

What is FMLA?

Paid family and medical leave (PFML) is a program designed to help people in Massachusetts take paid time off of work for family or medical reasons.

Massachusetts's PFML law is funded through employer and employee contributions, and is different from the federal Family and Medical Leave Act, and from any benefits your employer might already offer.

If you need to take paid leave, the first thing you need to do is inform your employer. Once you have done this, you are legally protected against changes in pay, losing your benefits, and retaliation.

Find all the details on Massachusetts state PFML and Federal FLMA in the following pages.

For more legal answers, explore
MassLegalHelp.org



Understanding Different Types of Family & Medical Leave (FMLA)

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*This brochure was generously funded by the **Vida Berkowitz Fund**. We thank Vida's family, friends and colleagues for their generosity.*



Wage & Hour Leave (State)

Meal Break	30-minute break every six hours
Day of Rest	One day in seven (no work on Sunday unless given another 24 consecutive hours of rest)
Time Off to Vote	No requiring work 2 hours after polls open for any manufacturing, mechanical or mercantile establishment
Veterans & Memorial Day	Veterans must be permitted time off to participate in a Memorial Day event and observe Veterans' Day
Sundays & Holidays	Retailers may open at any time on Sunday without the need for approval by the Dept. of Labor Standards, or local police permit.

(See full list of Blue Laws, Massachusetts G.L. c. 149, for more)

Regulations: 29 CFR 825

Statute: 29 USC 2601 (1993)

**Intermittent and reduced permitted only for medical conditions or military family leave or with employer approval*

FMLA (Federal)



Amount of Leave Available	12 workweeks during a 12-month period
Paid/Unpaid	Unpaid
Exhaustion of Other Leave	All other paid leave
Covered Employers	50+ employees within 75 mile radius
Employee Length of Service	At least 12 months before leave
Employees Hours Worked	1250 hours of service in previous 12 months
Employee Notice	30 days if foreseeable; otherwise "as soon as is practicable"
Documentation	15 days to provide documentation from medical provider
Fitness to Serve Certificate	Required in some circumstances
Permitted Leave Types	Continuous, intermittent, or reduced schedule*
Covered Relationships	Employee and immediate family member

	PFML (State)	Small Necessities Leave (State)
Amount of Leave Available	12 weeks (Family) or 20 weeks (Medical) per benefit year; no more than 26 weeks per year in aggregate	24 hours per 12 month period
Paid/Unpaid	Paid (by employer and employee contributions)	Unpaid
Exhaustion of Other Leave	Not required; runs concurrently with FMLA leave	N/A
Covered Employers	All employers subject to state UI law, cities and towns if they vote to accept law	50+ employees within 75 mile radius
Calculation Method	Depends if your average weekly income was more/less than 1/2 of the state average wage	Calculation year, fixed year, rolling forward rolling back
Length of Service	Employed at least 12 months preceding leave who meets the minimum earning requirements established by the DUA under UI law	Employed at least 12 months preceding leave
Hours Worked	N/A	1250 hours of service in 1 year
Employee Notice	30 days notice if foreseeable; as soon as practicable if the delay is for reasons beyond the employee's control	7 days if foreseeable; otherwise "as is practicable"
Documentation	N/A	Employer may require certification and additional verification that is not unduly burdensome
Permitted Leave Types	Intermittent and reduced schedule available	Continuous, intermittent, reduced schedule
Covered Requests	Family: (1) Bond with child after birth/adoption/foster placement (2) To care for covered servicemember or for a qualifying exigency arising out of a family member on active duty (3) To care for a family member with a serious health condition. Medical: For serious health condition that makes the covered individual unable to perform the functions of the covered individual's position	(1) School activities directly related to educational advancement (public, private, Head Start program or licensed child care facility) (2) Accompany child to medical, dental appointments (3) Accompany elderly relative to medical, dental appointments or other appointments related to elder's care
Covered Relationships	Child: Biological, adopted or foster child, stepchild, legal ward or in loco parentis. Family member: the spouse, domestic partner, child, parent or parent of a spouse or domestic partner of the covered individual; a person who stood in loco parentis to the covered individual; or a grandchild, grandparent or sibling of the covered individual	Biological, adopted or foster child, stepchild, legal ward or in loco parentis, Person 60 years or older related by blood or marriage to the employee
Job Restoration	Employer must restore to previous or similar position upon return	N/A
Statute / Regulations	G.L. c. 175M / 458 CMR 2.00	G.L. c. 149, section 52D / 940 CMR 20

	DV Leave (State)	Parental Leave (State)
Amount of Leave Available	15 days during a 12 month period	Up to 8 weeks
Paid/Unpaid	At employer's discretion	At employer's discretion
Exhaustion of Other Leave	All other leave unless employer waives requirement	N/A
Covered Employers	50+ employees in MA	6+ employees in MA
Calculation Method	N/A	N/A
Length of Service	N/A	Full time for 3 months or after finishing probationary period not to exceed 3 months
Hours Worked	N/A	N/A
Employee Notice	Appropriate advance notice as required by the employer. If imminent danger, notice within 3 workdays	2 weeks notice or as soon as practicable if delay is for reasons beyond employee's control
Documentation	Employer can require doc. evidencing that employee or family member was victim of abuse	N/A
Permitted Leave Types	N/A	Giving birth or placement of a child under the age of 18, or under the age of 23 if the child is mentally or physically disabled, for adoption with the employee who is adopting or intending to adopt the child
Covered Requests	(1) Seek or obtain medical attention counseling, victim services, legal assistance, housing (2) Appear in court, before grand jury, meet with law enforcement (3) Other to address other issues directly related to the abusive behavior	N/A
Covered Relationships	Parent, step-parent, child, step-child, sibling, grandparent, or grandchild Married spouse, persons in substantive dating relationship who reside together Persons with child in common Persons in a guardian relationship	N/A
Job Restoration	N/A	Employer must restore to previous or similar position upon return
Statute / Regulations	G.L. c. 149, section 52E	G.L. c. 149, section 105D

Earned Sick Leave (State)

Amount of Leave Available

40 hours per year (for full time, part-time, temporary & seasonal employees)

Paid/Unpaid

Paid if employer has 11+ employees, unpaid if has >10

Exhaustion of Other Leave

N/A

Covered Employers

All employers

Calculation Method

1 hour accrued per 30 hours worked

Length of Service

90 Days

Hours Worked

N/A

Employee Notice

If use is foreseeable requires good faith effort to provide notice

Documentation

Employer may require documentation when sick time covers more than 24 consecutively scheduled work hours or 3 days, is used within 2 weeks of employee's final day, or after multiple undocumented absences

Permitted Leave Types

Smallest increment is one hour or the smallest increment that the employer's payroll system uses to account for absences or use of other time

Covered Requests

(1) To care for the employee's own physical/mental illness, injury, or condition that requires homecare, professional medical diagnosis or preventative medical care (2) #1 but for covered relationship (3) To attend routine medical appt. for employee/covered relationship (4) To travel to/from an appt., pharmacy, or other location related to purpose (5) To address psychological, physical, or legal effects of domestic violence (151A)

Covered Relationships

Employee's child, spouse, or parent, or the parent of spouse

Job Restoration

N/A

Statute / Regulations

G.L. c. 149, section 148C / 940 CMR 33.00

Thank You!

This brochure was generously funded by the **Vida Berkowitz Fund**. We thank Vida's family, friends and colleagues for their generosity.



The late Vida Berkowitz was a highly respected attorney, beginning her career in Legal Services, initially with Maricopa County (AZ) and then with Central Massachusetts

Legal Services; she then developed a private practice and later joined the firm of Alan J. MacDonald. Her practice focused on consumer law and employment law, including employment discrimination, employee rights, union organizing, and unemployment insurance (UI) cases. She fearlessly represented low income and historically marginalized workers in employment-related matters and conducted employment law trainings for frontline legal advocates. In private practice, Vida was equally fearless in advancing employment rights and undertook much significant litigation, including a notable class action lawsuit that affirmed that federal law requires UI review examiners to be independent of the UI agency. She was a dedicated member of MLRI's Board of Trustees from 1990-2004 and served as the President of the Board of Trustees for several years.