/town/municipal agency with 30 or more employees).</p> <p>School involvement leave: Employers with 50 or more employees (as well as the state and any city/town/municipal agency with 30 or more employees).</p> <p>Family military leave: Employers with 15 or more employees (including the state and its municipalities or other units of local government).</p> <p>Pregnancy accommodation leave: Employers with four or more employees (including the state and all political subdivisions of the state). Employers are not required to provide pregnancy accommodation leave when they can prove that the accommodation would pose an undue hardship on the employer's enterprise, business or program.</p>

		<p>Paid sick leave: All employers. Whether sick leave must be paid depends on the employer's size:</p> <ul style="list-style-type: none"> • Employers with 18 or more employees must provide paid sick leave. • Employers with fewer than 18 employees must provide unpaid sick leave.
<p>Employees Eligible</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>Parental/family medical leave: Full-time employees who work an average of 30 or more hours per week and have worked for the employer for at least 12 consecutive months.</p> <p>School involvement leave: Full-time employees who work an average of 30 or more hours per week and have worked for the employer for at least 12 consecutive months.</p> <p>Family military leave: Worked for the employer for at least 12 months; worked at least 1,250 hours during the 12-month period preceding leave; and is the spouse or parent of person called to military service lasting longer than 30 days.</p> <p>Pregnancy accommodation leave: Female employees affected by pregnancy, childbirth or related medical condition.</p> <p>Paid sick leave: All employees in Rhode Island. Whether sick leave is paid depends on the size of the employer. New employees may be required to satisfy a 90-day waiting period prior to using accrued paid sick leave.</p>
<p>Leave Amount</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</p>	<p>Parental/family medical leave: 13 consecutive work weeks in any two calendar years. In addition, any employer that allows sick time or sick leave to be used after the birth of a child must allow the same time to be used for the placement of a child 16 years of age or under with an employee for adoption.</p> <p>School involvement leave: 10 hours during any 12-month period.</p> <p>Family military leave:</p> <ul style="list-style-type: none"> • Employers that employ between 15 and 50 employees must provide up to 15 days of leave during the time federal or state orders are in effect. • Employers that employ more than 50 employees must provide up to 30 days of

	<p>by spouses working for the same employer.</p>	<p>leave during the time federal or state orders are in effect.</p> <p>Pregnancy accommodation leave: If requested, an employer must provide an employee with time off from work to recover from childbirth as a reasonable accommodation. The law does not specify how much time off is considered reasonable. Also, an employer may not require a pregnant employee to take leave if another reasonable accommodation can be provided.</p> <p>Paid sick leave: Employees must accrue one hour of paid sick leave for every 35 hours worked, up to the annual maximum. Annual maximum paid sick leave accruals will be phased in as follows:</p> <ul style="list-style-type: none"> • Up to 24 hours during the 2018 calendar year; • Up to 32 hours during the 2019 calendar year; and • Up to 40 hours during each calendar year after 2019.
<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>Parental/family medical leave: Unpaid leave for:</p> <ul style="list-style-type: none"> • Birth of the employee’s child; • Placement of a child 16 years old or under with the employee for adoption; or • Serious illness of a family member (includes an employee’s parent, spouse, child or parent-in-law, as well as domestic partners of state employees). <p>In addition, any employer that allows sick time or sick leave to be used after the birth of a child must allow the same time to be used for the placement of a child 16 years of age or under with an employee for adoption.</p> <p>School involvement leave: Unpaid leave to attend school conferences or other school-related activities for a child of whom the employee is a parent, foster parent or guardian.</p> <p>Family military leave: Unpaid leave for an employee who is the spouse or parent of a person called to military service lasting longer than 30 days, during the time federal or state orders are in effect.</p>

		<p>Pregnancy accommodation leave: Time off from work to recover from childbirth, if requested. The law does not specify whether leave must be paid or unpaid.</p> <p>Paid sick leave: Employees may use paid (or unpaid) sick leave for:</p> <ul style="list-style-type: none"> • An employee’s own mental or physical illness, injury or health condition; • Care of the employee’s family member with a mental or physical illness, injury or health condition; • Closure of the employee’s place of business due to a public health emergency; • Care for an employee’s child whose school or place of care has been closed due to a public health emergency; or • Employee's care for himself or herself or care for a family member when it has been determined that the individual’s presence in the community may jeopardize the health of others due to a communicable disease; and • Time off needed when the employee or an employee’s family member is a victim of domestic violence, sexual assault or stalking.
<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; 	<p>Parental/family medical leave: “Serious illness” means a disabling physical or mental illness, injury, impairment or condition that involves inpatient care in a hospital, nursing home or hospice, or outpatient care requiring continuing treatment or supervision by a health care provider.</p> <p>No specific provision for family military leave, pregnancy accommodation or paid sick leave.</p>

	<ul style="list-style-type: none"> • 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 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</p>	<p>Paid sick leave: “Health care professional” means any person licensed under federal or Rhode Island law to provide medical or emergency services, including, but not limited to, doctors, nurses and emergency room personnel.</p> <p>No specific provision for parental/family medical leave, family military leave or pregnancy accommodation.</p>

	<p>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>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>Parental/family medical leave: No provision.</p> <p>School involvement leave: Permitted up to 10 hours per year.</p> <p>Family military leave: Where able, the employee must consult with the employer to schedule leave so as to not unduly disrupt the employer's operations.</p> <p>Pregnancy accommodation leave: No provision. However, providing a modified work schedule is listed as a reasonable accommodation that must be provided to an employee affected by pregnancy, childbirth or a related medical condition, if requested by the employee.</p> <p>Paid sick leave: No specific provision. Employers may require a minimum increment for sick leave use, not to exceed four hours per day.</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>Parental/family medical leave: No provision.</p> <p>School involvement leave: Employee may substitute any accrued paid vacation or other appropriate paid leave for any part of leave.</p> <p>Family military leave: Employee must exhaust all accrued vacation, personal, compensatory leave or time and any other leave, except sick and disability leave, before taking family military leave.</p> <p>Pregnancy accommodation leave: No provision.</p>

		<p>Paid sick leave: No provision.</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>Parental/family medical leave: Similar to federal FMLA.</p> <p>School involvement leave: No provision.</p> <p>Family military leave: Similar to federal FMLA.</p> <p>Pregnancy accommodation leave: An employer may not deny employment opportunities to an employee if the denial is based on the employer’s refusal to reasonably accommodate an employee’s condition related to pregnancy, childbirth or a related medical condition.</p> <p>Paid sick leave: Employers cannot retaliate against an employee for exercising his or her rights to paid sick leave.</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>Parental/family medical leave: Employer must maintain existing health benefits for the duration of leave as if the employee had continued in employment continuously from the date of leave until date of return. Prior to the commencement of leave, the employee must pay to the employer the amount of the premium required to maintain health benefits during the leave. Employer must return the payment to the employee within 10 days following the employee’s return.</p> <p>School involvement leave: No provision.</p> <p>Family military leave: Employees can continue benefits at their expense, and can negotiate for the employer to maintain benefits at the employer’s expense.</p> <p>Pregnancy accommodation leave: No provision.</p> <p>Paid sick leave: Employees must be provided with the same benefits, including health care benefits that are normally provided.</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>Parental/family medical leave: Employee must give at least 30 days' notice of the dates leave will commence and terminate, unless prevented by medical emergency.</p> <p>School involvement leave: Employee must provide 24 hours' prior notice and make a reasonable effort to schedule leave so as not to unduly disrupt the employer's operations.</p> <p>Family military leave: Employee must give at least 14 days' notice if leave will last five or more consecutive workdays. If leave is for less than five consecutive days, the employee must give advance notice as is practicable. Where able, the employee must consult with the employer to schedule leave so as not to unduly disrupt the employer's operations.</p> <p>Pregnancy accommodation leave: No provision.</p> <p>Paid sick leave: Paid sick leave must be provided to an eligible employee upon his or her request. An employee's request to use paid sick leave may be made orally, in writing, electronically or by any other means acceptable to the employer.</p> <p>When the need for leave is foreseeable, employees should provide the employer with advance notice and make a reasonable effort to schedule the leave so as to not unduly disrupt the employer's operations. An employer may require employees to provide notice of paid sick leave use when the need for leave is not foreseeable. However, the employer must have a written policy outlining the procedures employees must follow to provide notice.</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>Parental/family medical leave: Employer may request that the employee provide written certification from a physician caring for the person who is the reason for the leave. Certification must specify the probable duration of leave.</p> <p>School involvement leave: No provision.</p> <p>Family military leave: Employer may require certification from the proper military authority to verify the employee's eligibility to take leave.</p> <p>Pregnancy accommodation leave: No provision.</p>

	or policy requiring such certification.	<p>Paid sick leave: Employers may require that employees who use three or more consecutive days of paid sick leave provide reasonable documentation that their absence was for a covered purpose. Employers must notify employees in advance, in writing, of the requirement to provide this reasonable documentation.</p> <p>Employers may also require documentation of an employee's use of paid sick leave when taken within two weeks prior to an employee's scheduled final day of work or before termination of employment.</p>
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	RI ST § 28-48 (parental/family medical leave and school involvement leave); § 30-33 (family military leave); RI ST § 28-5-7.4 (pregnancy accommodation leave); RI ST §§ 28-57-1 to 28-57-15 (paid sick leave)

*The [Rhode Island Fair Employment Practices Act \(FEPA\)](#) requires employers to provide reasonable accommodations for employees or applicants affected by pregnancy. In addition to providing time off work to recover from childbirth, the law requires employers to accommodate pregnant employees with more frequent or longer breaks, acquisition or modification of equipment, seating, temporary transfer to a less strenuous or hazardous position, job restructuring, light duty, break time and private non-bathroom space to express milk, assistance with manual labor or modified work schedules. The law is clear that this list of reasonable accommodations is not exhaustive. The law also has [notice](#) requirements.

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