

EMPLOYMENT LAW SUMMARY

Wisconsin: Employee Leave Laws— Overview



Employers have some flexibility when it comes to establishing or negotiating employee leave policies. As part of their overall compensation packages, employers may provide their employees with various types of paid or unpaid leave, including vacation time, personal leave and sick leave. However, Wisconsin employers must comply with state employment laws requiring employee leave for specific purposes. (Employers must also follow federal laws, such as the Family and Medical Leave Act, that require employee leave.)

Wisconsin has state laws that mandate:

- Family and medical leave
- Voting leave;
- Election leave;
- Jury duty leave;
- Judicial witness leave;
- Civil air patrol leave;
- Emergency responder leave;
- Military leave; and
- Bone marrow and organ donation leave

The chart below provides a high-level overview of Wisconsin's employee leave laws.

TYPE OF LEAVE

REQUIREMENTS

TYPE OF LEAVE	REQUIREMENTS
<p>Wisconsin Family and Medical Leave (WFMLA)</p>	<p>Wisconsin Family and Medical Leave (WFMLA) Employers with at least 50 permanent employees must provide eligible employees with family and medical leave. To be eligible for leave, an employee must have worked for an employer for more than 52 consecutive weeks and must have completed 1,000 hours of work in the preceding 52 weeks. Eligible employees may take up to:</p> <ul style="list-style-type: none"> • Six weeks of leave in a calendar year for the birth or adoption of a child; • Two weeks of leave in a calendar year for the care of a child, spouse, domestic partner* or parent with a serious health condition; and • Two weeks of leave in a calendar year for the employee’s own serious health condition. <p>Leave is unpaid. Employees may substitute any other type of available paid or unpaid leave; however, employers cannot require substitution of other types of leave. Employees must provide advance notice for leave due to the birth or adoption of a child or a planned medical treatment or supervision. Employers may require certification for leave taken because of a serious health condition. Job protections apply to employees taking family and medical leave.</p> <p>Employers with 50 or more employees are also subject to the federal Family and Medical Leave Act (FMLA). When an employee leave is covered by just one law, either the FMLA or the WFMLA, then the provisions of the applicable law apply. When an employee leave is covered by both the FMLA and WFMLA, employers must apply the provisions of federal and state law that are more generous to employees.</p>
<p>Voting Leave</p>	<p>Employees may be absent from work for up to three consecutive hours to vote. Notice requirements apply. Leave is unpaid.</p>
<p>Election Official Leave</p>	<p>Employees may be absent from work on an election day to serve as an election official. Leave is for the entire 24-hour period of each election day during which the employee serves as an election official. Advance notice requirements apply. Leave is unpaid.</p>
<p>Jury Duty Leave</p>	<p>Employers must provide unpaid leave to employees summoned to jury duty. Job protections apply.</p>
<p>Leave for Judicial Witnesses</p>	<p>An employer may not discharge an employee who takes time off from work to testify in a criminal, juvenile or children’s court proceeding pursuant to a subpoena. Advance notice requirements apply. Leave is unpaid, unless the proceeding arises from a crime against the employer or an incident involving the employee in the course of his or her employment.</p>
<p>Civil Air Patrol Leave</p>	<p>Leave requirement applies to employers with at least 11 permanent employees. Employers must provide employees with up to 15 days of leave per year to participate in emergency service operations of the Civil Air Patrol. Employees may not take more than five consecutive days of leave. Notice and authorization requirements apply to the leave. Leave is unpaid. Job protections apply.</p>
<p>Emergency Responder Leave</p>	<p>Employers must permit employees who are volunteer firefighters, emergency medical services practitioners, emergency medical responders or ambulance drivers for a volunteer fire department or fire company, public agency, or nonprofit corporation to be late for or absent from work if they are responding to an emergency that begins before the workday starts. Notification and certification requirements apply. Leave is unpaid. Job protections apply.</p>
<p>Military Leave</p>	<p>In addition to USERRA, Wisconsin provides the following employment protections for returning military members:</p> <ul style="list-style-type: none"> • Reemployment requirements for military members enlisted in the U.S. Armed Forces; • Reemployment requirements for people in active state service, including the National Guard; and • Fair employment protections prohibiting workplace discrimination on the basis of military service.

TYPE OF LEAVE	REQUIREMENTS
<p align="center">Bone Marrow and Organ Donation Leave</p>	<p>Employers with 50 or more permanent employees must allow eligible employees up to six weeks of unpaid leave in a 12-month period for bone marrow or organ donation.</p> <p>To be eligible for bone marrow or organ donation leave, an employee must:</p> <ul style="list-style-type: none"> • Have been employed with the employer for more than 52 consecutive weeks; and • Worked at least 1,000 hours during the preceding 52-week period. <p>An employee may choose to substitute available paid leave provided by the employer for the otherwise unpaid leave. An employee seeking leave must try to schedule the bone marrow or organ donation procedure to avoid unduly disrupting the employer's operations. In addition, the employee must give advance notice of the leave.</p> <p>An employer may require a certification completed by a health care provider to verify the employee's leave request, including the anticipated length of leave.</p> <p>During leave, an employer must maintain the employee's health insurance benefits on the same terms and conditions as prior to the leave. Job protections also apply.</p> <p>Employers must conspicuously post a notice in the workplace regarding bone marrow and organ donation leave.</p>

*Wisconsin eliminated the state's domestic partnership registry, effective April 1, 2018. Due to the legalization of same-sex marriage, same-sex couples are no longer allowed to register as domestic partners under state law. This does not affect an eligible employee's right to take WFMLA leave for a registered domestic partner.

SPECIAL NOTE: The chart above includes information about only statewide laws. Cities, towns and counties across the country have also enacted employee laws that employers must follow when they apply.

More Information

Contact Heffernan Insurance Brokers for more information on employee leave laws in Wisconsin.

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