



## YOUR RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993 and ALASKA FAMILY LEAVE ACT OF 1992

**THE FAMILY AND MEDICAL LEAVE ACT (FMLA)** requires covered employers to provide up to 12 weeks in a 12 month period of paid or unpaid, job-protected leave to eligible employees for qualifying family and medical reasons (the State of Alaska is a covered employer). Employees are eligible if they have worked for a covered employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles (see the policy below concerning the number of employees within a given radius).

**THE ALASKA FAMILY LEAVE ACT (AFLA)** requires covered public employers to provide up to 18 weeks in a 12 or 24 month period of paid or unpaid, job-protected leave to eligible employees for qualifying family and medical reasons. Employees are eligible if they have been employed by a covered employer for at least 35 hours a week for at least six consecutive months or for at least 17.5 hours a week for at least 12 consecutive months immediately preceding the leave, and if there have been at least 21 employees within 50 road miles during any period of 20 consecutive workweeks in the preceding two calendar years (see the policy below concerning the number of employees within a given radius).

**MILITARY FAMILY LEAVE (MFL)** is a FMLA amendment, which includes 2008 and 2010 provisions, that has the same eligibility requirements and job protection provided by FMLA. This amendment allows an employee to take up to 12 weeks of leave in a 12 month period for "any qualifying exigency" of a military member who is on covered active duty and is a qualified family member. This amendment also allows an employee to take up to 26 weeks of leave in a 12 month period to care for a covered servicemember (qualified family member) recovering from a serious illness or injury sustained in the line of duty while on active duty. A "covered servicemember" is defined as a member in the Armed Forces (including the National Guard or Reserves) or a veteran who was active in the Armed Forces within the last five years.

**POLICY:** The State of Alaska has elected to substitute paid leave for unpaid leave for use in a family leave qualifying condition when it is available to the employee through accruals, donations, or other means authorized by collective bargaining agreements or state statutes. The State of Alaska has chosen to have the 12 or 24 month family leave entitlement start when an employee first takes leave for the qualifying condition. The State of Alaska has adopted a more generous policy that allows employees who meet the employment and hours worked thresholds to be eligible for family leave regardless of the number of employees within a given radius.

**REASONS FOR TAKING LEAVE:** Either or both of these leave entitlements require an absence to be granted for any of the following reasons:

- ° to care for the employee's child after birth, or placement for adoption or foster care; or
- ° to care for the employee's spouse, son or daughter, or parent (in-law, step, or who stood in loco parentis) who has a serious health condition; or
- ° for a serious health condition that requires the employee to be absent from the employee's job; or
- ° for an employee whose family member is a military member who has a qualifying exigency or a serious illness or injury.

**ADVANCE NOTICE AND MEDICAL CERTIFICATION:** The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- ° The employee ordinarily must provide 30 days advance notice when the leave is foreseeable (notification can be provided by a family member or spokesperson when necessary).
- ° When leave is not foreseeable, the employee must provide notice as soon as reasonably possible.
- ° An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense), periodic updates, and/or a fitness for duty report to return to work.

### **JOB BENEFITS AND PROTECTION:**

- ° For the duration of FMLA leave, the employer must maintain the employee's health coverage under any group plan. There is no similar requirement under AFLA.
- ° Upon return from FMLA or AFLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- ° For the use of family leave, an employee cannot realize the loss of any employment benefit that accrued prior to the start of an employee's leave.



**EMPLOYEE RESPONSIBILITIES:**

- When medical certification is required, the employee must return the completed form to Payroll Services within 15 days of receiving notice from employer. If the certification is not received, the employee may be denied coverage under the family leave acts.
- The employee is responsible for their portion of premium payments for health insurance and other optional benefits. Premiums are taken as payroll deductions but if funds become insufficient the employee will need to make arrangements to pay premiums.  
Note: Certain optional benefits will stop if there are insufficient funds for payroll deductions. Contact Payroll Services for more information.
- When an employee takes leave, associated with the covered condition(s), notification must be given to the supervisor and "family leave" must be noted on the leave slip.
- The employee must follow the agency's leave notification requirements including established call-in procedures.
- All leave designated as family leave will count against the employee's family leave entitlements.
- When a fitness for duty report is required, it must be provided as requested prior to the employee returning to work.
- With rare exception, an employee who does not return to work for at least 30 days will be required to reimburse the State of Alaska's portion of the health insurance premiums for the period of time the employee was on family leave.

**UNLAWFUL ACTS BY EMPLOYERS: The Family Leave Acts** makes it unlawful for any employer to:

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

**ENFORCEMENT:**

- Employees covered by a collective bargaining agreement may follow the complaint procedure set out in their respective agreements.
- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations of FMLA. The Alaska Department of Labor is authorized to investigate and resolve complaints of violations of AFLA.
- An eligible employee may bring civil action against an employer for violations of either family leave Act. The Acts do 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.

**FOR ADDITIONAL INFORMATION:** Contact your agency Human Resource Office, Payroll Services or the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.

Links to Additional Information:

- Absence Management Contact - [soa.absence.management@alaska.gov](mailto:soa.absence.management@alaska.gov)
- Family Leave Information for State of Alaska Employees – <http://doa.alaska.gov/dop/AbsenceManagement/familyLeave/>