

# LEAVE COMPARSION

This chart provides a comparison of the various leave laws applicable to employers and employees in the District of Columbia

	DC PFL	FMLA	DCFMLA	Accrued Sick and Safe Leave
<b>Covered Employers</b>	Any individual, partnership, general contractor, subcontractor, association, corporation, business trust, or any group of persons who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of an employee and is required to pay unemployment insurance on behalf of its employees.	Private Employers of 50 or more Employees in at least 20 weeks of the current or preceding year  Public agencies, including state, local, and Federal Employers  Local education agencies are covered under special provisions	Any individual, firm, association, corporation, the D.C. government, receiver or trustee of any individual, firm, association, or corporation, or the legal representative of a deceased Employer who uses the services of an individual for pay in the District  Local education agencies are subject to special provisions	<u>If an employer has:</u> (a) 100 or more employees (b) 25 to 99 employees (c) Less than 25 employees (d) Tipped restaurant employees
<b>Eligible Employees</b>	Worked for employer more than 50% of his or her work time in the District of Columbia and whose employment for the covered employer is based in the District of Columbia;  Regularly spends a substantial amount of his or her work time for that covered employer in the District of Columbia and not more than 50% of his or her work time for that covered employer in another jurisdiction.	Worked for Employer for at least 12 months - which need not be consecutive; worked at least 1,250 hours for Employer during 12 months preceding leave; and employed at Employer worksite with 50 or more Employees or within 75 miles of Employer worksites with a total of 50 or more Employees	Have worked for one year with same Employer without a break in service except for regular holidays, sick or personal leave granted by Employer with at least 1000 hours service during the past 12-month period prior to leave request (no worksite proviso)	<u>Employees accrue at least:</u> (a) 1 hour per 37 worked (b) 1 hour per 43 hours worked (c) 1 hour per 87 hours worked (d) 1 hour per 43 hours worked
<b>Available Leave</b>	8 weeks for parental leave to bond with a child  6 weeks for family leave to provide care of a family member with a serious health condition  2 weeks of medical care for one's own serious health condition	Up to a total of 12 weeks during a 12-month period; however, leave for birth, adoption, foster care, or to care for a parent with a serious health condition must be shared by spouses working for same Employer	16 weeks during 24-month period for family leave (care for family member); 16 weeks for medical leave (employee's own serious health condition)  The entitlement to family leave for birth or placement expires 12 months after the birth of the child or placement of the child with the employee.  Leave must be shared by family members working for the same Employer	<u>Not to Exceed</u> (a) 7 days per calendar year (b) 5 days per calendar year (c) 3 days per calendar year (d) 5 days per calendar year
<b>Types of Leave</b>	Paid leave for the following reasons:  "Qualifying parental leave event" means events, including bonding, associated with:  (a) The birth of a child of an eligible individual;  (b) The placement of a child with an eligible individual for adoption or foster care; or  (c) The placement of a child with an eligible individual for whom the eligible individual legally assumes and discharges parental responsibility.  "Qualifying family leave event" means the diagnosis or occurrence of a serious health condition of a family member of an eligible individual.  "Qualifying medical leave event" means the diagnosis or occurrence of a serious health condition of an eligible individual.	Unpaid leave for birth, placement of child for adoption or foster care, to provide care for Employee's own parent (including individuals who exercise parental responsibility under state law), child, or spouse with serious health condition, or Employee's own serious health condition	Similar to FMLA, but the definition of "family member" includes a person to whom the employee is related by blood, legal custody, or marriage, sharing mutual residence and committed relationship with the Employee. Also includes a child who lives with an employee and for whom the employee permanently assumes and discharges parental responsibility.	An employee may use paid leave for the following reasons:  (a) An absence resulting from a physical or mental illness, injury, or medical condition of the employee;  (b) An absence resulting from obtaining professional medical diagnosis or care or preventive medical care for the employee; or  (c) An absence for the purpose of caring for a family member who has any of the conditions or needs for diagnosis or care described in paragraphs (a) and (b)  An employee may also use paid leave for an absence if the employee or the employee's family member is a victim of stalking, domestic violence, or sexual abuse and the absence is directly related to medical, social, or legal services pertaining to the stalking, domestic violence, or sexual abuse.
<b>Serious Health Condition</b>	"Serious health condition" means a physical or mental illness, injury, or impairment that requires inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or supervision at home by a health care provider or other competent individual.	Illness, injury, impairment, or physical or mental condition involving incapacity or treatment connected with inpatient care in hospital, hospice, or residential medical-care facility; or, continuing treatment by a health care provider involving a period of incapacity:  (a) requiring absence of more than 3 consecutive calendar days from work, school, or other activities;  (b) due to a chronic or long-term condition for which treatment may be ineffective;  (c) absences to receive multiple treatments (including recovery periods) for a condition that if left untreated likely would result in incapacity of more than 3 days; or  (d) due to any incapacity related to pregnancy or for prenatal care	"Serious health condition" means a physical or mental illness, injury, or impairment that involves:  (a) Inpatient care in a hospital, hospice, or residential health care facility; or  (b) Continuing treatment or supervision at home by a health care provider or other competent individual.	No provision relating to serious health conditions.

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<b>Health Care Provider</b>	"Health care provider" means any person licensed under federal, state, or District law to provide health care services.	Doctors of medicine or osteopathy authorized to practice medicine or surgery; podiatrists, dentists, clinical psychologists, clinical social workers, optometrists, chiropractors (limited to manual manipulation of spine to correct subluxation shown to exist by x-ray), nurse practitioners, and nurse-midwives, if authorized to practice under State law and consistent with the scope of their authorization; Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, MA; any provider so recognized by the Employer or its group health plan's benefits manager; and any health provider listed above who practices and is authorized to practice in a country other than the United States	Any person licensed under Federal, State, or District of Columbia law to provide health care services	Any person licensed under Federal, State, or District of Columbia law to provide health care services
<b>Intermittent Leave</b>	"Intermittent leave" means paid leave taken in increments of no less than one day, rather than for one continuous period of time.	Permitted for serious health condition when medically necessary. Not permitted for care of newborn or new placement by adoption or foster care unless Employer agrees	Intermittent leave may be taken when a family member or the Employee himself or herself has a serious health condition	No provision related to intermittent leave.
<b>Substitution of Paid Leave</b>	A covered employee's right to paid leave benefits other than group health insurance while on the District's paid leave will depend on the covered employer's established policies.	Employees may elect or Employers may require accrued paid leave to be substituted in some cases. No limits on substituting paid vacation or personal leave. An Employee may not substitute paid sick, medical, or family leave for any situation not covered by any Employers' leave plan	Employee may elect accrued paid family, vacation, personal, or compensatory leave to be substituted, plus the Employee may utilize program run by Employer to use paid leave of another Employee under certain conditions that have been met	Does not diminish the obligation of an employer to comply with any contract, collective bargaining agreement, or any employment benefit program or plan that provides greater paid leave rights to employees.
<b>Reinstatement Rights</b>	An employee who works for a covered employer with under 20 employees shall not be entitled to job protection if he or she decides to take paid leave.  Retaliation by the covered employer against the covered employee for requesting, applying for, or using paid-leave benefits is prohibited	Must be restored to same position or one equivalent to it in all benefits and other terms and conditions of employment	Similar to FMLA, with the addition that if the Employee accepted alternative employment with Employer throughout the duration of the serious health condition, the Employee shall be returned to his or her original employment upon their return from leave	Employees who assert their rights to receive paid sick leave or provide information or assistance to help enforce the Accrued Sick and Safe Leave Act are protected from retaliation.
<b>Key Employee Exception</b>	No provisions related to key employee exceptions.	Limited exception for salaried Employees if among highest paid 10%, within 75 miles of worksites, restoration would lead to grievous economic harm to Employer, and other conditions met	Similar to Federal provision but for Employers with less than 50 Employees, Employment restoration may be denied to a salaried Employee if the Employee is among the 5 highest paid Employees of an Employer	An employee who is exempt from overtime payment shall not accrue leave for hours worked beyond a 40 hour work week.
<b>Maintenance of Health Benefits During Leave</b>	Health insurance must be continued under same conditions as prior to leave	Health insurance must be continued under same conditions as prior to leave	Health insurance must be continued under same conditions as prior to leave	Health insurance must be continued under same conditions as prior to leave
<b>Leave Requests</b>	The employee shall provide written notice to his or her employer at least 10 days, or as early as possible, in advance of the paid leave.  If the paid leave is unforeseeable, a notification, either oral or written, shall be provided before the start of the work shift for which the paid leave is being used.  In the case of an emergency, the eligible individual, or another individual on behalf of the eligible individual, shall notify the eligible individual's employer, either orally or in writing, within 48 hours of the emergency occurring.	To be made by Employee at least 30 days prior to date leave is to begin where need is known in advance or, where not foreseeable, as soon as practicable.  If due to a planned medical treatment or for intermittent leave, the Employee, subject to health care provider's approval, shall make a reasonable effort to schedule it in a way that does not unduly disrupt Employer's operation	Paid leave shall be provided upon the written request of an employee upon notice as provided in this section. The request shall include a reason for the absence involved and the expected duration of the paid leave. If the paid leave is foreseeable, the request shall be provided at least 10 days, or as early as possible, in advance of the paid leave. If the paid leave is unforeseeable, an oral request for paid leave shall be provided prior to the start of the work shift for which the paid leave is requested. In the case of an emergency, the employer shall be notified prior to the start of the next work shift or within 24 hours of the onset of the emergency, whichever occurs sooner.	An employee shall provide at least 10 days prior to date leave is to begin where need is known in advance or, where not foreseeable, as soon as practicable.  If the need to use leave is not foreseeable, the employee shall make an oral request for paid leave prior to the start of the work shift for which the paid leave is requested. If an emergency prevents the employee from making prior notification to the employer of the need to use paid leave, the employer shall be notified prior to the start of the next work shift or within 24 hours of the onset of the emergency, whichever occurs sooner.  An employee shall not use in any calendar year more paid leave accrued than the maximum number of hours that the employee may accrue annually unless permitted to do so by the employer.

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<b>Medical Certification May Be Required by Employer for:</b>	<p>Qualifying family or medical leave</p> <p>No provision relating to certification of fitness to return to work</p>	<p>Request for leave because of serious health condition</p> <p>To demonstrate Employee's fitness to return to work from medical leave where Employer has a uniformly applied practice or policy to require such certification</p>	<p>An employer may require that a request for family leave or medical leave be supported by a certification issued by the health care provider of the employee or family member.</p> <p>No provision relating to certification of fitness to return to work</p>	<p>An employer may require that paid leave for 3 or more consecutive days be supported by reasonable certification.</p> <p>To provide reasonable certification of the reason given by the employee for requesting the paid leave.</p>
<b>Executive, Administrative, and Professional Employees</b>	No provision regarding effect on exempt status under the District of Columbia minimum wage and overtime law	Such individuals are entitled to FMLA benefits. However, their use of FMLA leave does not change their status under the Fair Labor Standards Act (FLSA), i.e., an Employer, does not lose its exemption from the FLSA's minimum wage and overtime requirements.	No provision regarding effect on exempt status under the District of Columbia minimum wage and overtime law	No provision regarding effect on exempt status under the District of Columbia minimum wage and overtime law