

## **Family Leave/Employment Leave Laws**

Federal and state laws provide that certain eligible employees are entitled to leave from employment. The key federal law is the Family and Medical Leave Act (FMLA). The key Washington laws are the state Family Leave Act, the state Family Leave Insurance Act, and the state Family Care Act. There are also state laws dealing with military family leave and leave for victims of domestic violence, sexual assault, and stalking.

### **Federal Law**

Under the federal Family and Medical Leave Act (FMLA), eligible employees are entitled to take specified amounts of unpaid leave for specified reasons, and to be reinstated to their original jobs or equivalent jobs.

An eligible employee is one who: (1) works for a covered employer; and (2) has worked for the same employer for at least 12 months, and for at least 1,250 hours over the previous 12 months. An eligible employee is not one who works at a location at which the employer has less than 50 employees if the total number employed within 75 miles of that worksite is less than 50.

A covered employer is a private employer that had 50 or more employees in at least 20 weeks of the current or preceding year, or a public agency.

Up to 12 weeks of unpaid "family and medical leave" in a 12-month period may be taken for: (1) the birth and care of a child of the employee; (2) the placement of a child with the employee for adoption or foster care; (3) the care of an immediate family member who has a serious health condition; or (4) the serious health condition of the employee that makes the employee unable to work. (This entitlement stems from the original federal Family and Medical Leave Act.)

Up to 26 weeks of unpaid "military family leave" in a 12-month period may be taken to care for family members injured while on active duty in the armed forces. It also includes up to 12 weeks of unpaid leave in a 12-month period for any "qualifying exigency" arising out of the fact that an employee's spouse, child, or parent is on active duty in the armed forces in support of a contingency operation. (This entitlement stems from amendments to the federal Family and Medical Leave Act in the federal National Defense Authorization Act for Fiscal Year 2008.)

### **Washington Laws**

The state Family Leave Act generally conforms to the original federal Family and Medical Leave Act and related regulations. (It does not address military family leave.) Under state law, however, an employee is entitled to be returned to a workplace within 20 miles of his or her original workplace. Employers must allow employees to continue their health coverage at their own expense during leave. An employee's right to leave under the state Family Leave Law is in addition to leave for sickness or temporary disability related to pregnancy or childbirth.

The state Family Leave Insurance Act sets forth a framework for a family leave insurance program. Beginning on October 1, 2009, a person on leave from employment for the birth or placement of a child may receive a benefit of \$250 per week for up to five weeks. A person receiving this benefit also has job protection if he or she works for an employer with more than 25 employees and worked for at least 1,250 hours over the previous 12 months. Although a task force studied program financing and administration during the 2007 interim, no legislation addressing these issues – other than the budget – was passed during the 2008 session. (In the 2008 supplemental operating budget, \$6.2 million was appropriated to the Employment Security Department for program implementation.) Washington is one of three states to have enacted legislation providing for paid family leave. The others – California in 2002 and New Jersey in 2008 – added paid family leave to their state disability insurance programs.

The state Family Care Act allows workers with available paid sick leave or other paid time off to use that leave to care for a sick child with a routine illness, or a spouse, parent, parent-in-law, or grandparent with a serious or emergency health condition.

The state Military Family Leave Act allows workers up to 15 days of unpaid leave from employment before their spouse is deployed or while their spouse is on leave from deployment. (This Act was passed in 2008.)

Another state law requires employers to provide reasonable leave to employees who are victims of domestic violence, sexual assault, and stalking, or whose family members are victims. Employees may take leave to seek legal or law enforcement assistance, obtain treatment or counseling, obtain social services, and take actions to increase safety. (This law was also passed in 2008.)