



FMLA Illinois

Federal vs. Illinois 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, Illinois has (1) the Family Military Leave Act, (2) the Victims' Economic Security and Safety Act (providing leave for victims of domestic or sexual violence), (3) nondiscrimination protections regarding leave for pregnancy, childbirth and childrearing, (4) the Child Bereavement Leave Act and (5) the Employee Sick Leave Act (ESLA).</p> <p>Family Military: Employers, including private employers and state and local governments, with at least 15 employees.</p> <p>Domestic/Sexual Violence: State and local governments, school districts and private employers.</p> <p>Pregnancy, Childbirth and Childrearing: All employers.</p> <p>Child Bereavement: Employers covered by the federal FMLA (those with 50 or more employees).</p> <p>Employee Sick Leave: Employers that provide employees with personal sick leave benefits. Employers that are subject to Title II of the Railway Labor Act or covered by the Railroad Unemployment Insurance Act or the Federal Employers' Liability Act</p>

		are not covered.
Employees Eligible	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>Family Military: Employed by the same employer for at least 12 months, has at least 1,250 hours of service during the 12-month period before the leave, and has a spouse or child in military service.</p> <p>Domestic/Sexual Violence: Full- or part-time employee who is the victim of domestic or sexual violence, or who has a family or household member who is the victim of domestic or sexual violence (and whose interests are not adverse to the employee's as it relates to the domestic or sexual violence).</p> <p>Pregnancy, Childbirth and Childrearing: All employees (applies equally to men and women)</p> <p>Child Bereavement: Employees who are eligible under the federal FMLA who suffer the loss of a child.</p> <p>Employee Sick Leave: An employee eligible under his or her employer's plan or policy that provides personal sick leave benefits.</p>
Leave Amount	<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>Family Military:</p> <ul style="list-style-type: none"> • If employer has between 15-50 employees, up to 15 days of leave when deployment orders are in effect. • If employer has more than 50 employees, up to 30 days of leave when deployment orders are in effect, reduced by any period of "qualifying exigency" leave under the federal FMLA. <p>Domestic/Sexual Violence:</p> <ul style="list-style-type: none"> • If an employer has no more than 14 employees, four work weeks of leave during a 12-month period • If employer has between 15-49 employees, eight work weeks of leave during a 12-month period. • If employer has 50 or more employees, 12 work weeks of leave during a 12-

		<p>month period.</p> <ul style="list-style-type: none"> Does not create a right to leave in excess of, or in addition to, the time permitted under the federal FMLA. <p>Pregnancy, Childbirth and Childrearing: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. Leave time for all employees must also be granted for the purpose of childrearing on the same terms and conditions applied to other non-disability leaves of absence that the employer provides.</p> <p>Child Bereavement: Up to two weeks (10 work days) in 12-month period.</p> <p>If an employee experiences the loss of more than one child during a 12-month period, the employee is entitled to six weeks of leave during the 12-month period.</p> <p>Leave must be used within 60 days of the employee being notified of the death of their child.</p> <p>The Child Bereavement Leave Act does not create a right for an employee to take unpaid leave that exceeds, or is in addition to, unpaid leave provided under the federal FMLA.</p> <p>Employee Sick Leave: An employer may limit an employee's use of personal sick leave benefits for family care to an amount not less than the personal sick leave that would be earned or accrued during six months at the employee's then current rate of entitlement.</p> <p>An employer that provides personal sick leave benefits based on years of service (rather than on an accrual basis) may limit an employee's use to half of the employee's annual maximum.</p>
<p>Type of Leave</p>	<p>Unpaid leave for:</p> <ul style="list-style-type: none"> Birth of employee's 	<p>Family Military: Unpaid leave requested by an employee who is the spouse, parent, child or grandparent of a person called to</p>

	<p>newborn child;</p> <ul style="list-style-type: none"> • 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>state or U.S. military service lasting longer than 30 days.</p> <p>Domestic/Sexual Violence: Unpaid leave to:</p> <ul style="list-style-type: none"> • Seek medical attention for (or recover from) injuries caused by domestic or sexual violence; • Obtain services from a victim services organization; • Obtain counseling; • Participate in safety planning, relocate or take other action to increase safety; or • Seek legal assistance. <p>Pregnancy, Childbirth and Childrearing: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. Leave time for all employees must also be granted for the purpose of childrearing on the same terms and conditions applied to other non-disability leaves of absence that the employer provides.</p> <p>Child Bereavement: Unpaid leave to:</p> <ul style="list-style-type: none"> • Attend the funeral or alternative funeral of a child; • Make arrangements necessitated by the child's death; or • Grieve the death of the child. <p>Employee Sick Leave: Employees must be able to use personal sick leave benefits to care for the employee's child, stepchild, spouse, domestic partner, sibling, parent, parent-in-law, grandchild, grandparent or stepparent, on the same terms that the employee is able to use personal sick leave benefits for the employee's own illness or injury.</p> <p>"Personal sick leave benefits" are defined as any paid or unpaid time available to an</p>
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<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; • 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: In the case of a member of the Armed Forces, including a</p>	<p>No provision</p>

	<p>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 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</p>	<p>No provision</p>

	<p>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>Family Military: No specific provision</p> <p>Domestic/Sexual Violence: Leave may be taken intermittently or on a reduced schedule.</p> <p>Pregnancy, Childbirth and Childrearing: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. Leave time for all employees must also be granted for the purpose of childrearing on the same terms and conditions applied to other non-disability leaves of absence that the employer provides.</p> <p>Child Bereavement: No specific provision.</p> <p>Employee Sick Leave: Employees must be able to use personal sick leave benefits to care for a family member on the same terms that the employee is able to use personal sick leave benefits for the employee's own illness or injury.</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>Family Military: Employees must use up all accrued vacation leave, personal leave, compensatory leave and any other leave provided to the employee (except sick or disability leave) before taking family military leave.</p> <p>Domestic/Sexual Violence: Employee may elect to substitute any of his or her accrued paid or unpaid leave; however, employer cannot require the substitution of other available leave.</p> <p>Pregnancy, Childbirth and Childrearing: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes, including receipt of benefits</p>

		<p>under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. Leave time for all employees must also be granted for the purpose of childrearing on the same terms and conditions applied to other non-disability leaves of absence that the employer provides.</p> <p>Child Bereavement: Employee must be permitted to use any available paid leave to substitute for the unpaid bereavement leave. However, an employer may not require the substitution of available paid leave.</p> <p>Employee Sick Leave: Employees must be able to use personal sick leave benefits to care for a family member on the same terms that the employee is able to use personal sick leave benefits for the employee's own illness or injury.</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>Family Military: Must be restored to the position held immediately before the leave or to an equivalent position, unless employer can prove employee was not restored because of conditions unrelated to the leave.</p> <p>Domestic/Sexual Violence: Must be restored to the position held immediately before the leave, or one equivalent to it in all benefits, pay and other terms and conditions of employment.</p> <p>Pregnancy, Childbirth and Childrearing: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. Leave time for all employees must also be granted for the purpose of childrearing on the same terms and conditions applied to other non-disability leaves of absence that the employer provides.</p> <p>Child Bereavement: No specific provision. It is unlawful for an employer to take any adverse action against an employee</p>

		<p>because the employee exercised his or her rights under the bereavement leave law.</p> <p>Employee Sick Leave: No specific provision. An employer is prohibited from discharging, threatening to discharge, demoting, suspending, or in any manner discriminating against an employee for using personal sick leave benefits, or attempting to exercise the right to use personal sick leave benefits.</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 specific 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>Family Military: Employer must allow employee to continue benefits during leave at his or her own expense, unless employer decides to pay the cost.</p> <p>Domestic/Sexual Violence: Health coverage must be maintained for the duration of the leave at the same level and under the same conditions as if employee had not taken a leave.</p> <p>Pregnancy, Childbirth and Childrearing: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. Leave time for all employees must also be granted for the purpose of childrearing on the same terms and conditions applied to other non-disability leaves of absence that the employer provides.</p> <p>Child Bereavement: No specific provision.</p> <p>Employee Sick Leave: No specific provision. Employees must be able to use personal sick leave benefits to care for a family member on the same terms that the</p>

		<p>employee is able to use personal sick leave benefits for the employee's own illness or injury.</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>Family Military: If leave will consist of five or more consecutive work days, employee must give at least 14 days' advance notice of the leave. If leave will consist of fewer than five consecutive work days, employee must give as much advance notice as is practicable.</p> <p>Domestic/Sexual Violence: Employee must provide at least 48 hours' advance notice, unless not practicable.</p> <p>Pregnancy, Childbirth and Childrearing: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. Leave time for all employees must also be granted for the purpose of childrearing on the same terms and conditions applied to other non-disability leaves of absence that the employer provides.</p> <p>Child Bereavement: Unless it is not reasonable or practicable to do so, an employee must provide his or her employer with 48 hours' notice of the intent to take child bereavement leave.</p> <p>Employee Sick Leave: No specific provision. The ESLA specifically does not prohibit an employer from applying the terms and conditions set forth in the employment benefit plan or paid time off policy to personal sick leave benefits.</p>
<p>Certification Requirement</p>	<p>Employer may require certification for the following: Request for leave because of serious health condition or to care for covered service member with a serious illness or injury.</p>	<p>Family Military: Employer may require certification from the relevant military authority to verify leave eligibility.</p> <p>Domestic/Sexual Violence: Employer may require certification that the employee (or family/household member) is a victim of domestic or sexual violence and that leave</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>is taken for a permitted purpose.</p> <p>Pregnancy, Childbirth and Childrearing: Women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. Leave time for all employees must also be granted for the purpose of childrearing on the same terms and conditions applied to other non-disability leaves of absence that the employer provides.</p> <p>Child Bereavement: An employer may require reasonable documentation. Documentation may include death certification, a published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution or government agency.</p> <p>Employee Sick Leave: An employer may request written verification of the employee's absence from a health care professional, if this verification is required under the employer's employment benefit plan or paid time off policy.</p>
<p>Executive, Administrative, and Professional Employees</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>Other</p>		<p>Domestic/Sexual Violence: Employer must maintain confidentiality of all information pertaining to the use of leave, an employee's intention to take leave, and all statements and certification provided by the employee.</p> <p>Employer must post a notice in their workplace summarizing domestic/sexual</p>

		<p>violence leave requirements. Sample notice may be found on the Illinois Department of Labor website.</p> <p>Employer recordkeeping obligations apply.</p>
Statutes	29 USC 2601	<p>IL ST CH 820 §§ 151/1–151/99 (family military leave); IL ST CH 820 §§ 180/1–180/999 (domestic/sexual violence leave)</p> <p>56 IL ADC § 5210.110 (pregnancy, childbirth and childrearing leave)</p> <p>IL ST CH 820 §§ 154/1-154/99 (child bereavement leave)</p> <p>820 ILCS 191/1 through 820 ILCS 191/99 (employee sick leave)</p>

SPECIAL NOTE: The information in the above chart focuses on statewide laws. Employers must be aware that numerous cities and counties across the country have enacted local ordinances that mandate employers to provide paid sick leave to employees. An employer located in a city or county with a local paid sick leave law must generally comply with the local ordinance and statewide law, if applicable.

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