



Protected Family Leave Laws **August 14, 2008**

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, 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 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
- Those elements identical to FMLA will be enforced by USDOL
- Covers employers with ≥ **50** employees within 75 mile radius, and employees with **1,250 hours** in past year [same as FMLA]
- Is typically unpaid leave unless employer policy covers employee for paid leave
- FLA – Leave for disability due to pregnancy or childbirth is **in addition to** 12 weeks under either FMLA and/or state FLA for care of a newborn, sick spouse, parent, child, or other personal illness.
 - 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 information below

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.
- Family members may also take reasonable leave to help a victim obtain needed treatment or services.
- Leave is with or without pay.
- 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.
- Effective April 1, 2008.

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

- Spouses of military personnel deployed or on leave from deployment during times of military conflict to take 15 days unpaid leave from work per deployment.
 - Spouses of returning military personnel whose deployment orders have ended are not covered.

- Leave is without pay, but accrued leave may be substituted.
- All employers, public and private, are covered, regardless of size.
- An employee is one who works on average ≥ 20 hours a week.
- Effective June 12, 2008.

See web page: www.Lni.wa.gov/WorkplaceRights/LeaveBenefits/FamilyCare

Family Leave Insurance – RCW 49.86

- Passed by the Washington State Legislature in 2007.
- Establishes a benefit of up to \$250 per week for up to five weeks starting in October 2009.
- Benefit system currently being developed by Employment Security Department.
- Provides temporary income support to working parents who are on leave to care for a new born baby or a child who is newly placed for adoption.
- Covers new parents who worked at least 680 hours in four of the last five calendar quarters.
- Provides job protection if the employer has more than 25 employees and the employee has worked for the employer for at least 1,250 hours in the last year to be enforced by L&I.
- Will likely be jointly administered and enforced by Employment Security Department and Labor & Industries

See web pages: www.esd.wa.gov and www.Lni.wa.gov

State Laws – Washington State Human Rights Commission

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

- Covers employers with ≥ 8 employees
- Pregnancy Disability Leave
 - Pregnant employee covered/period of time before and after childbirth
 - Healthcare provider determines when employee can no longer work
 - Typically 6-8 weeks of leave; determined by healthcare provider based on individual's condition
 - Entitled to same benefits that employer offers other employees on temporary disability leave
 - Entitles employee to return to same or similar job after leave

See web page: www.hum.wa.gov

Family Medical and Leave Act [FMLA] – U.S. Department of Labor

- Employers with ≥ 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: www.dol.gov/esa/whd/fmla

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) RCW 49.12.265 WAC 296-130	X		Child, spouse, 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	L&I RCW 49.78		X At present, applies to additional leave for pregnant employees only; other provisions identical to FMLA	superseded by the FMLA where identical	Allows period of disability due to pregnancy by Human Rights Commission <i>in addition to</i> other 12 weeks under FMLA and/or FLA	≥ 50 employees in 75 miles If employee worked 1,250 hours in previous 12 months
Leave for Victims of Domestic Violence; or family member to assist	L&I RCW 49.76	X Reasonable leave May be paid or unpaid	X Reasonable leave May be paid or unpaid	child, spouse, parent, parent-in- law, grandparent, or person the employee is dating	Leave for domestic violence, sexual assault or stalking - for legal, or law enforcement assistance, medical treatment or counseling	All employers and employees; no eligibility requirements
Leave for Spouses of Military Personnel	L&I RCW 49.77	X Allowed 15 days per deployment [paid or unpaid]	X Allowed 15 days per deployment [paid or unpaid]	Spouse of military personnel	Allows for leave prior to deployment or when spouse on leave from deployment	All employers; Employees work ≥ 20 hours a week
Family Leave Insurance [benefits available 10/1/09]	Employment Security Dept (ESD) RCW 49.86 [L&I for job protection]	X \$250/week for 5 weeks		Either parent	Care of newborn or newly placed child	Employees work ≥ 680 hrs in 4 qtrs; Job protection if employer > 25 employees ≥ 1250 hrs per year.

Sex Discrimination (pregnancy disability)	Human Rights Commission RCW 49.60 WAC 162.30	Only if employer offers benefits to others on temporary disability	Amt of time determined by healthcare provider based on individual's condition		Allows period of disability due to pregnancy determined by healthcare provider	≥ 8 employees no minimum employment
Federal Law						
Family Medical and Leave Act [FMLA]	USDOL 29 CFR 825		12 weeks	Child, spouse, parent, employee	For serious health condition of self or parent, spouse, child; or for care of a newborn	≥ 50 employees in 75 miles; If employee worked 1250 hours in previous 12 months