

Family and Medical Leave (FMLA)

The Family Medical Leave Act (FMLA) provides up to 12 weeks of leave in each 12-month period to employees “who suffer a ‘serious health condition’ or to care for a parent, spouse or child who suffers a ‘serious health condition,’” provided the employee has been employed by the same employer for one year and has worked at least 1,250 hours in the year preceding the leave. The law also permits leave for purposes of birth of a child, a birth, adoption or foster care placement of a child.

A “serious health condition” can be as severe as extended hospitalization or can include a condition requiring a visit to a healthcare provider and a “regimen of continuing treatment.” Leave may be taken “intermittently” when medically necessary. For instance, an employee who suffers from cancer may take time on a weekly basis over a period of months for ongoing chemotherapy, or an employee may need to take leave on a weekly basis to provide “respite” or relief to another relative who has primary care responsibilities for an aged or infirm parent. However, things like routine doctor’s visits or a doctor’s instructions to take over-the-counter medications, bed rest and exercise to relieve back pain are not typically the types of health issues covered by the FMLA.

It is unlawful for an employer to “interfere” with an employee’s rights under the FMLA by denying leave or even failing to inform an employee of FMLA rights. Similarly, it is unlawful to discharge, demote, or otherwise retaliate against an employee for exercising his or her rights under the FMLA. The FMLA also provides additional leave entitlements to attend to “qualified exigencies” connected with certain military service of a parent, child or spouse, and up to 26 weeks of leave to care for a parent, spouse, child or next of kin who is a covered military service member suffering from a “serious injury or illness” incurred in the line of duty while on active duty.

If you believe you may have been the victim of discrimination under the FMLA please contact a Willig, Williams & Davidson employment lawyer for a consultation.