



Protected Leave Laws July 2015

State Laws – Labor & Industries

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

- Applies to all employers who provide a paid leave benefit
- Does not apply if employee has no paid leave available or is not yet entitled to use earned paid leave (as in during probationary period)
- Employees can use their choice of earned paid leave such as sick leave, vacation, holiday, PTO and some short-term disability plans for family care purposes
- Family members included in the Family Care Act are: minor children with health condition requiring treatment or supervision; spouses, registered domestic partners, adult children, parents, parents-in-law and grandparents with serious health condition or emergency condition
- Includes use of paid leave to care for a child < 18 with a health condition that requires treatment or supervision, including preventive care
- Includes use of paid leave to care for an adult child ≥ 18 who cannot care for him or herself because of disability
- Includes short-term care of a spouse or registered domestic partner temporarily disabled because of pregnancy or childbirth

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

- Like the federal Family Medical Leave Act (“FMLA”), the FLA provides job protection when leave is taken for a qualifying reason
- Covers employers who employ ≥ **50** employees during twenty or more calendar weeks during the current or previous year
- Eligible employees are employees who worked for at least **12 months** for the employer from whom leave is requested and **1,250 hours** in past 12 months for the employer from whom leave is requested
- The FLA provides 12 weeks of leave during a 12-month period – these weeks will usually run concurrently with FMLA leave
- At this time, L&I enforces only: 1) leave benefits for eligible employees to care for a registered domestic partner with a serious health condition, 2) leave benefits that remain after an employee has exhausted FMLA leave for an exigent deployment reason or as a military caregiver, and 3) additional family leave benefits for women who qualify for pregnant disability leave under the Washington State Law Against Discrimination (WLAD)
- Unless one of the circumstances above applies, L&I will not enforce the FLA
- Eligible employees can enforce their rights to protected family and medical leave under the FMLA through the U.S. Department of Labor or a private civil action
- The 12 weeks of FLA is **in addition to** any leave taken because an employee is temporarily disabled by pregnancy or childbirth (“pregnancy disability leave”)
- Pregnancy disability leave is covered by the WLAD, enforced by the Washington Human Rights Commission www.hum.wa.gov
- Leave is unpaid unless employee has paid leave to substitute

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

- Provides job protection for employees who are victims or whose family members are victims of domestic violence, sexual assault or stalking
- Family members include a child, a spouse, a parent, a parent-in-law, a grandparent or a person the employee is dating

- Leave may be taken for legal or law enforcement assistance, medical treatment, counseling, obtaining services from a shelter or a victim's advocate program, or for safety planning or relocation
- Provides as much leave as is reasonable under the circumstances
- Leave is typically without pay
- All public and private employers are covered, regardless of size
- If no emergency or unforeseen circumstances exist, the employee must give advance notice of intent to take leave consistent with the employer's stated policy for requesting such leave
- The employee must give notice no later than the end of the first day of the leave to qualify, even in emergency circumstances

Leave for Spouses of Deployed Military Personnel ([RCW 49.77](#))

- Provides job protection for spouses or registered domestic partners of military personnel (active duty, national guard, or reserves)
- All employers, public and private, are covered, regardless of size.
- An employee who works ≥ 20 hours per week on average is covered
- Covered employees can take up to 15 days unpaid leave to spend time together after receiving notice of an impending call or order to active duty and during the military member's leave from deployment during times of military conflict
 - This law does not provide for leave at the end of a deployment
- Leave is without pay unless the employee has accrued paid leave and chooses to substitute paid leave for unpaid leave
- Employees must give notice of intent to take military family leave within five business days of receiving official notice of the deployment or the leave from deployment in order for the leave to qualify for job protection

Leave for Certain Emergency Services Personnel ([RCW 49.12.460](#))

- Public and private employers who employed ≥ 20 full time equivalent employees in the previous year are covered
- Volunteer firefighters, reserve officers or civil air patrol members are covered
- Provides job protection to covered employees responding to, working at, or returning from a fire alarm or emergency call
- Volunteer firefighters must be on the alarm or emergency call and ordered to remain at the scene by the commanding authority in order to be covered
- Does not provide leave for participating in training or other nonemergency activities
- Complaints must be filed within 90 days

Federal Law – U.S. Department of Labor

Family and Medical Leave Act (FMLA) ([29 CFR 825](#))

- Employers with ≥ 50 employees for each working day during 20 or more calendar workweeks
- Employees employed by the employer for at least 12 months with 1,250 hours of service during 12-month period preceding the leave
- Provides job protection for 12 weeks' leave to care for self or family member with serious health condition: includes spouse, child, or parent
- L&I has no enforcement authority – call U.S. Department of Labor, Seattle District Office, at 206-398-8039 or visit the U.S. Department of Labor Wage and Hour Division's [webpage on FMLA](#)

Washington Leave Law	Paid or Unpaid Leave	Leave Allowed	Employer - Employee Criteria
Family Care Act (FCA) RCW 49.12.265 WAC 296-130	Paid leave only; The FCA only applies when employees has earned paid leave	Use of any or all of employee's earned paid time off for care of a sick family member; Family member = child, spouse, registered domestic partner (RDP), parent, parent-in-law or grandparent	No size requirement; Applies to all employers who provide a paid leave benefit
Family Leave Act (FLA) <i>Superseded by the FMLA where provisions are similar</i> RCW 49.78 WAC 296-135	May be unpaid leave; Employee may choose or employer may require substitution of paid leave for unpaid leave	Employee may take 12 weeks to care for RDP with serious health condition; Employee who took pregnancy disability leave may take 12 weeks of parental leave after period of pregnancy disability is over Note: FLA runs concurrently with FMLA except during pregnancy disability leave	Employee working at worksite with ≥ 50 employees or worksite with < 50 employees if employer employs ≥ 50 employees within 75 miles of the worksite Employee with 1,250 hours of service in previous 12 months for employer from whom leave is requested
Domestic Violence Leave RCW 49.76	Employee may choose between unpaid leave or accrued paid leave	"Reasonable leave" for victims of domestic violence, sexual assault or stalking and family members of victims in order to seek legal or law enforcement assistance, legal proceedings, treatment by health care provider, counseling, shelter or social services, safety planning or relocation Family member = child, spouse, RDP, parent, parent-in-law, grandparent or person with whom the employee has a dating relationship	All employers and employees; No eligibility requirements
Military Family Leave Act (MFLA) RCW 49.77	Unpaid leave unless employee elects to substitute accrued paid leave	Employee who is spouse of military personnel may take 15 days' leave per deployment prior to deployment or when spouse is on leave from deployment	All employers; Employees who work ≥ 20 hours per week on average
Leave for Certain Volunteer Emergency Services Personnel RCW 49.12.460	Unpaid leave	Leave related to an alarm of fire or an emergency call for volunteer firefighters and reserve officers; Leave related to emergency service operation for civil air patrol members	Employers who had ≥ 20 full time equivalent employees in the previous year