

MAJOR PROVISIONS OF FEDERAL AND STATE FAMILY AND MEDICAL LEAVE LAWS

ISSUES	FEDERAL	WISCONSIN
Employers Covered	Employers of 50 or more employees in at least 20 weeks of current or preceding year.	Employers of at least 50 permanent employees during at least 6 of the preceding 12 calendar months.
Employees Eligible	Have worked for employer at least 1,250 hours in preceding 12 months and employed for at least 12 months.	Paid by employer at least 1,000 hours in preceding 52 weeks and for at least 52 consecutive weeks.
Amount of Leave	12 weeks during a 12-month period. Leave for birth, adoption, or to care for sick parent must be shared by spouses working for same employer.	During a 12-month period: <ul style="list-style-type: none"> ▪ 6 weeks for birth or adoption ▪ 2 weeks for serious health condition of parent, parent-in-law, step parent, foster parent, domestic partner parent, child, spouse, domestic partner, or legal guardian ▪ 2 weeks for employee's own serious health condition
Type of Leave	<ul style="list-style-type: none"> ▪ Birth, placement of child for adoption or foster care, ▪ Provide care for parent, child, or spouse with serious health condition ▪ Employee's own serious health condition 	See "Amount of Leave"
Serious Health	<ol style="list-style-type: none"> (1) Illness, injury, impairment, or physical or mental condition involving incapacity or treatment connected with inpatient care in hospital, hospice (2) Residential medical care in hospital, hospice or residential medical care facility (3) Continuing treatment by a health care provider involving: <ol style="list-style-type: none"> a. Incapacity or absence of more than 3 days from work, school or other activities. b. Chronic or long-term condition incurable or so serious if not treated would result in incapacity of more than 3 days c. Prenatal care 	<ul style="list-style-type: none"> ▪ Disabling physical or mental illness, injury, or impairment ▪ Condition involving inpatient care in a hospital, nursing home or hospice ▪ Outpatient care that requires continuing treatment or supervision by a health care provider
Military Family Leave	<ol style="list-style-type: none"> (1) Active Duty Provision: Eligible employees are entitled to take up to 12 work weeks in any 12-month period of unpaid leave because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military service member in the Regular Armed Forces on active duty (or has been notified of an impending call or order to active duty in a foreign country). (2) Military Caregiver Leave Up to 26 weeks of FMLA leave in any 12-month period must be granted to an employee who must take leave to care for an immediate family member or next of kin who is a member of the Armed Forces and was injured or became ill in the line of duty while on active duty. 	No Similar Provision

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Health Care Provider	(1) Doctors of medicine or osteopathy authorized to practice medicine or surgery in the State; (2) Podiatrists, dentists, clinical psychologists, optometrists, chiropractors (3) Nurse practitioners and nurse midwives, if authorized to practice under State Law or (4) Christian Science practitioners listed with the First Church of Christ Scientist in Boston, MA	Licensed physician, nurse, chiropractor, dentist, podiatrist, physical therapist, optometrist, psychologist, certified occupational therapist, occupational therapy assistant, respiratory care practitioner, acupuncturist, social worker, marriage and family therapist, professional counselor, speech-language pathologist or audiologist, and Christian Science practitioner
Definition of Son or Daughter	Biological, adopted, foster child, stepchild, legal ward, or a child of a person standing <i>in loco parentis</i> , who is under 18 or is incapable of self-care because of a disability.	Natural, adoptive, or foster child, legal ward, who is under 18, or cannot care for self because of a serious health condition.
Intermittent Leave	Permitted for serious health condition when medically necessary. Not permitted for birth or adoption unless employer agrees.	Permitted for all family and medical leaves in increments equal to the shortest increment permitted by employer for any other non-emergency leave
Substitution of Paid Leave	Employee may elect or employer may require accrued paid leave to be substituted in some cases. No limits on substituting paid vacation or personal leave. Employee may not substitute paid sick leave, medical, or family leave for any situation not covered by employer's leave plan.	Employee may elect to substitute accrued paid or unpaid leave of any other type provided by employer.
Notice of Status During Leave	Employer may require employee to keep employer informed of employee's status and intention to return to work.	Wisconsin has no such provision.
Reinstatement Rights	Must be restored to same or equivalent position in all terms and conditions.	Similar Provision
Special Rules for Teachers	Teachers may be required to transfer to positions less disruptive to the classroom or may be required to take continuous leave in cases of intermittent or reduced leave. Also, if leave is taken at the end of a semester, a teacher may be required to extend the leave until the term is over, depending on when the leave began.	No Similar Provision
Key Employee Exception	Exempt salaried employees if among highest paid 10% and if restoration would lead to grievous economic harm to employer.	No Similar Provision
Maintenance of Health Benefits During Leave	Health insurance must be continued under same conditions as prior to leave.	Similar Provision
Leave Requests	Made by employee 30 days in advance or as soon as practicable.	Made by employee in advance in a reasonable and practicable manner.
Medical Certification May be Required by Employer to Support	Request for leave because of serious health condition. Employee's fitness to return to work from medical leave.	Similar Provision