

PRESENTED AT
ESSENTIAL EMPLOYMENT LAW

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FAMILY MEDICAL LEAVE ACT OVERVIEW

Connie Cornell

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Austin, TX
ccornell@cornellsmith.com
512.328.1540

FAMILY & MEDICAL LEAVE ACT OVERVIEW

The federal, state, and even some county and municipal governments may require you, as an employer, to provide your employees with family and medical leave. Texas, however, is not one of the states that has its own law governing mandatory employee family or medical leave. The federal government has adopted the Family and Medical Leave Act (FMLA), which is enforced by the U.S. Department of Labor. The FMLA allows eligible employees to take up to 12 workweeks of unpaid leave during a 12-month period for family or medical reasons. FMLA requires covered employers to grant such leave and to return the employee to his or her position, or an equivalent position, upon timely return from leave. An employer may not interfere with, restrain, or deny any employee's right to request FMLA leave, nor may it discriminate or retaliate against any employee for requesting or taking FMLA leave.

Coverage and Eligibility

The Act covers public and private employers and educational agencies. Private employers are covered if they employed 50 or more employees for 20 or more weeks in the current or preceding calendar year. An employer can be a covered employer even if it does not have any eligible employees.

Employees must meet eligibility requirements before they are entitled to leave. To be eligible, an employee must:

- work for a covered employer;
- have worked for the employer for at least 12 months. (When there has been a break in service of 7 years or more, the time preceding the break is not counted unless it was for military leave.)
- have worked at least 1,250 hours over the past 12 months; and
- work at a location where at least 50 employees are located within 75 miles.

Calculating the 12 Month Period

Employees are entitled to 12 weeks of FMLA leave during any 12-month period. The 12-month period may be calculated by any of the following methods:

- a calendar year;
- a fixed 12-month period, such as a fiscal year or year that renews on the employee's anniversary date (the date the employee was hired or deemed a permanent employee);

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2019 Essential Employment Law: A Practical Course in the Basics session
"Family Medical Leave Act (FMLA): The Other Major Entitlement Act"