
TO: Wisconsin Lawmakers

FROM: Wisconsin Manufacturers and Commerce
Associated Builders and Contractors of Wisconsin
Independent Business Association of Wisconsin
League of Wisconsin Municipalities
Metropolitan Milwaukee Association of Commerce
Midwest Food Products Association
SHRM Wisconsin State Council
Wisconsin Counties Association
Wisconsin Grocers Association
Wisconsin Hospital Association
Wisconsin Independent Businesses
Wisconsin Motor Carriers Association
Wisconsin Petroleum Marketers and Convenience Store Association
Wisconsin Restaurant Association
Wisconsin Transportation Builders Association

DATE: October 5, 2017

RE: Cut duplicative FMLA red tape, co-sponsor LRB 2015

Governor Tommy Thompson signed Wisconsin's FMLA law in 1988. This landmark law granted, among other items, six weeks of unpaid leave for eligible employees to care for a new baby and two weeks to deal with a serious health issue. Five years later, President Clinton signed the federal FMLA law, which granted 12 weeks of unpaid leave for eligible employees.

The two laws have never been harmonized, leaving human resources professionals to wade through two confusing laws to ensure compliance, despite a leave period running concurrently under both laws. This is time consuming and difficult for HR departments, and it makes costly litigation from unintended errors more likely.

LRB 2015 from Senator Alberta Darling (R-River Hills), Representative Joan Ballweg (R-Markesan) and Representative Rohrkaste (R-Neenah) will ease the unintended administrative burden of having duplicative laws. Under the proposal, employers would be exempt from following state law if they also are required to follow federal FMLA requirements. This will clarify for employers and workers what the law is, what benefits are, and help in planning for upcoming leave events. Importantly, it does not reduce the amount of leave allowed under federal law.

Please join Sen. Darling, Rep. Ballweg, and Rep. Rohrkaste in cutting this duplicative red tape by co-sponsoring LRB 2015.

LRB 2015

LRB 2015 by Senator Alberta Darling (R-River Hills), Rep. Joan Ballweg (R-Markesan) and Rep. Mike Rohrkaste (R-Neenah) is a simple bill that simplifies FMLA in Wisconsin by streamlining compliance recordkeeping. Under this proposal, employers required to provide FMLA leave under federal law are exempt from also having to track the same leave under state law, cutting paperwork and compliance costs in half. LRB 2015 also recognizes that there are some differences between state and federal law that should be preserved, such as a 2 week leave allotment under state law to care for a domestic partner or parent-in-law.

Additionally, as under current law, nothing in LRB 2015 stops an employer from providing family or medical leave that is above and beyond what state or federal law requires. Many employers provide more than they're required in order to attract talented workers. With skilled workers in high demand, benefit packages will likely continue to improve going forward, not because of government mandates, but because of a competitive marketplace.

MYTH: LRB 2015 will take away maternity leave.

FACT: Federal law, which this bill solidifies as the standard in Wisconsin, provides 12 weeks of maternity or paternity leave. State law only requires 6 weeks.

MYTH: LRB 2015 will stop a worker from taking time off to care for a mother-in-law, domestic partner, or same-sex spouse.

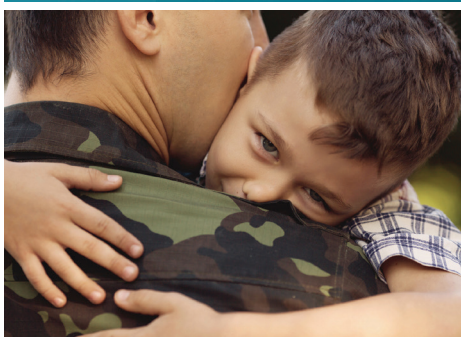
FACT: State law currently provides two weeks of leave to care for a family member, including in-laws and domestic partners. LRB 2015 maintains that leave. Further, on March 27, 2015, the U.S. Department of Labor changed the federal definition of spouse under FMLA to include same-sex spouses, meaning same-sex spouses will be able to care for their loved one under federal law.

MYTH: Wisconsin's law is intended to be better for workers than the federal law.

FACT: Wisconsin's law was signed 5 years before President Clinton signed the federal law. In many areas, federal law is better for workers, such as length of leave, military leave, definition of 12-month period, process and statute of limitations for complaints, and more.

MYTH: LRB 2015 makes it more difficult to file a FMLA claim against my employer.

FACT: In fact, state law only allows claims to be filed with DWD, and they have to be filed within 30 days. Federal law allows court action, up to 2 years after the incident, 3 years if the incident was "willful."



MYTH: LRB 2015 ends FMLA for part time workers.

FACT: Both federal and state FMLA apply to part time workers. Under federal law, workers must average at least 24 hours per week for the preceding year in order to be eligible for the benefit. While that is a slightly higher standard than state law, FMLA is available under LRB 2015 for eligible part time employees, just as it is in most other states. Additionally, nothing prohibits employers from offering leave to additional employees, which many employers do to attract talented workers.

MYTH: LRB 2015 will end FMLA for workers of small businesses.

FACT: If the employer doesn't have at least 50 workers, they aren't required by either state or federal law to provide FMLA leave. Many small businesses that provide FMLA do so because they choose to, not because of a mandate from government.

MYTH: If LRB 2015 passes, workers will lose health insurance benefits if they take a leave of absence.

FACT: Both state and federal law requires the continuation of health insurance while on a FMLA leave, and federal law is actually stronger for workers.

MYTH: LRB 2015 takes away military FMLA entitlements.

FACT: Wisconsin law does not currently offer military leave provisions. Those benefits are only in the federal law.

MYTH: LRB 2015 ends the ability of workers to use FMLA intermittently.

FACT: Federal law requires workers to coordinate with employers regarding intermittent leave to ensure the leave doesn't unduly disrupt workplace operations. Under LRB 2015, intermittent leave will be allowed as it is currently under federal law.

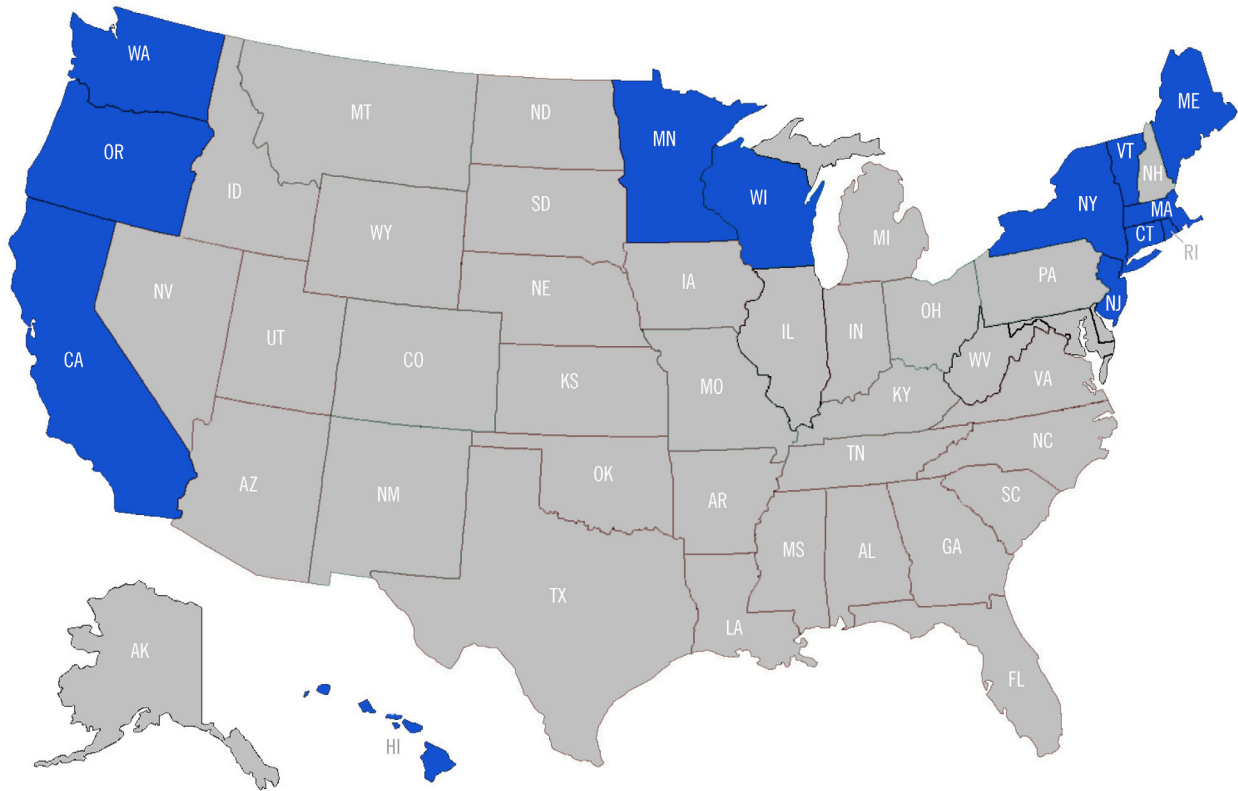
MYTH: FMLA is paid leave, and LRB 2015 will change that.

FACT: Neither state nor federal law mandate paid leave. Both are unpaid. Both laws allow workers to use accrued paid time off, hours such as vacation time, to receive pay while on leave. One difference is that under federal law accrued sick time can only be substituted if used consistently with the employer's policy on sick time.

FOR MORE INFORMATION CONTACT:

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States with Different FMLA Laws than Federal Law*



**www.ncsl.org/research/labor-and-employment/state-family-and-medical-leave-laws.aspx*

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