

State and Federal Laws for Family Caregivers

INTERIM HUMAN SERVICES COMMITTEE

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COMMISSIONER OF LABOR

NORTH DAKOTA DEPARTMENT OF LABOR AND HUMAN RIGHTS



State Leave Laws/Regulations

- North Dakota law does not require an employer to provide paid annual or sick leave
- Leave is a benefit that is negotiable between the employer and employee
- If provided, employers generally must administer leave programs in a non-discriminatory way

Family Medical Leave Act (FMLA)

- Federal law which requires certain employers provide certain employees leave
- Generally, the FMLA requires an employer provide up to 12 weeks (26 weeks in certain situations involving members of the armed services) per year of unpaid leave to an employee, either for the employee's serious health condition or an employee's family member's serious health condition
- "Family member" includes child, spouse, or parent
- Leave may be intermittent
- Requires reinstatement in job following leave
- Notice and paperwork requirements
- Enforced by the United States Department of Labor

FMLA (Cont.)

- An employer is covered by the FMLA if:
 - Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer
 - Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or
 - Public or private elementary or secondary school, regardless of the number of employees it employs

FMLA (Cont.)

- An employee is covered by the FMLA if she:
 - Has worked for the employer for at least 12 months
 - Has at least 1,250 hours of service for the employer during the 12 month period immediately preceding the leave; and
 - Works at a location where the employer has at least 50 employees within 75 miles

FMLA and State-Sponsored Leave

- FMLA leave does not have to be paid leave
- State law has a similar statute to FMLA for state employees
- Change in 2015 now allows for state employees to use their paid leave (up to 12 weeks) to care for a child, spouse, or parent (N.D.C.C. Section 54-52.4-03)
- Private employees are not covered

Americans with Disabilities Act – Association Provision

- ADA's "Association" provision prohibits discrimination against individuals who associate with individuals with a disability.
- ADA covers employers of 15 or more employees
- North Dakota Human Rights Act does not have an association provision

Questions? Contact us:

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