

# **YOUR RIGHT TO FAMILY AND MEDICAL LEAVE<sup>1</sup>**

## **What is the Family and Medical Leave Act ("FMLA")?**

A federal law that requires employers with at least 50 workers to provide up to 12 weeks of unpaid, job-protected leave for certain family and medical reasons. The law protects against loss of your job and benefits while you are on FMLA leave.

## **Are all workers eligible?**

No. You must have worked for your current employer for at least 1,250 hours and 12 months.

## **What events qualify for FMLA leave?**

1. Care for your child after birth or placement for adoption or foster care, or
2. Care for your spouse, son, daughter or parent who has a serious health condition (not in-laws), or
3. Your own serious health condition.

## **What is a "serious health condition"?**

An illness, injury, impairment or physical or mental condition that involves:

1. Incapacity of more than 3 days with inpatient care and subsequent treatment in connection with that care or continuing treatment by a health care provider or
2. Any period of incapacity for pregnancy or chronic serious health condition (e.g., asthma, diabetes, epilepsy) or
3. Permanent or long-term incapacity where treatment not effective (e.g., Alzheimer's, terminal illness) or
4. Treatment for a condition that would likely result in more than 3 days of incapacity if untreated (e.g., chemotherapy, physical therapy, dialysis).

## **Must workers provide medical evidence of a serious health condition if requested by the employer?**

Yes. Ask your doctor to complete the medical certification form as soon as requested by your employer. You must be given at least 15 days to return the certification. Follow up to be sure that your employer receives it within the time limit, or leave can be denied and you lose your FMLA job protection.

## **Must workers give their employers notice before taking FMLA leave?**

Yes. Workers should give 30 days advance notice when the need for leave is foreseeable (e.g., childbirth, non-emergency surgery) or as soon as practicable for emergencies. Leave can be denied for failure to give proper notice. You must provide enough information to show that the reason for leave is a qualifying event as listed above. Merely telling your employer that you or a family member is sick or that you need time off is not enough to trigger your FMLA rights.

## **Can my employer make me take paid leave as part of my FMLA leave?**

Yes. Employers can require that paid leave (e.g., vacation, paid time off, workers' compensation) be taken concurrently with FMLA leave. Under the FMLA, you are entitled to no more than 12 weeks of leave per year. Keep your own record of leave

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<sup>1</sup> The information provided here is general in nature and not intended as legal advice. The laws discussed are subject to change without notice. Seek legal advice for more information.

taken and be sure to get authorization for FMLA leave so you do not risk your job and benefits by taking more time than the FMLA allows.

**Must all leave be taken at once?**

No. Under certain circumstances, workers can take "intermittent" or "reduced schedule" FMLA leave.

**Can I lose my right to return to work?**

Yes. You lose your right to return to work if:

1. You indicate that you do not intend to return to work, or
2. Your employer can show that you would have lost your job even if you had not taken leave, (e.g., layoff, grounds for discharge), or
3. You fail to notify your employer that you are able to return to work, or
4. You fail to provide a medical certification or fitness for duty form from your doctor within the time requested by your employer.

**What if I need more time off?**

If you are unable to return to work at the end of FMLA leave and still have available FMLA time, make a request for continued leave. You must still meet the eligibility requirements for FMLA leave to qualify. If you have exhausted your FMLA leave, ask if your employer has other leave available. However, your job protection may end with your FMLA leave.

**Death of an Immediate Family Member**

FMLA leave does not cover the death of an immediate family member. If you take FMLA leave to care for an immediate family member and that family member passes away, your FMLA leave ends. Because the family member no longer has a "serious health condition," you no longer qualify for FMLA leave. Notify your employer immediately and determine whether it provides bereavement leave. Your job protection may end with your FMLA leave even if granted bereavement leave by your employer.

**Where can I get help?**

**Workers' Rights Clinic**  
2nd Wednesday of Each Month  
6:00 – 8:00 PM at  
Jacksonville Area Legal Aid, Inc.  
126 West Adams Street  
Jacksonville, FL

Or

**Call 356-8371**  
For information on  
applying for help.

**JACKSONVILLE AREA LEGAL AID, INC.**  
**Employment Law Project**