# Fact Sheet #28F:  Qualifying Reasons for Leave under the Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons, with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.  *See also* Fact Sheet 28A:  Employee Protections under the FMLA, and Fact Sheet 28M:  The Military Family Leave Provisions under the FMLA.

Eligible employees are entitled to take up to 12 workweeks of FMLA leave in a 12-month period for any of the reasons listed below.  *See* Fact Sheet 28:  The Family and Medical Leave Act - Overview.

- **The birth of a child and to bond with the newborn child within one year of birth.**

   An employee's entitlement to FMLA leave for birth and bonding expires 12 months after the date of birth.  Both mothers and fathers have the same right to take FMLA leave for the birth of a child.  Birth and bonding leave must be taken as a continuous block of leave unless the employer agrees to allow intermittent leave (*e.g.*, allowing a parent to return to work on a part-time schedule for 10 weeks).

- **The placement with the employee of a child for adoption or foster care and to bond with the newly placed child within one year of placement.**

   FMLA leave may be taken before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed.  For example, the employee may be entitled to FMLA leave to attend counseling sessions, appear in court, consult with his or her attorney or the birth parent's representative, submit to a physical examination, or travel to another country to complete an adoption before the actual date of placement.  FMLA leave to bond with a child after placement must be taken as a continuous block of leave unless the employer agrees to allow intermittent leave.  An employee's entitlement to FMLA leave for the placement of a child for adoption or foster care expires 12 months after the placement.

- **A serious health condition that makes the employee unable to perform the functions of his or her job.**

   An employee is "unable to perform the functions of the position" where the health care provider finds that the employee:
   1) is unable to work at all; or
   2) is unable to perform any one of the essential functions of the employee's position.

An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment.

- **To care for the employee's spouse, son, daughter, or parent who has a serious health condition.**

  An employee must be needed to provide care for his or her spouse, son, daughter, or parent because of the family member's serious health condition in order for the employee to take FMLA leave. An employee may be needed to provide care to the family member, for example:
  - when the family member is unable to care for his or her own medical, safety or other needs, because of the serious health condition or needs help in being transported to the doctor; or
  - to provide psychological comfort and reassurance to the family member with a serious health condition.

> **Spouse:** Spouse means a husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including "common law" marriage and same-sex marriage.
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> **Parent**: Parent means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a child. This term does not include parents "in law."
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> **Son or daughter**: Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence.
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> **In Loco Parentis**: The FMLA regulations define in loco parentis as including those with day-to-day responsibilities to care for or financially support a child. Employees who have no biological or legal relationship with a child may, nonetheless, stand in loco parentis to the child and be entitled to FMLA leave. Similarly, an employee may take leave to care for someone who, although having no legal or biological relationship to the employee when the employee was a child, stood in loco parentis to the employee when the employee was a child, even if they have no legal or biological relationship.
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> *See also* Administrator's Interpretation No. 21010-3; Fact Sheet #28B: FMLA leave for birth, bonding, or to care for a child with a serious health condition on the basis of an "in loco parentis" relationship; and Fact Sheet 28C: FMLA leave to care for a parent with a serious health condition on the basis of an in loco parentis relationship.

- **Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty.**

  Qualifying exigencies are situations arising from the military deployment of an employee's spouse, son, daughter, or parent to a foreign country. Qualifying exigencies for which an employee may take FMLA leave include making alternative child care arrangements for a child of the military member when the deployment of the military member necessitates a change in the existing child care arrangement; attending certain military ceremonies and briefings; taking leave to spend time with a military member on Rest and Recuperation leave during deployment; or making financial or legal

arrangements to address a covered military member's absence; or certain activities related to care of the parent of the military member while the military member is on covered active duty. *See* [Fact Sheet 28M(c): Qualifying Exigency leave under the FMLA](#). An employee may take qualifying exigency leave for the deployment of a son or daughter of any age.

An eligible employee may also take up to **26 workweeks** of FMLA leave in a single 12-month period:

- **To care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the servicemember (military caregiver leave).**

  Eligible family members of both current servicemembers and certain veterans are entitled to military caregiver leave. *See* [Fact Sheet 28M(a): Military Caregiver Leave for a Current Servicemember under the FMLA](#), and [Fact Sheet 28M(b): Military Caregiver Leave for a Veteran under the FMLA](#).

## ENFORCEMENT

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to the FMLA. *See* [Fact Sheet 77B: Protections for Individuals under the FMLA](#). The Wage and Hour Division is responsible for administering and enforcing the FMLA for most employees. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress. If you believe that your rights under the FMLA have been violated, you may file a complaint with the Wage and Hour Division or file a private lawsuit against your employer in court.

**For additional information, visit our Wage and Hour Division Website:** [http://www.wagehour.dol.gov](http://www.wagehour.dol.gov) **and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).**

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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