



Oregon Department of Corrections  
Family Medical Leave Act (FMLA)  
And  
Oregon Family Leave Act (OFLA)

**Caring for a Family Member - Forms Packet**

***Please read this statement before proceeding***

***This packet is a summary of Family and Medical Leave policy and procedures. In all cases applicable state and federal laws, rules, policies and collective bargaining agreements govern the employee's and the agency's rights and obligations; not this document.***

***FMLA and OFLA are not optional. The law requires the agency to provide these entitlements.***

***Federal and state law prohibit retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested or used Family and Medical Leave.***

Fax Completed Forms to (503) 934-0283

Human Resources Division  
1793 13<sup>th</sup> Street SE  
Salem, OR 97302-2595

Kathy Martin (503) 934-1013      OSP, SRCI, Admin, HS Admin, Linn,  
Douglas, BPPPS

Christine Welter (503) 934-1036      CCCF, EOIC, OISC, TRCI

Serena Thompson (503) 934-1083      CRCI, DRCI, MCCF, OSCI, PRCF,  
SCCI, SFFC, WCCF, SCI



EMPLOYEE LEAVE REQUEST

- Employees subject to FLSA shall complete this form before leave is taken and ensure leave has been approved.
In the event of an unplanned absence, the employee shall complete the form immediately upon return to duty.
FLSA-exempt employees shall complete this form only for absences which are or may be FMLA/OFLA qualifying (see reverse for qualifying criteria).

Last Name (please print) First M.I.

Functional Unit / Institution:

Management/Executive Services Represented (Name of Labor Organization)

I request hours (total) leave from official duty for the following reason(s):

BEGINNING on at ENDING on at

I request that my leave be charged as follows: (Please indicate the number of hours for each type of leave requested in the space provided.)

Vacation Sick Leave Personal Leave Comp Time Military Leave

Leave Without Pay Funeral Leave (Relationship) Other (Specify Type of Other Leave)

If this leave is to care for a SERIOUS HEALTH CONDITION or a SICK CHILD, or for PARENTAL LEAVE, check the appropriate spaces in the boxed area below: (See reverse for explanation of a serious health condition and FMLA/OFLA leave.)

Boxed area containing FMLA/OFLA notice requirements, checkboxes for qualifying conditions, and a disclaimer: 'FMLA/OFLA Coordinators approve FMLA/OFLA Leave. Supervisor signature does not guarantee FMLA/OFLA approval.'

Employee Signature Date Supervisor Signature Date

APPROVED NOT APPROVED Approval is contingent on staff having adequate leave accrual.

Section Head Signature Date Reason, if not approved:

Staff Deployment NOTES: Updated:

ATTENTION Supervisors/Managers: If the leave checked above is included in the boxed area, please immediately forward a copy of this leave request form to your assigned FMLA/OFLA Coordinator.

A serious health condition under the FMLA means an illness, injury, impairment, or physical or mental condition that includes at least one of the following:

- **Inpatient care** in a hospital, hospice or residential medical-care facility, including any period of incapacity, or any subsequent treatment in connection with such inpatient care; OR
- **Continuing treatment** by a health care provider which includes one of the following:
  - Incapacity due to a serious health condition lasting more than three (3) consecutive calendar days; and subsequent treatment or incapacity relating to the same condition which includes either two or more treatments administered or supervised by a health care provider, or at least one treatment with a continuing regimen of treatment;
  - Incapacity due to pregnancy or absence for prenatal care;
  - Incapacity or treatment thereof due to a chronic serious health condition, which requires periodic treatment by a health care provider and continues over an extended period. (Incapacity may be episodic versus continuous, e.g., asthma, diabetes, epilepsy, etc.),
  - Incapacity which is permanent or long-term due to a condition for which treatment is not effective (e.g.; severe stroke, Alzheimer's, or the terminal stages of a disease); **OR**
  - Absence to receive multiple treatments from a health care provider for restorative surgery and recovery therefrom, following an injury or accident, or for a condition that would likely cause incapacity for at least three consecutive days if left untreated (e.g. chemotherapy or radiation for cancer, physical therapy for arthritis, and dialysis for kidney diseases.)

Incapacity means inability to work or perform other daily activities due to treatment or recovery from a serious health condition.

Purpose of Leave: To care for your own serious health condition; a family member's serious health condition; or following the birth, adoption or foster placement of a child under age 18, unless incapable of self-care due to disability.

Eligibility for Leave: You must have at least 12 months of employment with the State of Oregon (need not be consecutive service); during your last 12 months of employment prior to the leave request, you must have worked for at least 1,250 hours; AND leave must be for a qualifying event.

Maximum Leave: 12 weeks in a 12-month period. (If the State of Oregon employs both parents, their combined parental leave is limited to the 12 weeks.)

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**A serious health condition under OFLA means one of the following:**

- An illness, injury, impairment or physical or mental condition that requires inpatient care in a hospital, hospice or residential medical care facility;
- An illness, disease or condition that poses imminent danger of death, is terminal with a reasonable possibility of death in the near future, or requires constant care; OR
- Disability due to pregnancy or absence for prenatal care.

Purpose of Leave: Parental Leave: To care for your newborn, newly adopted or newly placed foster child who is under the age of 18, unless incapable of self-care due to disability; Serious Health Condition Leave: To care for your own serious health condition if it prevents you from performing at least one essential function of your job, or to care for a family member's serious health condition; Sick Child Leave: To care for your own child due to an illness, injury or condition that is not a serious health condition, but requires home care.

Eligibility for Leave: For parental leave you must have been employed for at least the 180 days immediately preceding the start date of the leave; for all other leave you must also have worked an average of at least 25 hours per week during the 180 days; AND leave must be for a qualifying event.

Maximum Leave: 12 weeks in a one-year period. An additional 12 weeks is available for a disabling illness, injury or condition related to pregnancy or childbirth. An employee who takes the full 12 weeks of Parental Leave may also take 12 weeks of Sick Child Leave.

*Medical certification may be required for leave due to a medical condition. Medical certification of fitness for duty may be required upon an employee's return from FMLA due to his/her own serious health condition.*

*If leave qualifies under the FMLA, OFLA, and/or contractual benefit provisions, its use is counted against applicable entitlements.*

*Employees may be required to exhaust all accrued leave in accordance with collective bargaining agreements and personnel policies prior to being placed on leave without pay during FMLA/OFLA leave.*



**HEALTH CARE PROVIDER CERTIFICATION**  
**\*\*For Family Member's Serious Health Condition\*\***  
**Family and Medical Leave**  
**Oregon Department of Corrections**

This form is used to provide certification per FMLA and OFLA regulations and law.

**Section I: Employee Completes this Section**

Employee's name: \_\_\_\_\_

Patient's name: \_\_\_\_\_

(Please check one) The patient is my:

- self       spouse       parent       child (age \_\_\_\_\_)       same sex domestic partner       parent-in-law  
 grandparent       grandchild       parent of domestic partner       child of a domestic partner (age \_\_\_\_)

**Section II: Health Care Provider Completes this Section**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. **Please be sure to sign the form on the last page and fax completed form to (503) 934-0283.**

Provider's name and business address: \_\_\_\_\_

Type of practice / Medical specialty: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_

**PART A: MEDICAL FACTS**

1. Approximate date condition commenced: \_\_\_\_\_

Probable duration of condition: \_\_\_\_\_

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

\_\_\_ No \_\_\_ Yes. If so, dates of admission: \_\_\_\_\_

Date(s) you treated the patient for condition: \_\_\_\_\_

Was medication, other than over-the-counter medication, prescribed? \_\_\_ No \_\_\_ Yes.

Will the patient need to have treatment visits at least twice per year due to the condition? \_\_\_ No \_\_\_ Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

\_\_\_ No \_\_\_ Yes. If so, state the nature of such treatments and expected duration of treatment:

\_\_\_\_\_  
 \_\_\_\_\_

2. Is the medical condition pregnancy? \_\_\_ No \_\_\_ Yes. If so, expected delivery date: \_\_\_\_\_

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment): \_\_\_\_\_

\_\_\_\_\_

**PART B: AMOUNT OF CARE NEEDED:** When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? \_\_\_No \_\_\_Yes.

If so, estimate the beginning and ending dates for the period of incapacity: \_\_\_\_\_

During this time, will the patient need care? \_\_\_ No \_\_\_ Yes.

Explain the care needed by the patient and why such care is medically necessary:

\_\_\_\_\_  
\_\_\_\_\_

**Estimate the employee's dates of absence from work:** \_\_\_\_\_

5. Will the patient require follow-up treatments, including any time for recovery? \_\_\_No \_\_\_Yes.

If so, estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period: \_\_\_\_\_

During this time, will the patient need care? \_\_\_ No \_\_\_ Yes.

Explain the care needed by the patient, and why such care is medically necessary: \_\_\_\_\_

\_\_\_\_\_

6. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities requiring care on an intermittent or reduced schedule basis? \_\_\_No \_\_\_Yes.

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: \_\_\_\_\_ times per \_\_\_\_\_ week(s) \_\_\_\_\_ month(s)

Duration: \_\_\_\_\_ hours or \_\_\_ day(s) per episode

Does the patient need care during these flare-ups? \_\_\_ No \_\_\_ Yes.

Explain the care needed by the patient, and why such care is medically necessary: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**Signature of Health Care Provider**

\_\_\_\_\_  
**Date**

**Return this form to the patient or FAX to the attention of FMLA/OFLA at the Department of Corrections Human Resources at (503) 934-0283.**



## Going out on leave And your benefits

We understand that you may be going out on medical/extended leave at this time. There are a few things surrounding your benefits and pay that we would like to bring to your attention.

**Due to the benefits and protections attached, FMLA/OFLA coverage is not an optional choice and you will be covered if eligible.**

### 1. Use of sick and vacation leave.

- a. You may keep sick leave on the books if going out under approved FMLA/OFLA leave while receiving short/long term disability. If you chose to use sick leave, Standard will pay \$25.00 per week. If you chose to not use sick leave, Standard will pay the full amount for each week, and you will be in leave without pay status on your timesheet.
- b. Once disability has ended, if you are still covered under FMLA, you may then use any available leave time if you wish.

### 2. Use of Short/Long Term Disability

- a. If using short term disability, you will want to file as soon as possible. DOC will complete their portion of the report.
- b. The first seven days are not paid; this is Standard's evaluation time. If the usage is due to an accident, Standard will pay from the first day. Once the claim has been accepted, they will pay on a weekly basis.
- c. What Standard pays you is based on what pay, if any, you receive from DOC.
  - i. If you are receiving wages from DOC for payment of sick leave, Standard will only pay \$25.00 per week.
  - ii. In order for Standard to pay you the full amount, you must either be using vacation time from DOC, or be in LWOP.
- d. Long Term Disability followings STD, if you have both. If you have chosen the 180 day waiting period for long term disability, you may have a 3 month gap before long term disability becomes affective.
- e. There is no need to complete separate forms or provide additional information. Standard will request specific information if they need any.

### 3. Hardship Donations

- a. Hardship donations are approved by Human Resources if you qualify. Other employees will donate vacation time, which will be converted to sick leave for you to use, or cover insurance premiums. There is no guarantee the full request may be met and all of the necessary time covered.
- b. You will need to remember that, once on LWOP, you cannot go back and use any leave time, unless covered under FMLA. Hardship can only be requested once all leave has been exhausted. If you are holding leave time to use after disability has exhausted, you will need to use it all before eligible for hardship.

### 4. Optional Insurance Benefits

- a. Continued payment and coverage for the following are handled the same
  - i. Accidental Death and Dismemberment
  - ii. Domestic Partner Tax (if continue to be covered for core benefits)
  - iii. UNUM, Long Term Care Insurance
  - iv. Fortis Insurance
  - v. Optional Life Insurance, self and spouse and/or partner
  - vi. Dependent Life
  - vii. Short Term and Long Term Disability – if you currently have an active claim, no premiums are paid.
- b. If you are receiving a check from DOC, and paid a minimum of 80 hours, your premium payments are automatically covered.
- c. If you are not receiving a check from DOC, a letter will be sent detailing out the optional coverage benefits you have, the amount necessary to maintain coverage, and how to make the necessary payments. Please contact payroll at the number above with questions.

### 5. Medical, Dental, and Vision Benefits

- a. These are considered your core benefits, those premiums covered by the state. Eligibility and coverage are determined by several factors
  - i. Must be an active employee
  - ii. Must be under protected leave, FMLA or SAIF
  - iii. Must have a minimum of 80 hours of protected leave in the current month, or 80 hours of paid leave in the previous month to be eligible.
- b. Once you have moved into protected leave, insurance coverage is based on the current month. Each month would need to meet the coverage requirements to maintain coverage for that month. Requirements are:
  - i. Maintain a minimum of 80 hours
  - ii. If on FMLA, must return to work on following the healthcare provider's release or before coverage is exhausted

# EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

## Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

## Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

## Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

## Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

## Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

## Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

## Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

## Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

## Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- 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.

## Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

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.

**FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.**



For additional information:  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)





# Oregon



# FAMILY LEAVE ACT

## NOTICE TO EMPLOYERS AND EMPLOYEES

The Oregon Family Leave Act, passed by the 1995 Legislature, requires employers of 25 or more employees to provide their workers with job protected leave to care for themselves or family members in cases of illness, injury, childbirth and adoption.

### When Can an Employee Take Family Leave?

Employees can take family leave for the following reasons:

- ▶ **Parental Leave** during the year following the birth of a child or adoption or foster placement of a child under 18, or a child 18 or older if incapable of self-care because of a mental or physical disability. Parental leave includes leave to effectuate the legal process required for foster placement or adoption.
- ▶ **Serious health condition leave** for the employee's own serious health condition, or to care for a spouse, parent, child, parent-in-law, grandparent, grandchild or same gender domestic partner with a serious health condition. NOTE: Does not include an employee unable to work due to a compensable Workers Compensation injury.
- ▶ **Pregnancy disability leave** (a form of serious health condition leave) taken by a female employee for an incapacity related to pregnancy or childbirth, occurring before or after the birth of the child, or for prenatal care.
- ▶ **Sick child leave** taken to care for an employee's child with an illness or injury that requires home care but is not a serious health condition.
- ▶ **Oregon Military Family Leave** is taken by the spouse or same gender domestic partner of a service member who has been called to active duty or notified of an impending call to active duty or is on leave from active duty during a period of military conflict.

### Who is Eligible?

- ▶ To be eligible for leave, workers must be employed for the 180 day calendar period immediately preceding the leave and have worked at least an average of 25 hours per week during the 180-day period.  
**Exception 1:** For parental leave, workers are eligible after being employed for 180 calendar days, without regard to the number of hours worked.  
**Exception 2:** For Oregon Military Family Leave, eligible workers must work for an employer an average of at least 20 hours per week.

### How Much Leave Can an Employee Take?

- ▶ Employees are generally entitled to a maximum of 12 weeks of family leave within the employer's 12-month leave year.
- ▶ A woman using pregnancy disability leave is entitled to 12 additional weeks of leave in the same leave year for any qualifying OFLA purpose.
- ▶ A man or woman using a full 12 weeks of parental leave is entitled to take up to 12 additional weeks for the purpose of sick child leave.
- ▶ A spouse or same gender domestic partner of a service member is entitled to a total of 14 days of unpaid leave per deployment after the military spouse has been notified of an impending call or order to active duty and before deployment and when the military spouse is on leave from deployment.

### What Notice Is Required?

- ▶ Employees are required to give 30 days notice in advance of leave, unless the leave is taken for an emergency. Employers may require that notice is given in writing. In an emergency, employees must give verbal notice within 24 hours of starting a leave.

### Is Family Leave Paid or Unpaid?

- ▶ Although Family Leave is unpaid, employees are entitled to use any accrued paid vacation, sick or other paid leave.

### How is an Employee's Job Protected During a Leave?

- ▶ Employers must return employees to their former jobs or to equivalent jobs if the former position no longer exists. However, employees on OFLA leave are still subject to nondiscriminatory employment actions such as layoff or discipline that would have been taken without regard to the employee's leave.

### for Additional Information:

<b>Call the nearest office of the Bureau of Labor &amp; Industries:</b>		<b>Or Write:</b>
Eugene .....541-686-7623	Portland .....971-673-0761	Bureau of Labor and Industries
Salem .....503-378-3292		Civil Rights Division
		800 NE Oregon, Ste. 1045
Web Site: <a href="http://www.oregon.gov/boli">www.oregon.gov/boli</a>	Employer Assistance.....971-673-0824	Portland, Oregon 97232

Eligible employees who have been denied leave, disciplined or retaliated against for requesting or taking leave, or have been denied reinstatement to the same or equivalent position when they returned from a leave or requested leave may file a complaint with the Bureau of Labor & Industries, Civil Rights Division.

This is a summary of Oregon's laws relating to Family Leave Act. It is not a complete text of the law.

March 2010

**THIS INFORMATION MUST BE POSTED IN A CONSPICUOUS LOCATION**