



KNOW YOUR RIGHTS:

Family and Medical Leave

Facts from the NC Justice Center's WORKERS' RIGHTS PROJECT

► YOUR RIGHT to take time to care for yourself and your family

You may be entitled to time off from work when a child is born, when a family member is ill, or when you have a serious health condition.

The Family and Medical Leave Act of 1993 (FMLA) is a federal law that guarantees eligible workers the right to unpaid time off. This leave time is job-protected, meaning you cannot be fired when you take this time off.

What does the Family and Medical Leave Act (FMLA) provide?

The Family and Medical Leave Act (FMLA) requires certain employers to provide eligible employees with up to 12 weeks of unpaid, job-protected leave per year to:

- Care for a newborn, newly-adopted child or foster child
- Care for a seriously ill family member (spouse, parent, or child)
- Recover from a worker's own serious health condition
- Deal with qualifying issues related to a worker's spouse, son, daughter or parent who is a covered military member on "covered military duty"

You may also be allowed up to 26 weeks of leave to care for a family member who is a service member or veteran with a serious injury or illness.

Am I eligible under the FMLA?

You are eligible if you have worked for at least one year **and** you have worked at least 1,250 hours within the last year at a business with 50 or more employees or at a public agency, including schools.

What counts as a "serious health condition"?

You may be eligible for leave time when you have a newborn or newly adopted child. You may be eligible for leave time when you or a family member are seriously ill or have a serious health condition.

A serious health condition must involve either inpatient care or continuing treatment by a health care provider. Situations such as pregnancy, health conditions with periods of incapacity, and long-term conditions for which treatment is ineffective may all be covered.

Did you know?

Many workers cannot afford to take unpaid time off work and, unfortunately, the law only provides access to *unpaid* leave. North Carolina, unlike some other states, does not have a state family leave insurance program.

North Carolina needs paid leave too! Checkout www.ncfamiliescare.org to learn more.

Take Action!

Your story can help us make the case for paid leave in North Carolina.

Have you ever needed paid leave, but have not been able to access it?

Or has having access to paid leave made a difference to you and your family?

Tell us your story!

Contact: ana@ncjustice.org

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in North Carolina. However, this fact sheet does not address exemptions and does not go into detail regarding legal rights. In addition, laws and legal procedures are subject to frequent change and differing interpretations, and the North Carolina Justice Center cannot ensure the information in this sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

► **YOUR RIGHT** to take time to care for yourself and your family

When can I use FMLA to care for a family member?

You may take leave time to care for your spouse, parent or child under the age of 18 with a qualifying serious health condition. As of 2015, you can use FMLA to care for your same-sex spouse.

You may take leave to care for your spouse, son, daughter, parent, or next of kin who has a serious injury or illness related to, or made worse by, their military service.

When can I use FMLA leave to deal with other issues related to my family member's active duty?

You may take leave time to attend military sponsored functions, make appropriate financial and legal arrangements, or arrange for alternative

childcare related to your family member's military active duty. This applies to the families of members of both the active duty and reserve components of the Armed Forces.

How do I apply for leave and how much notice must I give?

If you know you will need leave time in advance – for instance, if you are having surgery or having a baby – you must tell your employer at least 30 days before you expect to take time off. If you have a medical emergency, you must follow your employer's rules for giving notice.

Your employer may require proof of the serious health condition for which you are requesting leave. She may require certification from a health care provider. Your employer can also require a second

opinion, though your employer must pay for that second opinion. If the two opinions conflict, a third opinion, paid for by your employer, will be the final decision.

Your employer can require you to take any paid vacation, personal leave or other leave as part of your FMLA leave.

Can I get my job back after I return?

FMLA leave is **job-protected leave**. That means when you return to work you must get back your job or another job that has similar pay and benefits. However, your employer does not have to give you your job back if you would have been laid off during the time you were on leave. Your employer cannot fire you or take other negative employment actions against you for using FMLA leave.

RESOURCES

For help finding a lawyer, call:

- North Carolina Advocates for Justice 1-(800) 688-1413
- North Carolina Bar Association Lawyer Referral Service 1-(800) 662-7660
- Legal Aid of North Carolina 1-(866) 219-5262

To file a claim with a government agency or to seek information on the following issues, contact:

DISCRIMINATION	▪ US Equal Employment Opportunity Commission	1-800-669-4000 - or - www.eeoc.gov
	▪ Office of Special Counsel for Unfair Immigration-Related Employment Practices	1-800-255-7688 - or - www.justice.gov/crt/about/osc/
E-VERIFY	▪ Department of Homeland Security / E-Verify	1-888-897-7781 - or - www.dhs.gov/e-verify
FAMILY AND MEDICAL LEAVE	▪ US Department of Labor	1-866-487-9243 - or - www.dol.gov/whd
HEALTH & SAFETY	▪ NC Department of Labor	1-800-NC-LABOR (625-2267) - or - www.nclabor.com/osh/osh.htm
MISCLASSIFICATION	▪ Internal Revenue Service	http://www.irs.gov/pub/irs-pdf/fss8.pdf
	▪ NC Industrial Commission, Employee Classification Section	(919) 807-2582 - or - www.ic.nc.gov/EmployeeClassificationSection.html
RETALIATION	▪ NC Department of Labor, Employment Discrimination Bureau	1-800-625-2267 - or - www.nclabor.com/edb/edb.htm
UNEMPLOYMENT INSURANCE	▪ NC Department of Commerce, Division of Employment Security	1-877-841-9617 - or - https://www.ncesc.com/
UNIONS & COLLECTIVE ACTION	▪ National Labor Relations Board	1-866-667-6572 - or - www.nlr.gov
WAGE THEFT	▪ NC Department of Labor, Wage and Hour Bureau	1-800-625-2267 - or - www.nclabor.com/wh/wh.htm
	▪ US Department of Labor	1-866-487-9243 - or - http://www.dol.gov/whd/
WORKERS' COMPENSATION	▪ NC Industrial Commission	1-800-688-8349 - or - http://www.ic.nc.gov/