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## **A SHORT GUIDE TO THE FAMILY AND MEDICAL LEAVE ACT (“FMLA”)**

When an employee must take time off from work to attend to an injury or illness, or to take care of an injured or ill family member, problems may arise. The employee may be torn between wanting to take enough time off to attend to the medical issue and wanting to protect his or her job.

There are laws in place that, where applicable, help make this difficult choice a little easier for some employees. The Family and Medical Leave Act, or FMLA, gives eligible employees who work for some larger companies the right to take up to twelve weeks of unpaid leave in a year to attend to the serious medical condition of either the employee or a family member. This law also allows for twelve weeks of unpaid leave to bond with a new baby or adopted child. The law requires the company to return the employee to his or her previous position upon completion of the leave and also protects the employee's benefits from being discontinued while out on leave. The FMLA also prevents the employer from interfering with an employee's right to take leave, and from retaliating against an employee (such as by disciplining or firing her) because she has taken leave.

This guide provides a brief introduction to the FMLA.

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### **Eligibility and Coverage**

In order for you to be eligible for leave rights and job protection under the FMLA, your employer has to be a certain size. Your company must employ at least 50 workers within 75 miles of your job site in order to be covered by the FMLA. Even if your employer is big enough, you must also meet certain requirements in order to be eligible for leave. Specifically, you must have been employed by your company for at least one year and must also have worked at least 1,250 hours during the previous 365 days in order to qualify. If either you or your employer do not meet these requirements, then you are not eligible for the protections of the FMLA.

Disclaimer: this guide is for informational purposes only, does not constitute legal advice, is not a substitute for legal advice, and does not create an attorney-client relationship of any kind. If you have any questions about this guide or believe that you may have a legal claim, consult an attorney.

## Qualifying Reasons for Leave

You may qualify for FMLA leave in order to:

- attend to your own serious health condition
- take care of an immediate family member with a serious health condition;
- bond with a new baby or an adopted child

## Leave Entitlements

The FMLA entitles you to take up to twelve weeks of *unpaid* leave in one year for any of the reasons stated above. The leave does not need to be taken all at once, and in some cases, may be taken on an intermittent basis. If your serious health condition, for example, requires you to attend periodic doctor's appointments, you may take intermittent FMLA leave for that reason. If you have any paid sick time, paid vacation, or other paid time off available, your employer may require you to use that time at the same time as your FMLA leave.

## Requesting Leave

In order to request FMLA leave from your employer, you do not actually need to mention the FMLA. All you need to do is to put your employer on notice that you may have an FMLA-qualifying condition and that you are seeking time off. Simply stating that you are "sick" is likely not enough. Your employer may ask you to have your doctor certify your need for leave, and you should follow these instructions carefully. In any event, be sure to provide your employer with reasonable notice of your need to take leave and follow its notice requirements carefully.

## Job Protections

If you take leave, the FMLA helps to protect your job. The law generally requires your employer to reinstate you to your previous position (at the same rate of pay) when you return to work. In addition, your employer cannot revoke any of your employee benefits while on leave, although it may require you to pay for the employer share of those benefits while you're out.

*Your employer is not allowed to interfere with your right to take leave or retaliate against you in any way because you have taken FMLA leave.*

If your employer interferes with your leave rights or retaliates against you by taking leave (such as by firing you), you may have a cause of action. You should consult with an attorney to determine your options.

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