

# Your Employee Rights Under the Family and Medical Leave Act

**What is FMLA leave?**  
The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with job-protected leave for qualifying family and medical reasons. The U.S. Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees. Eligible employees can take up to 12 workweeks of FMLA leave in a 12-month period for:

- The birth, adoption or foster placement of a child with you.
- Your serious mental or physical health condition that makes you unable to work.
- To care for your spouse, child or parent with a serious mental or physical health condition.
- Certain qualifying reasons related to the serious deployment of your spouse, child or parent who is a military service member.

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember with a serious injury or illness may take up to 26 workweeks of FMLA leave in a single 12-month period to care for the servicemember.

You have the right to use FMLA leave in one block of time. When it is medically necessary or otherwise permitted, you may take FMLA leave intermittently in separate blocks of time, or on a reduced schedule by working less hours each day or week. Read Fact Sheet #2816(j) for more information.

FMLA leave is not paid leave, but you may choose, or be required by your employer, to use any employer-provided paid leave if your employer's paid leave policy covers the reason for which you need FMLA leave.

**Am I eligible to take FMLA leave?**  
You are an eligible employee if all of the following apply:

- You work for a covered employer.
- You have worked for your employer at least 12 months.
- You have at least 1,250 hours of service for your employer during the 12 months before your leave, and
- Your employees has at least 50 employees within 75 miles of your work location.

**What does FMLA leave cover?**  
The FMLA does not affect any federal or state law prohibiting discrimination or otherwise any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

State employees may be subject to certain limitations in pursuit of direct lawsuits regarding leave on their serious health conditions. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress.

**What does FMLA leave not cover?**  
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Ref: 29 CFR 825.200

# Independent Contractor or Employee?

**ATTENTION ALL EMPLOYEES, EMPLOYERS, INDEPENDENT CONTRACTORS AND SUBCONTRACTORS:**  
The law says that you are an employee unless:

- You are free from direction and control in performing your job, AND
- You perform work that is not part of the usual work done by the business that hired you OR is not performed on the business's premises, AND
- You are customarily engaged in an independently established trade, occupation, profession or business.

**Independent Contractors:**  
If you are an independent contractor, you must pay all taxes required by Louisiana and Federal Law.

**Employer Consequences:**  
Pursuant to Louisiana Employment Security Law R.S. 23:1711 (G), Penalties for misclassifying a worker as an independent contractor include:

- Fines of up to \$2500 per misclassified worker per instance.
- Imprisonment for up to 90 days.
- Prohibited from contracting with any state agency or political subdivision of the state for three (3) years.

**IT IS AGAINST THE LAW FOR AN EMPLOYER TO MISCLASSIFY EMPLOYEES AS INDEPENDENT CONTRACTORS OR PAY EMPLOYEES OFF THE BOOKS.**

**Employee Rights:**  
If you are an employee, you are entitled to:

- Unemployment benefits, if unemployed through no fault of your own, able to work, and meet other eligibility requirements.
- Workers' Compensation benefits for on-the-job injuries.

**What you can do if you are an independent contractor:**  
Call 1-866-487-9243 or visit [doj.louisiana.gov/fmla](http://doj.louisiana.gov/fmla) to learn more.

If you believe your rights under the FMLA have been violated, you may file a complaint with WHD or file a private lawsuit against your employer in court. **Scan the QR code to learn about our WHD complaint process.**

**Where can I find more information?**  
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An Equal Opportunity Employer Program. Auxiliary aids and services are available upon request to individuals with disabilities. 1-800-259-5154 (TDD)

# EMPLOYEE RIGHTS EMPLOYEE POLYGRAPH PROTECTION ACT

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

**PROHIBITIONS:** Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

**EXEMPTIONS:** Federal, State and local governments are not affected by the law. The law does not apply to tests given by the Federal Government to certain private individuals engaged in national security-related activities.

The Act permits polygraph (a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armed car, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers.

The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in economic loss to the employer.

The law does not preempt any provision of any State or local law or any collective bargaining agreement which is more restrictive with respect to lie detector tests.

# Sickle Cell Trait Discrimination

**Prohibition of sickle cell trait discrimination; exemptions**

**A. It is unlawful for an employer to engage in any of the following practices:**

- Fail or refuse to hire, or to discharge, any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because such individual has sickle cell trait.
- Limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his status as an employee, because such individual has sickle cell trait.
- Reduce the wage rate of any employee in order to comply with the provisions herein.

**B. It is unlawful for an employment agency to fail to refer or refuse to refer for employment, or otherwise discriminate against, any individual because such individual has sickle cell trait or to classify or refer for employment any individual on the basis that such individual has sickle cell trait.**

**C. It is unlawful for a labor organization to engage in any of the following practices:**

- Exclude or expel from its membership, or otherwise discriminate against any individual because of his age.
- Limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, or as an applicant for employment, because of his sickle cell trait.
- Cause or attempt to cause an employer to discriminate against an individual in violation of the provisions herein.

**D. It is unlawful for an employer to discriminate against any of his employees or applicants for employment, or to classify or refer for employment any individual on the basis that such individual has sickle cell trait.**

**E. It is unlawful for an employer to discriminate against any individual because of his sickle cell trait, or to classify or refer for employment any individual on the basis that such individual has sickle cell trait.**

**Acts 1997, No. 1409, §1**  
If you believe you have been discriminated against, please contact the Louisiana Commission on Human Rights at 1-888-468-0658 or visit us at [www.gov.state.la.us/humanRights/humanrights.htm](http://www.gov.state.la.us/humanRights/humanrights.htm).  
LSA-R.S. 51:2231(C)  
Every employer, employment agency, and labor organization shall post and keep posted in conspicuous places upon its premises a notice, to be prepared by the Louisiana Workforce Commission, setting forth information as the department deems appropriate to effectuate the purposes of this Act.  
R.S. 23:352, 354  
Revised April 2010

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# Pregnancy Rights of Employees

**Non-Discrimination:** Louisiana employees who employ more than twenty-five employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year are prohibited from discriminating against an applicant for employment or an employee with medical needs causing limitations arising from pregnancy, childbirth, and related medical conditions.

**Reasonable Accommodations:** Louisiana employers have a general duty to reasonably accommodate an employee's physical limitations caused by her pregnancy, unless the employer can demonstrate the accommodation would pose an undue hardship on the operation of its business. "Reasonable accommodation" may include but is not limited to:

- Modifying existing facilities readily accessible to and usable by an applicant or employee with covered limitations.
- Providing scheduled and more frequent or longer compensated break periods.
- Providing more frequent bathroom breaks.
- Providing a private place, other than a bathroom stall, for the purpose of expressing breast milk.
- Modifying work or duty policy.
- Providing seating or allowing the employee to sit more frequently if the job requires the employee to stand.
- Assistance with manual labor and limits on lifting.
- Temporarily transferring the employee to a less strenuous or hazardous vacant position, if qualified.
- Providing job restructuring or light duty, if available.
- Acquiring or modifying equipment or devices necessary for performing essential job functions; or
- Modifying work schedules.

**Employer Obligations:** In addressing an employee's pregnancy, childbirth, or related medical condition, Louisiana employers may:

- Refuse to promote her.
- Refuse to select her for a training program leading to promotion, provided she is able to complete the training program at least three months prior to the anticipated date of departure from her pregnancy.
- Discharge her from employment or from a training program leading to promotion.
- Discriminate against her in compensation or in terms, conditions, or privileges of employment.
- Provide the same benefits and privileges of employment given other non-pregnant persons, including the taking of disability or sick leave made available to temporarily disabled employees.
- Refuse to leave her for a reasonable amount of time.
- Relocate or transfer her to a less strenuous or hazardous position, if so requested and if a policy, practice, or collective bargaining agreement is in place authorizing such a transfer.

**Consistent with these provisions, an employer may be held in L.A. R.S. 23:341 and 23:342.**

**November 2021**  
The Louisiana Workforce Commission is pleased to announce the release of the **2021-2022 Louisiana Pregnancy Rights Manual**. This manual provides employers with the latest information on pregnancy rights and accommodations. It is available for download at [www.laworks.net](http://www.laworks.net).  
LSA-R.S. 23:342 states this notice shall be posted in a conspicuous place in an area that is accessible to the employee's regular place of work.

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# STATE AND FEDERAL LABOR LAW

# Out-of-State Motor Vehicles

**Duties of employees and employers**

**A. Any person who is a resident of a state which requires registration of the motor vehicle or motor vehicles of a person who is employed in that state within thirty days of such employment, and who is employed in and maintains a residence in Louisiana and who operates one or more vehicles on the public streets and roads in Louisiana shall apply for a certificate of registration for each of those vehicles within thirty days of the date on which the person was employed in Louisiana.**

**B. Each employer in this state shall notify each person employed by that employer of the requirement of Subsection A of this Section. The notice shall be by direct communication at the time of employment and by posting a notice in a prominent location at the place of employment.**

**C. The provisions of this Section shall not be applicable to members actively serving in the armed forces of the United States.**

**Acts 1993, No. 765, §1.**

This notice must be posted in a conspicuous place, setting forth information to effectuate this purpose.  
R.S. 47:501-1  
Revised July 2004

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# Timely Payment of Wages

Your employer has a duty to inform you at the time of your hire what your wage rate will be, how often you will be paid and how you will be paid, and of any subsequent changes thereto.

If your employer should, for reasons within his control, fail to pay you according to that agreement, you must first lodge a complaint with him.

If no action is taken to resolve your complaint, you may report the violation to the Louisiana Workforce Commission.

This notice must be posted in a conspicuous place, setting forth information to effectuate this purpose.  
R.S. 23:633(D)  
Revised January 2016

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# EMPLOYEE RIGHTS UNDER THE FAIR LABOR STANDARDS ACT

**FEDERAL MINIMUM WAGE \$7.25 PER HOUR BEGINNING JULY 24, 2009**

The law requires employers to display this poster where employees can readily see it.

**OVERTIME PAY:** At least 1½ times the regular rate of pay for all hours worked over 40 in a workweek.

**CHILD LABOR:** An employer must be at least 16 years old in most non-farm jobs and at least 18 to work in non-farm jobs designated hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs with certain work restrictions. Different rules apply to agricultural employment.

**TIP CREDIT:** Employer of "food employees" who meet certain conditions may claim a partial wage credit based on tips received by their employees. Employees must spend employees a cash wage of at least \$2.13 each hour if they claim a tip credit. If an employer's cash wage plus the employee's cash wage of at least \$2.13 each hour do not equal the minimum hourly wage, the employer must make up the difference.

**PUMP AT WORK:** The FLSA requires employers to provide reasonable break time for a nursing parent to express breast milk and for the nursing child for one year after the child's birth each time the employee needs to express breast milk. Employees may be absent while expressing breast milk without loss of pay or reduction from coworkers and the public, which may be used by the employer to express breast milk.

**ENFORCEMENT:** The Department has authority to recover back wages and an equal amount in liquidated damages in instances of minimum wage, overtime, and other violations. The Department may litigate or seek enforcement of the law. Employees may file a complaint with the Department. The Department will not retaliate or discriminate against employees who file a complaint with the Department. Civil monetary penalties may also be assessed for violations of the FLSA child labor provisions. Heightened

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# Workers' Compensation

**Reporting Injury:** You should report to your employer any occupational disease or personal injury that is work-related, even if you deem it to be minor.

**Occupational Disease or Death:** In case of an occupational disease, all claims are barred unless the employee files a claim with his/her employer within one year of the date that:

- the disease manifests itself.
- the employee is disabled as a result of the disease.
- the employee knows or has reasonable grounds to believe that the disease is occupationally related.

In case of death arising from an occupational disease, all claims are barred unless the Administration within one year after the accident if payments have not been made or within one year after the last payment of weekly benefits.

**Filing Notice:** In case of injury or death caused by a work-related accident, an injured employee or any person claiming to be entitled to compensation either as a claimant or as a representative of a person claiming to be entitled to compensation, must give notice to the employer within 30 days of the injury. If notice is not given within 30 days, no payments will be made for such injury or death. In addition, any fraudulent act by the employer, employee, or any other person for the purpose of obtaining or delaying any benefit or payment of workers' compensation shall subject such person to criminal as well as civil liabilities.

The above mentioned notice should be filed with the employer at the address shown to the right.

**Notice shall given shall not be held invalid because of any inaccuracy in stating the time, place, nature or cause of injury, or otherwise, unless it is shown that the employer was in fact misled by this statement thereby. Failure to give notice may not bar the employee if the employer knew of the accident or if the employer was not prejudiced by the delay or failure to give notice.**

**Physicians:** In the event you are injured, you are entitled to select a physician of your choice for treatment. The employer may choose another physician and arrange an examination which you would be required to attend.

**Formal Claim:** In order to preserve your right to benefits under the Louisiana Workers' Compensation Law, you must file a formal claim with the Office of Workers' Compensation Administration within one year after the accident if payments have not been made or within one year after the last payment of weekly benefits.

**Information:** If you desire any information regarding your rights and entitlement to benefits as prescribed by law, you may contact or write to the Office of Workers' Compensation Administration, Post Office Box 90400, Baton Rouge, Louisiana 70804-9040 or telephone (225) 243-4000.

**Name and Address of Insurance Company:**

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# Unemployment Insurance

**Notice to Workers:** Your employer is subject to the Louisiana Employment Security Law and is required to post this notice in a conspicuous place. Your employer has contributed to the Louisiana Trust Fund from which benefits are paid. No amount of contributions to the Trust Fund is deductible from your earnings.

**Total Unemployment:** You may be eligible to receive unemployment insurance benefits provided:

- You are unemployed.
- You have registered for work.
- You are able to work, available for work, and actively conducting a search for work.
- You have been paid wages by employers subject to the Louisiana Employment Security Law during your base period in an amount sufficient to qualify you under the law.

**Disqualification:** You may be disqualified from drawing benefits on your claim if:

- You have left work voluntarily without good cause attributable to a substantial change made to the employment by the employer.
- You have been discharged for misconduct connected with your work.
- You fail without good cause to: (a) apply for available suitable work, (b) accept suitable work when offered, or (c) return to your customary self-employment when directed.
- You have been discharged for the use of illegal drugs.

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- You have been discharged for misconduct connected with your work.
- You fail without good cause to: (a) apply for available suitable work, (b) accept suitable work when offered, or (c) return to your customary self-employment when directed.
- You have been discharged for the use of illegal drugs.

**Penalties:** If you make a false statement knowing it to be false or intentionally fail to disclose an important fact in order to receive or increase a benefit amount, you shall be disqualified for not more than the 52 weeks which immediately follow the week in which such determination is made and shall not be entitled to further benefits until cash repayment has been made of the claim for repayment has prescribed.

In addition, the law provides: Whoever makes a false statement or representation to the Agency knowing it to be false, or knowingly fails to disclose a material fact to obtain or increase any benefit or other payment under this Chapter, or under an employment security law of any other State, or the Federal Government, or of a foreign government, either for himself or for any other person, shall be guilty of a misdemeanor, and shall be fined not less than \$50 nor more than \$1,000 or imprisoned for not less than 90 days nor more than 90 days, or both, in the discretion of the court. Each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

**To file a new unemployment claim, reopen an existing claim, file for weekly unemployment benefits, or to get answers about your Unemployment Insurance online, visit us on the Web at [www.laworks.net](http://www.laworks.net).**

**If you do not have access to the internet, or prefer to manage your Unemployment Insurance claim by phone, call the Unemployment Insurance Call Center at 1-866-783-5567.**

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# Genetic Discrimination

**Genetics in the Workplace:** Louisiana law forbids genetic discrimination and limits genetic testing in the workplace. Employees also must not be required to undergo genetic testing or to provide genetic information to their employer. Genetic information includes information about an individual's family history of a disease or disorder in family members of the individual.

**Preventive cancer screening:** Health care is necessary for the detection of cancer in an individual, including but not limited to magnetic resonance imaging, ultrasound, or some combination of tests.

**Genetic testing:** means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect genetic mutations or disease-related genotypes or haplotypes for clinical purposes. It must be performed in a laboratory setting by a health care professional who is qualified to perform such testing and must be performed for a specific medical purpose.

**Genetic information:** means information that identifies an individual as having a particular genetic mutation or disease-related genotype or haplotype for clinical purposes. It must be performed in a laboratory setting by a health care professional who is qualified to perform such testing and must be performed for a specific medical purpose.

**Prohibited Cancer Screening:** An employer, labor organization or employment agency may request prohibited genetic information with an individual or any individual or his or her family members, or the occurrence of a disease or medical condition or disorder in family members of the individual.

**Prohibited Genetic Testing:** An employer, labor organization or employment agency may request prohibited genetic information with an individual or any individual or his or her family members, or the occurrence of a disease or medical condition or disorder in family members of the individual.

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# Earned Income Credit EIC 2023

**Notice to Employees of Federal Earned Income Tax Credit (EIC)**  
If you make \$57,000\* or less, your employer should notify you at the time of hiring of the potential availability of Earned Income Tax Credits. Earned Income Tax Credits are reductions in federal income tax liability for which you may be eligible if you meet certain requirements. Additional information and forms for these programs can be obtained from your employer or the Internal Revenue Service.

**\*Earned Income and adjusted gross income (AGI) must each be less than:**

- \$56,838 (\$63,698 married filing jointly) with three or more qualifying children
- \$52,918 (\$59,478 married filing jointly) with two qualifying children
- \$46,560 (\$53,120 married filing jointly) with one qualifying child
- \$17,640 (\$24,210 married filing jointly) with no qualifying children

You may claim the Earned Income Credit on Form 1040 and add Schedule EIC if you have children.

If you need more information regarding the EITC or to check on updates, you should contact the IRS at 1-800-829-1040 or visit the IRS Website at [www.irs.gov](http://www.irs.gov).

Additional EITC resources are also available at the IRS EITC Home page: <https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit-eic>

Visit the IRS on the Web at [www.irs.gov](http://www.irs.gov) or call toll-free 1-800-829-1040.

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# Job Safety and Health IT'S THE LAW!

**All workers have the right to:**

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request a confidential OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

**Employers must:**

- Provide employees a workplace free from recognized hazards. It is illegal to retaliate against an employee for using any of their rights under the law, including raising a health and safety concern with you or with OSHA, or reporting a work-related injury or illness.
- Comply with all applicable OSHA standards.
- Notify OSHA within 8 hours of a workplace fatality or within 24 hours of any work-related inpatient hospitalization, amputation, or loss of an eye.
- Provide required training to all workers in a language and vocabulary they can understand.
- Prominently display this poster in the workplace.
- Post OSHA citations at or near the place of the alleged violations.

**On-Site Consultation services are available to small and medium-sized employers, without citation or penalty, through OSHA-sponsored consultation programs in every state.**



# EMERGENCY NUMBERS CALL 911

POLICE: \_\_\_\_\_

AMBULANCE: \_\_\_\_\_

PHYSICIAN: \_\_\_\_\_

HOSPITAL: \_\_\_\_\_

FIRE DEPARTMENT: \_\_\_\_\_

POISON CONTROL: \_\_\_\_\_

OSHA: \_\_\_\_\_