

# YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

Under FMLA New York State provides up to 12 weeks of paid or unpaid leave (at the employee's option) to "eligible" employees for certain family and medical reasons each calendar year. Employees are eligible if they have worked for the State for at least one year, and for 1250 hours over the previous 12 months.

**REASONS FOR TAKING LEAVE:** Unpaid leave must be granted for any of the following reasons:

- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

At the employee's option, use of leave credits may be substituted for unpaid leave for any absences the employee would otherwise be allowed to charge leave.

**ADVANCE NOTICE AND MEDICAL CERTIFICATION:** The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days' advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

**JOB BENEFITS AND PROTECTION:**

- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan," if the employee wishes to continue it.
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**UNLAWFUL ACTS BY EMPLOYERS:** FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA;
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

**ENFORCEMENT:**

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FOR ADDITIONAL INFORMATION:** Contact your personnel office for further information. In addition, you may also want to contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.