



## Washington State Military Family Leave Act Q&A

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The following guidelines answer commonly asked questions about the state Military Family Leave Act (MFLA). Federal law also provides for leave for families of military personnel for individuals who qualify for leave under the federal Family Medical Leave Act (FMLA). For information on the federal provisions and qualifications, contact the U.S. Department of Labor's Wage and Hour Division, or visit their Web site at: [www.wagehour.dol.gov](http://www.wagehour.dol.gov).

### **1. What is the purpose of the Washington State Military Family Leave Act (MFLA)?**

The Military Family Leave Act (RCW 49.77) allows for the spouse of a military member to take up to 15 days of leave from work for each deployment when the military spouse is deployed or called up to active duty. The leave may be used prior to the deployment, or during the period when the military spouse is on leave during deployment.

### **2. Which employers are required to provide state MFLA leave?**

All employers who employ a spouse of any military personnel (including National Guard and reserves) whose spouse has received orders to deploy or is called up to active duty during a period of military conflict. However, the employee must work an average of 20 or more hours per week to be eligible.

### **3. Are the 15 days considered to be work days, or total time away from work?**

The 15 days are leave days from work. For example, if a person is scheduled to work 5 days per week, then 15 days of leave will total three complete weeks of leave from work. An employee is not required to use leave on a day when they are not scheduled to work.

### **4. Can the employee split the 15 days of leave over the course of the deployment?**

Yes. The leave can be split between different periods of time (pre-deployment or while the military spouse is on leave during deployment). The total number of days of leave cannot exceed 15 days per deployment.

### **5. Can the state MFLA be used for leave while the spouse is away on the deployment or active duty?**

No. The state leave law may only be used during the period prior to the deployment or when the military spouse is on leave during the deployment.

**6. Can the state MFLA be used when the spouse returns at the end of the deployment or active duty?**

No. The state leave law may only be used during the period prior to the deployment or when the military spouse is on leave during deployment.

**7. Can an employee take paid leave under the state MFLA?**

Yes. If an employee has earned paid time off, the employer must allow the employee to substitute any available paid leave for any leave taken under this law. The law does not force an employer to provide any additional paid leave benefit that they don't already provide to their employees. It is the choice of the employee whether or not to use any earned paid leave.

**8. Does the state MFLA apply to employees whose military spouses are members of the regular armed forces?**

Yes. The state MFLA applies to employees whose spouses are members of the regular armed forces as well as reservists, National Guard, and retired military members called back into service.

**9. Does the state MFLA apply to employees who have a family relationship other than spouse (or registered domestic partner) to the deployed military member?**

No. The state law only applies to employees who are spouses or registered domestic partners of a military member who is being deployed or called to active duty.

**10. Is there a federal law that also allows for military spousal leave?**

Yes. The federal Family Medical Leave Act (FMLA) was amended in 2009 so that an employee may use up to 12 weeks of FMLA leave because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member deployed to foreign soil. There are certain requirements in order for the employee to qualify for FMLA including the size of the business (50 or more employees within 75 miles of employee's work site), the length of time with the employer (one year) and the number of hours worked in the previous 12 months (1,250). For further information on the different qualifying exigencies, and eligibility for FMLA, please visit the following website: <http://www.dol.gov/whd/fmla/index.htm>

**11. If an employee uses federal FMLA related to a military deployment, will any of that federal FMLA leave run concurrent with the state MFLA?**

Yes. Any FMLA-qualified leave related to a deployment may also be counted as state MFLA leave by the employer if the leave is taken before the deployment, or during any period when the military spouse is on leave from deployment.

**12. Can the state MFLA be used if the military spouse is activated to a stateside assignment?**

Yes. The state MFLA is available to the spouse of any military member who is called to report to active duty at any location as long as the leave is taken during a period of war declared by Congress or the President of the United States.

**13. How much notice must an employee give to their employer of the intent to take state MFLA?**

The employee must notify the employer within five business days of receiving official notice of the deployment, active duty, or leave from deployment.

**14. Can an employee change the dates of leave if the military spouse's deployment schedule changes unexpectedly?**

Yes. As long as the employee has given timely notification to the employer when the need for leave is first known, the law does not prevent an employee from switching leave dates on short notice.