



## FAMILY AND MEDICAL LEAVE ACT FOR NON-FEDERAL EMPLOYEES

The Family and Medical Leave Act (FMLA) provides important protections for eligible workers. It allows them to take up to 12 weeks of unpaid leave in a 12-month period to care for a spouse with a serious medical condition, or 26 weeks to care for an eligible servicemember spouse with a serious injury or illness. It also allows an employee to take job-protected leave for the birth or adoption of a child or to care for a child who has a serious health condition, regardless of whether the child is biologically related to the employee. At the end of the FMLA leave, workers are guaranteed to be reinstated to the same or an equivalent position.

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American Civil Liberties Union | Center for American Progress | Family Equality Council | Freedom to Marry | Gay & Lesbian Advocates & Defenders  
Human Rights Campaign | Immigration Equality | Lambda Legal | National Center for Lesbian Rights | National Gay and Lesbian Task Force | OutServe-SLDN.

**How do I apply for FMLA leave?**

If you want to use FMLA leave, you must give 30 days advance notice to your employer if possible. Where that's not possible, you must let your employer know as soon as you can. If you need to miss work under FMLA leave without advance notice, you need to follow the usual notification procedures for absences from work. You also will need to give enough information to your employer for your employer to decide whether the FMLA applies to your situation. If you encounter problems, you can contact the Wage and Hour Division at the Department of Labor, or an attorney who specializes in employment law.

To find the Wage and Hour Division office nearest you, go to: [www.dol.gov/whd/america2.htm](http://www.dol.gov/whd/america2.htm).



**Which non-federal employees will be recognized as married for FMLA leave?**

- **If you live in a state that respects your marriage:** You will be considered married for FMLA purposes, and will be entitled to take FMLA leave to care for a sick spouse.
- **If you live in a state that does not respect your marriage:** Existing regulation looks to the law of the employee's "place of domicile" (state of primary residence) to determine whether a person is a spouse for FMLA purposes. This means that, until the regulation is changed, if you are a non-federal employee, you are unlikely to be considered a spouse for FMLA purposes, even if you used to live in a state that respected your marriage. However, the federal government may take steps to use a "place of celebration" rule so that a spousal status is assessed according to the law of the state where you married or secured a spousal status. This process may take some time. We are working to ensure that the federal government respects married couples wherever possible. If you encounter problems, contact one of the legal organizations listed below.

**How can I find out more about FMLA rights of non-federal employees?**

See Department of Labor, Wage and Hour Division, Family and Medical Leave Act: [www.dol.gov/whd/fmla/#.UJRK2Ib-ocs](http://www.dol.gov/whd/fmla/#.UJRK2Ib-ocs).



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