



Leave of Absence Laws

Unpaid Job Protection, Paid Sick Time,
and Paid Family and Medical Leave

Leave of Absence Laws:



Unpaid Job Protection, Paid Sick Time, and Paid Family and Medical Leave

The COVID-19 pandemic has prompted cities, states, and the federal government to propose, debate, and, in some cases, enact emergency legislation, to support affected employers and employees during this time. While some may remain in place beyond this pandemic, a number of them will sunset before the end of 2020.

Outside of these new emergency leaves, the leave landscape is incredibly complex and ever-changing, with paid leaves, unpaid leaves, and laws at the federal, state, and municipal level. With all of the uncertainty and complexity this presents, our team of absence experts have created a back-to-basics guide of the underlying leave of absence landscape.

This reference guide breaks down the differences between each leave type, defines the key features of each, outlining some employee considerations, so you and your team can better navigate the absence compliance landscape.

Unpaid Job Protection



Employers have to hold an employee's job while they're on leave

Also known as: Family and Medical Leave (FML) FMLA, Various state leaves

[More Info](#)

[Jurisdictions*](#)

Paid Sick Time



Like PTO, but often limited to certain reasons for being out of work

Also known as: Paid Sick and Safe Time, Earned Sick Time, Earned Sick and Safe Time

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[Jurisdictions*](#)

Paid Family Leave



Insurance for time out of work to deal with major life events

Also known as: PFL, Temporary Caregiver Insurance, Family Leave Insurance

[More Info](#)

[Jurisdictions*](#)

Paid Medical Leave



Insurance for time out of work due to a medical condition

Also known as: PML, Temporary Disability Insurance, Disability Benefits Law

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[Jurisdictions*](#)

Unpaid Job Protection

Employers have to hold an employee's job while they're on leave



Also known as:

Family and Medical Leave (FML)

FMLA

Various state leaves

Unpaid Job Protection offers eligible employees access to job-protected leave from work for a wide range of reasons. The most common reasons include an employees' own illness, caring for a family member or bonding with a newborn child. This leave allows the employee to take time away from work to handle personal issues while ensuring they have a job to return to once the issue is resolved or they've exhausted their entitlement.

Given this leave is unpaid, some eligible employees may not be able to afford to take unpaid leave from work. In fact, 1 in 4 women go back to work within two weeks of giving birth. Note that some of the covered reasons for unpaid job protection are included in the paid leave types described later in this guide.

Key Features

- Often available for extended absences. For example, federal FMLA is available for up to 12 weeks.
- All eligible employees get the same amount of time; there is no accrual or carryover.
- Employees generally need to work for an employer for a significant amount of time before they're eligible. For example, under federal FMLA, employers with 50 or more employees, working within 75 miles of the employee's work site, must have worked 1,250 hours during the previous 12 months to be eligible.
- Unpaid leave is not a portable benefit.

Jurisdictions*

- Federally-mandated.
- The majority of states have at least one leave law, in addition to federal laws.
- State leave laws address gaps in Federal FMLA, such as:
 - Absence reasons not covered
 - More generous time away
 - More generous eligibility criteria

Some Considerations for Employees

- Employees need to provide supporting documentation to support time out of work.
- Financial considerations, such as:
 - Does the employee have other means to get paid? Is PTO or paid leave available?
 - Can they afford to take unpaid time?

Paid Family Leave

Insurance for time out of work to deal with major life events

Also known as:

Temporary Caregiver Insurance
Family Leave Insurance



Paid Family Leave offers eligible employees access to paid time off work for specific reasons. Some common reasons include becoming a parent or taking care of a family member while they are ill. However, covered reasons do vary by jurisdiction, so it's best to check applicable laws.

Paid Family Leave allows employees to take time off for certain family reasons without a total loss of earnings.

Key Features

- Funded by employer contributions, employee payroll deductions, or both.
- Employees get a percentage of their regular salary while out of work, up to a maximum amount.
- Available for longer absences: 6+ weeks.
- All eligible employees get the same amount of time; there is no accrual or carryover.
- Eligibility for new employees to take leave is generally tied to whether the employee has paid into the state fund, making paid family leave a portable benefit rather than a benefit tied to a specific employer.
- In some states, employers can opt-out of the state plan, but instead must set up a private or voluntary plan, which would generally be administered by an insurance company.

Jurisdictions*

- 6 states - California, New Jersey, New York, Rhode Island, Washington, and Massachusetts, - are paying benefits as of January 2021.
- 3 states - Connecticut, Massachusetts, and Colorado - have passed new programs but aren't yet paying benefits.
- The District of Columbia passed a program in February 2017, which went into effect on July 1, 2020. There is no opt-out provision in this program, so all claims must go through the District of Columbia.

Some Considerations for Employees

- Employees need to provide certification to support time out of work.
- Time away from work has to be for a covered reason, such as:
 - Family member's illness
 - Becoming a parent
- May run concurrently with FMLA.

Paid Medical Leave

Insurance for time out of work due to a medical condition

Also known as:

Temporary Disability Insurance
Disability Benefits Law



Paid Medical Leave offers eligible employees access to paid time off work for medical reasons without a total loss of earnings. While temporary disability insurance doesn't offer job protection, FMLA may apply and run concurrently to offer job protection.

Key Features

- Funded by employer contributions, employee payroll deductions, or both.
- Employees get a percentage of their regular salary, up to a maximum amount.
- Available for longer absences: 12+ weeks.
- All eligible employees get the same amount of time, so there is no accrual or carryover.
- Eligibility for new employees to take leave is generally tied to whether the employee has paid into the state fund, making paid medical leave a portable benefit rather than a benefit tied to a specific employer.
- In some states, employers can opt-out of the state plan, but instead must set up a private or voluntary plan, which would generally be administered by an insurance company.

Jurisdictions*

- 6 states - California, New Jersey, New York, Rhode Island, Washington, and Massachusetts — have Paid Medical Leave programs in place paying benefits as of January 2021.
- 3 states - Connecticut, Oregon, and Colorado - passed legislation for combined Family and Medical Leave programs, but are not paying benefits yet.
 - Connecticut will begin paying benefits in January 2022
 - Oregon will begin paying benefits in January 2023
 - Colorado will begin paying benefits in January 2024

Some Considerations for Employees

- Employees may need to provide certification to support time out of work.
- Time away from work is restricted to self-care of the employee.
- May run concurrently with FMLA.

Paid Sick Time

Like PTO, but often limited to certain reasons for being out of work



Also known as:
Paid Sick and Safe Time
Earned Sick Time
Earned Sick and Safe Time

Paid sick time, which accrues based on the hours worked by an employee, provides the employee with the ability to take paid leave for the employees' own illness or injury or that of a family member.

Some states and municipalities require a certain amount of accrued paid time for when an employee is sick, has a medical appointment, or is dealing with a critical safety issue. Some states and municipalities have similar laws that also apply when it's the employee's family member that's dealing with such an issue. More recently, in some jurisdictions, there's no requirement that mandated accrued paid time be used for any specific reason.

Key Features

- Accrues based on the hours an employee has worked.
- Employers pay the employee while absent.
- Usually capped at about 40 hours/year, but can vary by jurisdiction.
- Some laws have eligibility criteria for new employees to take time and rules around carrying over unused time.

Jurisdictions*

- Popular with cities and counties because it's a mandate for employers, and not a government-funded program.
- The District of Columbia and 13 states - Arizona, California, Connecticut, Maryland, Massachusetts, Michigan, New Jersey, Oregon, Rhode Island, Vermont, Washington, Maine, and Colorado - have state-mandated Paid Sick Time leave laws in place.
- Other states, such as Illinois, Minnesota, New York, and Texas, don't have a state-mandated law applicable to all employers, but local cities and counties have local paid sick time leave laws.
- There is a potential conflict between state and local provisions, so some states limit municipal action.

Some Considerations for Employees

- Employees may need to provide certification to support time out of work (usually after several days of absence).
- Time away from work generally has to be for a specific reason, such as:
 - Employee's own illness
 - Family member's illness
 - Domestic violence/sexual assault
- May run concurrently with FMLA.



Are you struggling to manage FMLA, PFL, and PFML in line with applicable regulations?

Consider implementing ClaimVantage Absence. It's a cloud-native, absence management software solution, designed to automatically determine employee eligibility, reducing the administrative burden for you and your team.

[Request a Demo](#)

*The content in this guide is a brief overview, is not intended to be exhaustive, and is not legal advice. The specific laws in each jurisdiction vary, and COVID-19 related leaves are not included. For your own specific jurisdiction and organization's laws, please contact legal counsel to ensure compliance.