



## CONNECTICUT'S FAMILY AND MEDICAL LEAVE ACT

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### FEDERAL VS. STATE FMLA

The federal FMLA is largely similar to Connecticut's. However, some key differences include:

- Covered employers: the federal law covers all employers with at least 50 employees (instead of 75, as under CT law). It also covers all public-sector employers regardless of their number of employees.
- Eligible employees: to be eligible under the federal law, employees must have worked for their employer for at least 1,250 work-hours (instead of 1,000, as under CT law) over the 12 months prior to the leave.
- Length of leave: the federal FMLA allows eligible employees to take up to 12 weeks of unpaid leave during a 12-month period (instead of 16 weeks of leave during a 24-month period, as under CT law).

For additional information on the federal FMLA, see: <http://www.dol.gov/whd/fmla/>.

### ISSUE

This report describes the state's Family and Medical Leave Act ([CGS §§ 31-51kk through 31-51qq](#)) for private-sector employers.

### SUMMARY

Connecticut's Family and Medical Leave Act (FMLA) provides eligible employees at certain large employers with up to 16 weeks of unpaid leave from work for certain family- and health- related reasons, such as the birth of a child or to tend to a close relative's serious health condition. Among other things, the law specifies (1) what work requirements employees must meet to qualify for leave, (2) employee notice requirements, and (3) the circumstances under which an employer can require an employee to provide certification from a health care provider. It also prohibits employers from taking certain retaliatory actions against employees who take the leave or cooperate with investigations into an employer's FMLA violations. Employees aggrieved by an employer's FMLA violation can complain to the Labor Department.

Other state laws, which are not discussed in this report, provide family and medical leave for state employees ([CGS § 5-248a](#)), certain municipal employees ([CGS § 31-51-rr](#)), and family violence victims ([CGS § 31-51ss](#)).



## **THE FAMILY AND MEDICAL LEAVE ACT**

### ***Covered Employers and Eligible Employees***

Connecticut's FMLA requires private-sector employers with at least 75 employees in the state to allow eligible employees to take up to 16 weeks of unpaid leave from work during a 24-month period. Covered employers do not include the state, municipalities, local or regional boards of education, or private or parochial elementary or secondary schools. (State employees receive family and medical leave under a separate state law. Most municipal employees receive the leave under the federal FMLA, although certain municipal employees may qualify for leave under a different state law.)

To be eligible for the leave, a covered employer's employee must have worked for the employer for at least (1) 12 months (which do not have to be consecutive) and (2) 1,000 work-hours during the 12 months prior to the leave.

### ***Leave Entitlement***

Eligible employees can take FMLA leave:

1. for the birth or adoption of their child;
2. to care for their spouse, child, parent, or parent-in-law, who has a serious health condition;
3. for their own serious health condition; or
4. to serve as an organ or bone marrow donor.

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider.

Employers can set the 24-month period during which an employee can take up to 16-weeks of leave as (1) consecutive calendar years, (2) any fixed 24-month period, (3) a 24-month period measured forward from an employee's first day of leave, or (4) a rolling 24-month period measured backward from an employee's first day of leave.

Unless the employee is taking leave for the birth or adoption of their child, he or she can take the leave intermittently or on a reduced leave schedule. If the leave is foreseeable based on a planned medical treatment, the employer may require the employee to temporarily transfer to an alternative position with equivalent pay and benefits that better accommodates the employee's recurring leave periods.

### ***Injured Armed Forces Leave***

The law also allows eligible employees to take a one-time benefit of 26 workweeks of unpaid leave during a 12-month period if the employee has a spouse, child, parent, or next of kin who is a member of the armed forces undergoing medical treatment, recuperation, or therapy, or on the temporary disability retired list for a serious injury or illness incurred in the line of duty.

### ***Use of Paid Leave***

Employers can require employees to use their accrued paid vacation, personal or sick time while they are out on FMLA leave, if the employer offers such benefits. If the employer does not require it, employees can choose whether to use their accrued paid time off. An employer may provide paid FMLA leave, but is not required to provide paid leave in any situation in which it would not normally provide the benefit.

### ***Employee Notice***

Employees taking leave must notify their employer at least 30 days in advance or, if the leave must begin sooner than 30 days, as soon as practicable. If the employee is taking leave for a health condition that is foreseeable based on a planned medical treatment, the employee must also try to schedule the leave to avoid disrupting work operations, subject to the treating health care provider's approval.

### ***Certifications***

Employers may require employees requesting leave related to serious health conditions to provide a certification from a health care provider. Depending on the circumstances behind the leave, the employer can require the certification to include facts such as (1) when the serious health condition started; (2) the condition's probable duration; (3) expected treatment dates; (4) whether the leave is necessary for the employee to care for their spouse, child, or parent; and (5) whether the employee is able to perform their position's functions.

Employers who doubt a certification's validity can require, at their own expense, an employee to obtain second and third opinions from additional health care providers. They can also require employees to obtain subsequent recertifications on a reasonable basis, which cannot be more than once per 30-day period. The employer must pay for the recertifications if they are not covered by the employee's health insurance.

## ***Confidentiality***

With certain exceptions, employers must keep records and documents related to their employees' medical histories and medical certifications as confidential medical records under the state's Personnel Files Act. The law allows exceptions for:

1. supervisors and managers to know about an employee's necessary work restrictions or accommodations;
2. first aid and safety personnel to know, when appropriate, if an employee's physical or medical condition might require emergency treatment; and
3. government officials, upon request, investigating an employer's compliance with certain laws.

## ***Legal Protections***

The law protects the employment rights and benefits of an employee who takes FMLA leave. Employees who return from leave must be restored to the position they held when they went on leave. If their original position is not available, they must be restored to an equivalent position with equal pay, benefits, and other terms and conditions of employment. If they return but are medically unable to perform their original job, they must be transferred to work suitable to their condition, if it is available. Employees who take the leave cannot lose any employment benefits they accrued prior to taking the leave; however they are not entitled to accrue seniority or other benefits while they are out on leave.

The law also prohibits employers from:

1. interfering with, restraining, or denying employees from exercising their FMLA rights;
2. discharging or discriminating against someone who exercised their FMLA rights, filed a claim alleging an FMLA violation, or provided information or testimony in an FMLA investigation or proceeding;
3. denying an employee the right to use up to two weeks of accrued paid sick leave, if provided by the employer, for a child's birth or adoption or to attend to a child's, spouse's, or parent's serious health condition; and
4. discharging, threatening to discharge, demoting, suspending, or discriminating against an employee for using or trying to use up to two weeks of accrued paid sick leave, if provided by the employer, for a child's birth or adoption or to attend to a child's, spouse's, or parent's serious health condition.

## ***Enforcement***

Employees who are aggrieved by a violation can file a complaint with the labor commissioner. Upon receiving the complaint, the commissioner must hold a hearing and send each party a written copy of her decision. The commissioner can award the employee all appropriate relief, including ordering rehiring or reinstatement to the employee's previous job, back wages, and reestablishment of benefits for which the employee would have been eligible if the violation had not occurred. Any party aggrieved by the commissioner's decision can appeal to the Superior Court.

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