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Law in Brief: Rhode Island and Federal Leave Laws

Background

Employment leave laws are designed to help balance employers' needs for a reliable work force with employees' responsibilities outside work. Leave laws also protect workers by allowing them to take time off for certain reasons without fear that they will lose their job in doing so. Both Federal and Rhode Island state laws allow employees to take reasonable unpaid leave for family and medical reasons. Whether you are an employer or an employee, it is important to know your rights and obligations under these state and Federal laws.

Note: the laws and provisions discussed in this guide apply only to an 'employee' and would not cover a non-employee such as an independent contractor, intern or volunteer.

Parental and Family Medical Leave

Rhode Island Parental and Family Medical Leave Act (RI PFMLA)

- Applies to Rhode Island employers who have fifty (50) or more employees.
- Covers employees who have been employed for the prior twelve (12) consecutive months and who have averaged at least thirty (30) hours of work per week.
- Gives employees thirteen (13) consecutive weeks of **unpaid** leave if the employee gives the employer thirty (30) days' notice (unless an emergency prevents the employee from giving proper notice).
- Leave may be taken for:
 - The birth of a child;
 - Placement of an adopted child sixteen years of age or younger; and
 - A serious illness of the employee or the employee's parent, spouse, child, mother-in-law, or father-in-law.
- Serious illness is defined as a disabling physical or mental illness, injury, impairment or condition that involves in-patient care in a hospital, nursing home, or hospice, or out-patient care requiring continuing treatment or supervision by a health care provider.

Federal Family and Medical Leave Act (FMLA)

- Applies to employers with fifty (50) or more employees.



- It covers employees employed for twelve (12) months (may be non-consecutive) who have worked for 1,250 hours in the 12-month period preceding the requested leave.
- Gives employees twelve (12) weeks of **unpaid** leave during a 12-month period.
- FMLA, unlike RI PFMLA, lets employees take leave intermittently, rather than all at once, for serious health conditions.
- Can be used for:
 - Incapacity due to pregnancy, prenatal medical care, or child birth;
 - Bonding with the employee's child after birth, or placement for adoption or foster care;
 - When a serious health condition of the employee makes the employee unable to perform job functions; and
 - Caring for the employee's spouse, son or daughter, or parent who has a serious health condition.
- The FMLA permits an employee to choose, or an employer to require, the employee to use accrued or earned paid sick time, vacation time, and/or personal leave time during her leave.

Returning to work

- Under both state and federal law, an employee who timely returns to work after completing family and medical leave must be given back his or her prior position or a similar position with equal seniority, status, employment benefits, and pay.

Temporary Disability Insurance and Temporary Caregiver Insurance

An Rhode Island employee who takes leave under either RI PFMLA or FMLA may also independently qualify for Temporary Disability Insurance or Temporary Caregiver Insurance for the leave period.

Temporary Disability Insurance (TDI)

- Provides eligible employees up to thirty (30) weeks of benefit payments if they are unable to work due to a non-work related injury or illness.
- Calculated based upon the amount of the employee's wages and allowed dependents.
- TDI is independent of FMLA or RI PFMLA and an employee can take leave under TDI even if an employer provides paid leave or a short-term disability policy.

Temporary Caregiver Insurance (TCI)

- Provides eligible employees up to four (4) weeks of caregiver benefits to:

- Care for a seriously ill child, spouse, domestic partner, parent, parent-in-law, or grandparent; or
- Bond with a newborn child, new adopted child, or new foster-care child.

Sick Leave

- Effective July 1, 2018, the Rhode Island Healthy and Safe Families and Workplaces Act (HSFWA) gives Rhode Island employees the right to take time off (leave) from work to:
 - Care for themselves when they are too sick to work, are injured, or have a routine medical appointment; and
 - To deal with the impact of domestic violence, sexual assault, or stalking.
- Employees may also use earned sick leave to assist their child, spouse, domestic partner, parent, mother-in-law, father-in-law, grandparent, sibling, care recipient, or other member of their household for the same purposes.
 - Member of household means a person who resides at the same physical address as the employee and is claimed as a dependent by the employee for federal income tax purposes.
- The HSFWA requires employers with eighteen (18) or more employees to allow its employees to accrue three (3) **paid** sick days (twenty-four hours) per calendar year.
- Employees accrue one (1) hour of leave for every thirty-five (35) hours they work.
- The HSFWA covers full-time, part-time, temporary, and seasonal workers. However, seasonal employees must wait until they have worked one hundred and fifty (150) days before they can use any accrued paid sick and safe leave.
- An employer that has less than eighteen (18) employees is exempt from the requirement, but may not take adverse action against an employee solely based upon the employee's use of:
 - Up to thirty-two (32) hours **unpaid** sick time during calendar year 2019; and
 - Forty (40) hours **unpaid** sick time per calendar year after 2019.
- This means that even though you will not be paid for this sick time, you cannot be punished by your employer for taking it.

Rhode Island Military Family Relief Act

- Requires employers with at least fifteen (15) employees to allow eligible employees to take time off.
- Eligible employees are those who have a spouse or child who has been called to military service that will last more than thirty (30) days.

- The amount of leave given depends on the size of the employer:
 - Employers with fifty (50) or more employees must allow employees to take up to thirty (30) days of **unpaid** leave.
 - Employers with fifteen (15) to forty-nine (49) employees must allow employees to take up to fifteen (15) days of **unpaid** leave.

Small Necessities Leave

- Under Rhode Island law, employers with at least fifty (50) employees must give eligible employees up to ten hours of **unpaid** leave in any 12-month period to attend school conferences or other school-related activities for the employee's child.

Jury Duty

- Under Rhode Island law, employers must provide employees with **unpaid** leave for jury duty.
- Although the employer is not required to pay the employee for the lost time, the employer cannot punish or retaliate against the employee for taking leave to serve on a jury.

Additional Resources

- [A Farmer's Guide to Employment Law's in Rhode Island](#)
- A Rhode Island Guide to Employment Law, Third Edition 2015: riilsr.org/wp-content/uploads/2014/10/Guide-to-Employment_COMPLETE.pdf
- [Rhode Island Sick and Safe Leave Notice of Employees Rights](#)
- [Rhode Island Temporary Disability and Caregivers Insurance](#)
- Rhode Island Military Family Relief Act Imposes New Leave Requirements on Large and Small Employers: <https://www.nixonpeabody.com/en/ideas/articles/2008/07/31/rhode-island-military-family-relief-act-imposes-new-leave-requirements-on-large-and-sma>

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