

Employee Leave Laws—Overview

Employers may provide their employees with various types of paid or unpaid leave as part of their overall compensation package, including vacation time, personal leave and sick leave. While employers have some flexibility in establishing or negotiating employee leave policies, federal laws (for example, the Family and Medical Leave Act or FMLA) require covered employers to provide employees with leave in certain situations. State laws also oblige employers to provide certain types of employee leaves.

In addition to federal leave laws, Pennsylvania has employee leave laws regarding:

- Jury duty leave;
- Judicial witness/crime victims leave;
- Emergency response leave;
- Military leave;
- State of emergency leave; and
- Pregnancy and childcare leave.

This Employment Law Summary includes a chart that provides a high-level overview of Pennsylvania's employee leave laws, and suggests compliance steps for employers.

OVERVIEW OF EMPLOYEE LEAVE LAWS

TYPE OF LEAVE	REQUIREMENTS
Jury Duty Leave	<p>Employers must provide unpaid leave to employees summoned to jury duty. This law does not apply to:</p> <ul style="list-style-type: none"> • Retail or service industry employers with fewer than 15 employees; and • Manufacturing industry employers with fewer than 40 employees. <p>Job protections apply.</p>
Judicial Witness/Crime Victims Leave	<p>Employers must provide unpaid leave to employees who take time off from work to attend court as:</p> <ul style="list-style-type: none"> • Victims of a crime; • Witnesses to a crime; or • Members of a crime victim's family. <p>Job protections apply.</p>
Emergency Response Leave	<p>Employers must allow employees who are volunteer fire fighters, volunteer fire police officers or volunteer members of an ambulance service or rescue squad to be late for or absent from work if they responded to an emergency before their work day started, if certification requirements are met. Job protections apply.</p>

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. It broadly summarizes state statutes and regulations generally applicable to private employers, but does not include references to other legal resources unless specifically noted. Readers should contact legal counsel for legal advice.

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Military Leave	<p>In addition to USERRA, Pennsylvania law provides the following job protections for military members:</p> <ul style="list-style-type: none"> • Reemployment rights for members of the Pennsylvania National Guard or any Reserve component of the U.S. Armed Forces following emergency or other military duty; • Discrimination protections for members of the National Guard or any Reserve component of the U.S. Armed Forces or employees who are called or ordered to active state or federal duty; and • Extension of benefits during military duty.
State of Emergency Leave	<p>Employers cannot terminate or discipline an employee for failing to report to work because of a road closure in the county where the employee lives or works due to a state of emergency declared by the governor. This law does not apply to certain employees in specific industries. Leave is unpaid. Job protections apply.</p>
Pregnancy and Childcare Leave	<p>Nondiscrimination requirements apply to employers with four or more employees. Female employees of covered employers who are affected by childbirth or related medical conditions must be treated the same for all employment-related purposes as other persons not affected by pregnancy, but similar in their ability or inability to work.</p> <p>Childcare leave, which includes birth and adoption, must be provided equally to both male and female employees.</p>

*ORGAN OR BONE MARROW DONATION LEAVE TAX CREDITS

For the 2006 through 2010 tax years, eligible Pennsylvania employers that provided employees with paid leaves of absence for organ or bone marrow donation qualified for a tax credit. Employers that earned tax credits and did not use them could carry over the credits for three taxable years after 2010. For more information, visit the [Pennsylvania Department of Revenue](#) website.

COMPLIANCE STEPS

It is important for Pennsylvania employers to understand when their employees are entitled to take time off from work, and the legal protections associated with such leaves. Employers that violate state or federal leave law requirements may be subject to government investigations, fines, employee lawsuits and significant penalties, fees and damage awards.

To minimize these risks, employers should review applicable federal and state leave law requirements and determine whether they have any compliance gaps to correct. This compliance review may be complex, especially in areas where federal and state leave laws overlap.

As part of the compliance review, employers should confirm that:

- Employee handbooks and written policies and procedures have been updated to accurately describe employee leaves;
- Human resources personnel, as well as managers and supervisors, are educated on how to administer employee leaves and receive ongoing training;
- Employee leaves are administered on a consistent basis, and employees are educated on leave rights and requirements;
- Recordkeeping systems accurately track and document employee leaves; and
- Required notices and posters regarding leave laws are provided.