

Sec. 31-51qq-7. Under what kinds of circumstances are employers required to grant family or medical leave?

(a) Employers covered by the FMLA are required to grant leave to eligible employees for one (1) or more of the following reasons:

(1) Upon the birth of a son or daughter of the employee, and to care for the newborn child;

(2) Upon the placement of a son or daughter with the employee for adoption or foster care, and to care for the newly placed child;

(3) In order to care for a family member of the employee, if such family member has a serious health condition;

(4) Because of a serious health condition of the employee;

(5) In order to serve as an organ or bone marrow donor;

(6) Because of any qualifying exigency, as described in section 31-51qq-49 of the Regulations of Connecticut State Agencies, arising out of the fact that the employee's spouse, son, daughter or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces; or

(7) To care for a covered servicemember, as defined in section 31-51qq-50(a)(1) of the Regulations of Connecticut State Agencies, if the employee is the spouse, son, daughter, parent, or next of kin of the covered servicemember.

(b) The right to take leave under the FMLA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption or foster care, or care of a child.

(c) Circumstances may require that the FMLA leave begin before the actual date of birth of a child. An expectant mother may take FMLA leave pursuant to subsection (a)(4) of this section before the birth of the child for prenatal care or if her condition makes her unable to work.

(d) Employers covered by the FMLA are required to grant FMLA leave pursuant to subsection (a)(2) of this section before the actual placement or adoption of a child if absence from work is required for the placement for adoption or foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his or her attorney or the doctor(s) representing the birth parent, submit to physical examination, or travel to another country to complete an adoption. The source of an adopted child (e.g., whether from a licensed placement agency or otherwise) is not a factor in determining eligibility for leave for this purpose.

(e) Foster care is twenty-four (24)-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family that the foster family shall take care of the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

(f) FMLA leave is available for treatment for substance abuse provided the conditions of section 31-51qq-1(x) of the Regulations of Connecticut State Agencies are met. However, treatment for substance abuse does not prevent an employer from taking employment action

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against an employee. The employer may not take action against the employee because the employee has exercised his or her right to take FMLA leave for treatment. However, if the employer has an established policy, applied in a nondiscriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking FMLA leave. An employee may also take FMLA leave to care for a family member who is receiving treatment for substance abuse. The employer may not take action against an employee who is providing care for a family member receiving treatment for substance abuse.

(Adopted effective March 9, 1999; Amended August 3, 2022)