

WHAT DOES THE FLORIDA FAMILY AND MEDICAL LEAVE ACT PROVIDE?

It Is Important that You Understand Your Rights and that You Follow the Guidelines Set Forth by the U.S. Department of Labor for Taking Advantage of FMLA Protections



Richard Celler

The Family and Medical Leave Act (FMLA) makes it possible for employees to take time off if they have a family or medical situation. FMLA does not require employers to provide paid sick leave to workers. However, it does mandate that employees who meet certain qualifying criteria may take up to 12 work weeks of unpaid leave over the course of a working year without putting their job at risk.

If you qualify for the Family Medical Leave Act, you may take 12 consecutive weeks off or you may intermittently take time off from work. It is important that you understand your rights and that you follow the guidelines set forth by the U.S. Department of Labor for taking advantage of FMLA protections. An experienced employment law attorney can assist you in ensuring you get FMLA benefits you are owed and can help if your employer treats you unfairly in violation of this federal law.

FAMILY AND MEDICAL LEAVE ACT GUARANTEES



The Family and Medical Leave Act guarantees the right to take up to 12 weeks of unpaid, job-protected leave. During the time when you are on leave, your employers must continue your group health insurance coverage under the same terms and conditions as if you were an active working

employee not on leave.

FMLA leave is available if you work for a covered employer and if you have one of the following life situations:

- The birth of a newborn child. Both mothers and fathers may take leave to give birth to a baby and/or to provide care to a newborn infant within one year of the birth.
- The adoption of a child. Both mothers and fathers may time off to care for the child within one year of the adoption.
- The placement of a child in foster care. Both mothers and fathers can take their leave within one year of the time of the placement.
- A spouse, parent or child who has been diagnosed with a serious health condition. Employees may take time off to provide care for the sick relative.
- A diagnosis of a serious health condition that makes it impossible to perform the essential functions of your job.
- A qualifying exigency that occurs because your spouse, son, daughter or parent is an active duty military member on covered active duty.
- A covered service member in your family experiences a serious illness or an injury. If the service member is your next of kin, you may take up to 26 works of leave during 12 months to provide care.

When you take your FMLA leave, you are not only provided with health insurance but your other job benefits are also protected. You must be entitled to return to work in the same job that you had prior to taking time off or to return to an equivalent job. Your employer may not discriminate in the terms and conditions of your employment as a result of taking leave.

ARE YOU COVERED BY FMLA?

You are covered by FMLA provided that you work for a qualifying employer. The Family and Medical Leave Act applies to all public agencies including government employers at the local, state and federal levels. It also applies to



local agencies such as schools, so teachers and administrators may take time off.

Workers in the private sector are covered by FMLA as well, provided their employer has at least 50 or more employees

working for him for at least 20 workweeks in the current or the preceding year. Joint employers and successors of covered employers are included, so if your company has an aggregate of 50 employees, you are covered.

Employees must have worked for at least 1,240 hours during the 12 months prior to starting FMLA leave, and must work at a location where at least 50 employees work within 75 miles. You must also have worked for an employer for at least a year. However, the year does not need to be consecutive. Typically, any time within the last seven years that you have been in your job is counted towards determining if you meet the one-year requirement. The period of time can go

back even further if the break in employment was governed by a collective bargaining agreement or if the break in work time was due to active duty military service.

TAKING TIME OFF

Employees may take 12 weeks off consecutively under FMLA rules or may take blocks of time off throughout the year. Even intermittent leave is permitted, which means that you continue to work but on a reduced schedule or you leave work for limited periods of time. For example, if you require medical treatment that will take several hours per day for a period of time, you can use your FMLA leave to make it possible for you to leave work during the days when the treatment must be performed. If you work 9 to 5 and need to care for a newborn



after daycare closes at 3, you may leave work two hours early each day.

Only the hours when you have left work will count towards your 12 weeks of leave so

you will not lose an entire day of work simply because you go to the doctor or care for your baby for a brief time during the day.

If you are taking leave for planned medical treatment, you are required to make a reasonable effort to schedule the treatment so as not to unduly disrupt your employer's operations. Employers may transfer an employee taking intermittent leave to an alternative job, provided that the new position offer equivalent pay and benefits, if the alternate job is better equipped to accommodate recurring periods of leave.

GETTING LEGAL HELP



Although the FMLA is an important law designed to protect workers with family or medical problems, not all employers obey the rules or allow workers the time off that they need. An experienced legal professional who represents clients in employment law matters should be consulted for assistance by employees who are having problems taking leave.

If your employer denies a request for FMLA leave or discriminates against you in any way because you exercise your FMLA rights, call an experienced legal professional for help right away.

About the Author



Richard Celler

Richard Celler is the Managing Partner of Richard Celler Legal, P.A., a/k/a the Florida Overtime Lawyer. He created this firm after having served as the Founding Member and Managing Partner of one of the largest employee/plaintiff side employment law divisions in the United States.

In November 2013, Mr. Celler left big firm life with the idea of reopening his own litigation firm with an emphasis on something most big firms cannot provide – a lower volume of cases, and more focus on the needs and attention of every single client.

Mr. Celler's practice focuses on all areas of the employment context from discrimination, harassment, and retaliation under the Florida Civil Rights Act, Title VII, the Family Medical Leave Act, and other employment related statutes. Additionally, Mr. Celler represents individuals in whistleblower and wage and hour litigation (overtime, minimum wage, commissions, final paychecks).

Many firms charge clients for an initial consultation to discuss their claims. Mr. Celler does not. You can call him or email him to discuss your case for free. If he elects to represent you, your case will be handled on a contingency basis, which means that he only gets paid, if you get paid. We encourage you to look at the remainder of our website for information on your rights and benefits in the workplace – www.floridaovertimelawyer.com.

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