

CENTRAL VIRGINIA LEGAL AID SOCIETY, INC.



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Your Rights under the Family & Medical Leave Act of 1993

The Family and Medical Leave Act of 1993 (FMLA) requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to “eligible” employees for certain family and medical reasons. You are eligible if you meet these rules.

- You have worked for your employer for a total of 12 months.
- You have worked for your employer for at least 1,250 hours over the past 12 months.
- Your employer has at least 50 employees within 75 miles of where you work.

In certain cases, FMLA permits you to take the 12 weeks of leave on an intermittent basis. This means taking leave in blocks of time. It also can mean reducing your normal weekly or daily work schedule.

What are the reasons for taking leave?

Unpaid leave must be granted for *any* of the following reasons.

- To care for your child after birth, or placement for adoption or foster care.
- To care for your spouse, son or daughter, or parent who has a serious health condition.
- For a serious health condition that makes you unable to perform your job.

A serious health condition means an illness, injury, impairment, or physical or mental condition that causes an inability to work. This can be in connection these things.

- In-patient care and after care.
- A health condition lasting at least three days and treated by a health care provider.
- Pregnancy or pre-natal care.
- A long term health condition that requires visits to a health care provider.
- A permanent or long term health condition for which treatment may not be effective.

At your or your employer’s option, certain kinds of *paid* leave may be substituted for unpaid leave.

Do I have to give advance notice to my employer before taking FMLA leave?

You may be required to provide advance leave notice and medical certification. You may be denied FMLA if you do not do this.

- Usually, you must give 30 days advance notice when leave is “foreseeable.”
- Your employer may require medical certification to support a request for leave because of a serious health condition. Your employer also may require second or third opinions (at your employer’s expense) and a fitness for duty report to return to work.

What job benefits and protection do I have?

- For as long as FMLA leave lasts, your employer must keep your health coverage under any “group health plan.”
- Upon return from FMLA leave, you must be restored to your original or equivalent position with the same pay, benefits, and other employment terms.
- Your use of FMLA leave can’t result in the loss of any employment benefit that you earned before your FMLA leave started.

What acts by employers are unlawful?

FMLA makes it unlawful for any employer to do these things.

- Interfere with, restrain, or deny the exercise of any right provided under FMLA.
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

How is the Family and Medical Leave Act enforced?

- The U.S. Department of Labor investigates and tried to resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

The office that enforces FMLA in most of Virginia is:

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
400 North Eighth Street, Room 416
P.O. Box 10005
Richmond, VA. 23240
804-771-2995 or toll-free 866-487-9243