



## **Job Protected Family Leave Laws** **August 2010**

### **State Laws – Labor and Industries**

#### Family Care Act ([RCW 49.12.265](#); [WAC 296-130](#))

- Can use paid leave, such as sick Leave, vacation, holiday, PTO, and some short-term disability plans
- Use paid leave to care for sick family members: spouse, registered domestic partner, child, parent, parent-in-law, grandparent with a serious health condition
- Includes care of a child <18 with a routine childhood illness or needed preventative care; also for disability of an adult child
- Includes short-term care of pregnant spouse or registered domestic partner, during or after childbirth, as needed
- All employers who provide a paid leave benefit

#### Family Leave Act (FLA) ([RCW 49.78](#))

- At this time, L&I enforces only the additional leave benefits for women who are pregnant, leave for registered domestic partners, or Family Leave that remains after FMLA has been exhausted for an exigent deployment reason or as a military caregiver.
- Those elements that are identical to FMLA will be enforced by US Department of Labor
- Covers employers with  $\geq 50$  employees within 75 mile radius, in Washington State
  - employees with **1,250 hours** in past 12 months
- Is typically unpaid leave unless employer policy covers employee for paid leave
- FLA – In the case of a pregnancy the 12 weeks of FLA is in addition to any pregnancy disability leave.
  - pregnancy disability leave is typically 6-8 weeks ->determined by healthcare provider based on individual's condition
  - could include period of time before childbirth
  - see [Human Rights Commission](#) (they have jurisdiction over pregnancy disability leave)

#### Leave for Victims of Domestic Violence, Sexual Assault, & Stalking ([RCW 49.76](#))

- Victims of domestic violence, sexual assault or stalking
  - to take reasonable leave from work for legal or law-enforcement assistance, medical treatment or counseling work with a domestic violence shelter or rape crisis program, or for safety and relocation issues.
- Family members may also take reasonable leave to help a victim obtain needed treatment or services.
- Leave is with or without pay (unless the employee has paid leave to substitute for the unpaid leave).
- Family member includes child, spouse, parent, parent-in-law, grandparent, or person the employee is dating.
- All employers, public and private, are covered regardless of size.
- An employee must give advance notice, when possible – but in an emergency they must give notice no later than the end of the first day of the leave.

Leave for Spouses of Deployed Military Personnel (RCW 49.77)

- Spouses or registered domestic partners of military personnel (National Guard, active duty, or reservists) deployed or on leave from deployment during times of military conflict may take 15 days unpaid leave from work per deployment.
  - This leave does not apply at the end of a deployment.
- Leave is without pay, but accrued leave may be substituted at the choice of the employee.
- All employers, public and private, are covered, regardless of size.
- An employee is one who works on average  $\geq 20$  hours a week.

See web page: [www.Lni.wa.gov/WorkplaceRights/LeaveBenefits/FamilyCare](http://www.Lni.wa.gov/WorkplaceRights/LeaveBenefits/FamilyCare)

Leave for Certain Emergency Services Personnel – RCW 49.12.460

Provides for job protection for volunteer firefighters, reserve peace officers, and Civil Air Patrol members if:

- They get called to a fire, an emergency, or an emergency services operation and
- They are asked to remain on the scene by the incident commander, and
- They miss work or are late for work
- Violations of the law must be reported within 90 days of occurrence.

(Note: volunteer firefighters are only covered if they get call to an emergency call or fire scene while they are away from their jobs)

**Other State Law – Washington State Human Rights Commission (1-800-233-3247)**

Protection from Discrimination (RCW 49.60; WAC 162-30)

- Covers employers with  $\geq 8$  employees that are not religious non-profit organizations.
- Pregnancy Disability Leave – this is the leave from work ordered off by the attending health care provider for a temporary disability created by the pregnancy and childbirth.

See web page: [Human Rights Commission](http://HumanRightsCommission)

**Other Federal Law - Family Medical and Leave Act [FMLA] – U.S. Department of Labor (1-866-487-9243)**

- Employers with  $\geq 50$  employees within 75 mile radius; employees with 1,250 hours in past year.
- Unpaid leave – 12 weeks care of self or family member with serious health condition: includes spouse, child, or parent.

See web page: [U. S. Department of Labor](http://U.S.DepartmentofLabor)

State Laws	Jurisdiction	Paid Leave [sick, vacation, holiday, disability]	Unpaid Leave	Family Members Covered	Leave Allowed	Employer-Employee Criteria
Family Care Act	Labor and Industries (L&I)  <a href="#">RCW 49.12.265</a> <a href="#">WAC 296-130</a>	X		Child, spouse, registered domestic partner, parent, parent-in- law, grandparent	Use of paid leave for care of a sick family member	No size requirement; Employee must have a paid leave benefit
Family Leave Act  <i>superseded by the FMLA where identical</i>	L&I  <a href="#">RCW 49.78</a>	X May substitute earned paid leave or employer may force the use of earned paid leave	X At present, applies to additional leave for pregnant employees or registered domestic partners	Child, parent, spouse or registered domestic partner	The state FLA is in addition to pregnancy disability leave.	≥ 50 employees in 75 miles  If employee worked 1,250 hours in previous 12 months
Leave for Victims or Family Members of Victims of Domestic Violence, Sexual Assault, or Stalking	L&I  <a href="#">RCW 49.76</a>	X Leave is normally unpaid but employee may choose to substitute earned paid leave	X Reasonable leave for one of five specific purposes	child, spouse, parent, parent-in- law, grandparent, or person the employee is dating	For legal, or law legal or law enforcement assistance, medical treatment, counseling, work with victim advocate, safety, or relocation	All employers and employees;  no eligibility requirements
Leave for Spouses of Military Personnel	L&I  <a href="#">RCW 49.77</a>	X Employees choice to use earned paid leave	X Allowed 15 days per deployment	Spouse of all military personnel	Allows for leave prior to deployment or when spouse on leave from deployment	All employers;  Employees working ≥ 20 hours a week
Leave for Certain Emergency Services Personnel	L&I RCW 49.12.460		X unpaid	Self	Allows for late arrival or missed work	All employers and any employee who is a volunteer firefighter, a reserve peace officer, or a Civil Air Patrol member