

**LENGTH OF MEDICAL & FAMILY LEAVE ALLOWED UNDER THE FMLA &  
COVERED EMPLOYERS' NUMBER OF EMPLOYEES:  
DEVELOPMENT OF STATUTORY TEXT (1985-1993)**

BILL	LENGTH OF LEAVE <sup>1</sup>	LIMITATIONS ON REDUCED LEAVE	COVERED EMPLOYERS: NUMBER OF EMPLOYEES
<b>99<sup>th</sup> Congress</b>			
<p><b>H.R. 2020 Parental and Disability Leave Act of 1985<sup>2</sup></b></p> <p>April 4, 1985</p> <p>Rep. Schroeder (D- CO) 45 Cosponsors</p>	<p><i>Temporary Disability Leave</i>—</p> <p>Each employee shall be entitled to disability leave of not fewer than <b>26 workweeks in any one calendar year.</b></p> <p><i>Parental Leave</i>—</p> <p>Each employee shall be entitled to parental leave of not fewer than <b>18 workweeks in any two years</b> upon advance notice to his employer.</p>	<p>[Temporary disability leave and parental leave may be taken on a reduced leave schedule] except that the total time period over which such reduced leave is spread <b>may not exceed 39 consecutive weeks.</b><sup>3</sup></p>	<p>The term “employer” means any person engaged in commerce or in any industry or activity affecting commerce who acts directly or indirectly in the interest of an employer to <b>one or more employees</b>, and any agent or successor in interest of such a person.</p>
<p><b>H.R. 4300 Parental and Medical Leave Act of 1986<sup>4</sup></b></p>	<p><i>Temporary Medical Leave</i>—</p> <p>Such entitlement [of medical leave] shall continue for as long as the employee is unable to perform</p>	<p>[Parental leave] may be taken on a reduced leave schedule , in which case—</p>	<p>The term “employer”—</p> <p>means any person who <b>employees five or more employees</b> and is engaged in commerce or in any</p>

<sup>1</sup> For the purposes of this chart, the term “family leave” (or “parental leave”) is limited to the leave needed to care for a family member with a serious health condition. Birth, adoption, and foster care as reasons for family leave are beyond the scope of this document.

<sup>2</sup> H.R. 2020 did not contain any specific reference to “intermittent” leave but provided that temporary disability and parental leave need not be taken consecutively.

<sup>3</sup> Language in brackets is paraphrased language, not exact text.

<sup>4</sup> An express provision for “intermittent” leave was included for the first time in H.R. 4300, on condition of medical necessity for medical and parental leave (but not for birth, adoption, or foster care). All subsequent FMLA bills contained similar provisions for

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<p>March 4, 1986</p> <p>Rep. Clay (D-MO) 126 Cosponsors</p>	<p>such functions, except that it shall not exceed <b>twenty-six workweeks during any twelve month period.</b></p> <p><i>Parental Leave—</i></p> <p>An employee shall be entitled to <b>18 workweeks of parental leave during any twenty-four month period —</b></p>	<p>the total period during which the eighteen weeks may be taken <b>may not exceed thirty-six consecutive workweeks</b>, and</p> <p>such leave shall be scheduled so as not to disrupt unduly the operations of the employer.</p>	<p>industry or activity affecting commerce ...<sup>5</sup></p>
<p><b>S. 2278 Parental and Medical Leave Act of 1986</b></p> <p>April 9, 1986</p> <p>Sen. Dodd (D-CT) 4 Cosponsors</p>	<p><i>Temporary Medical Leave—</i></p> <p>The entitlement [of medical leave] shall continue for as long as the employee is unable to perform the functions, except that it shall not exceed <b>26</b> workweeks during any 12-month period.</p> <p><i>Parental Leave—</i></p> <p>An employee shall be entitled to <b>18 workweeks of parental leave during any 24-month period—</b></p>	<p>[Parental leave] may be taken on a reduced leave schedule. Under the schedule--</p> <p>the total period during which the 18 workweeks may be taken <b>may not exceed 36 consecutive workweeks</b>, and</p> <p>the leave shall be scheduled so as not to disrupt unduly the operations of the employer.</p>	<p>The term “employer”—</p> <p>means any person who employs <b>15 or more employees</b> and is engaged in commerce or in any industry or activity affecting commerce; ...</p>

“intermittent” leave, subject to varying requirements. See Chart on Eligibility for Medical and Family Leave Under the FMLA: Development of the Statutory Text 1985-1993 (Workplace Flexibility 2010, Fall 2004).

<sup>5</sup> This does not reflect the full definition of “employer” under the bill. The second clause went on to state that the term “employer” “includes (i) any person who acts directly or indirectly in the interest of an employer to one or more employees, and (ii) any successor in interest of such an employer and includes any public agency, as defined in Section 3(x) of the Fair Labor Standards Act ...; employees of any such employer shall be deemed to be employees engaged in commerce.” This language basically didn’t change between 1986 and 1993. The final version of the FMLA included this same language but also covered the General Accounting Office and Library of Congress in addition to other public agencies.

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<b>100<sup>th</sup> Congress</b>			
<p><b>H.R. 284 Family and Medical Leave Job Security Act of 1987</b></p> <p>Jan. 6, 1987</p> <p>Rep. Roukema (R-NJ) 2 Cosponsors</p>	<p><i>Temporary Medical Leave</i>—</p> <p>Such entitlement [of medical leave] shall continue for as long as the employee is unable to perform such functions, except that the entitlement <b>shall not exceed 13 workweeks during any 12-month period.</b></p> <p><i>Family Leave Requirement</i><sup>6</sup>—</p> <p>An employee shall be entitled to <b>8 workweeks of family leave during any 24-month period</b>—</p> <p><i>Combined Leave Periods</i>—</p> <p>An employer <b>may limit the combined number of workweeks of family leave, temporary medical leave, vacation leave, sick leave, or other leave to not less than 26 workweeks during any 24 month period.</b></p>	<p>Upon agreement between the employer and the employee, [family leave] may be taken on a reduced leave schedule.</p>	<p>The term “employer”—</p> <p>means any person (i) employs <b>50 or more employees for each working day in each of 20 or more calendar workweeks in the current or preceding calendar year</b>, and (ii) is engaged in commerce or in any industry or activity affecting commerce, ...</p>
<p><b>S. 249: Parental and Medical Leave Act of 1987</b></p> <p>Jan. 6, 1987</p>	<p><i>Temporary Medical Leave</i>—</p> <p>The entitlement [of medical leave] shall continue for as long as the employee is unable to perform the functions, except that the leave <b>shall not exceed 26 workweeks during any 12-month period.</b></p>	<p>[Parental leave] may be taken on a reduced leave schedule. Under the schedule—</p> <p>the total period during which the 18 workweeks may be taken <b>may not</b></p>	<p>The term “employer”—</p> <p>means any person who <b>employs 15 or more employees</b> and is engaged in commerce or in any industry or activity affecting commerce;</p>

<sup>6</sup> In the 100<sup>th</sup> Congress, the House bill replaced the term “parental leave” with “family leave” and expanded the term to include leave to care for a parent with a serious health condition. Later FMLA bills also included an employee’s spouse as an eligible relative under the definition of “family leave.”

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<p>Sen. Dodd (D-CT) 13 Cosponsors</p>	<p><i>Parental Leave</i>—  An employee shall be entitled to <b>18 workweeks of parental leave during any 24-month period....</b></p>	<p><b>exceed 36 consecutive workweeks,</b> and  the leave shall be scheduled so as not to disrupt unduly the operations of the employer.</p>	
<p><b>H.R. 925 Family and Medical Leave Act of 1987</b>  Feb. 3, 1987  Rep. Clay (D-MO) 151 Cosponsors</p>	<p><i>Temporary Medical Leave</i>—  The entitlement [of medical leave] shall continue for as long as the employee is unable to perform the functions, except that it <b>shall not exceed 26 workweeks during any 12-month period.</b></p> <p><i>Family Leave</i>—  An employee shall be entitled to a total of <b>18 workweeks of family leave during any 24-month period....</b></p> <p><i>Combined Leave Periods</i>—  An employer <b>may limit the combined number of workweeks of family leave and temporary medical leave ... to not less than 36 workweeks during any 12-month period.</b></p>	<p>[Family leave] may be taken on a reduced leave schedule, in which case –  the total period during which the 18 workweeks may be taken <b>may not exceed 36 consecutive workweeks,</b> and  the leave shall be scheduled so as not to disrupt unduly the operations of the employer.</p>	<p>The term “employer”—  means any person who (i) employs <b>15 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year,</b> and (ii) is engaged in commerce or in any industry or activity affecting commerce;</p>
<p><b>S. 2488 Parental and Medical Leave Act of 1988</b>  June 8, 1988</p>	<p><i>Temporary Medical Leave</i>—  The entitlement [to medical leave] shall continue for as long as the employee is unable to perform the functions, except that the leave <b>shall not exceed 13 workweeks during any 12-month period.</b></p>	<p>On agreement between the employer and employee, [parental leave] may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction in the total amount of</p>	<p>The term “employer” --  means any person who is engaged in commerce or in any industry or activity affecting commerce who <b>employs 20 or more employees at any one worksite for each working day during each of 20 or more</b></p>

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Sen. Dodd (D-CT) 28 Cosponsors	<p><i>Parental Leave—</i></p> <p>An employee shall be entitled, subject to [certification requirements] to <b>10 workweeks of parental leave during any 24-month period....</b></p>	leave to which the employee is entitled.	<b>calendar workweeks in the current or preceding calendar year....</b>
<b>101<sup>st</sup> Congress</b>			
<p><b>H.R. 770 Family and Medical Leave Act of 1989</b></p> <p>Feb. 2, 1989</p> <p>Reps. Clay/ Roukema 151 Cosponsors</p>	<p><i>Temporary Medical Leave—</i></p> <p>Such entitlement [to medical leave] shall continue for as long as the employee is unable to perform such functions, except that it <b>shall not exceed 15 workweeks during any 12-month period.</b></p> <p><i>Family Leave—</i></p> <p>An eligible employee shall be entitled subject to [certification requirements] to <b>10 workweeks of family leave during any 24-month period....</b></p>	Upon agreement between the employer and employee, [family leave] may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction of the total amount of leave to which the employee is entitled.	<p>The term “employer” means any person engaged in commerce or any activity affecting commerce who—</p> <p>during the 3-year period beginning after the effective date of this title, employs <b>50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;</b> or</p> <p>after such period, employs <b>35 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year.</b></p>
<p><b>S. 345 Family and Medical Leave Act of 1989</b></p> <p>Feb. 2, 1989</p> <p>Sen. Dodd (D-CT) 24 Cosponsors</p>	<p><i>Temporary Medical Leave—</i></p> <p>The entitlement to [temporary medical leave] shall continue for as long as the employee is unable to perform the functions, except that the leave <b>shall not exceed 13 workweeks during any 12-month period.</b></p>	On agreement between the employer and the employee, [family leave] may be taken on a reduced leave schedule, however, such reduced leave schedule shall not result in a reduction of the total amount of leave to which the employee is entitled.	<p>The term “employer”—</p> <p>means any person engaged in commerce or in any industry or activity affecting commerce who <b>employs 20 or more employees at any one worksite for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year ....</b></p>

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	<p><i>Family Leave—</i></p> <p>An employee shall be entitled, subject to [certification requirements], to <b>10 workweeks of family leave during any 24-month period....</b></p>		
<p><b>S. 2973 Family and Medical Leave Act of 1990</b></p> <p>Aug. 3, 1990</p> <p>Sen. Dodd (D-CT) 25 Cosponsors</p>	<p><i>Leave Requirement—</i></p> <p>Subject to [certification requirements] an eligible employee shall be entitled to <b>12 workweeks of leave during any 12-month period....</b></p>	<p>On agreement between the employer and the employee, [medical and family] leave may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which such employee is entitled.</p>	<p>The term “employer”—</p> <p>means any person engaged in commerce or in any industry or activity affecting commerce who employs <b>50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;</b></p>
<b>102<sup>nd</sup> Congress</b>			
<p><b>H.R. 2 Family and Medical Leave Act of 1991</b></p> <p>Jan. 3, 1991</p> <p>Reps. Clay/Roukema 182 Cosponsors</p>	<p><i>Leave Requirement—</i></p> <p>An eligible employee shall be entitled, subject to [certification requirements], to <b>12 workweeks of leave during any 12-month period ....</b></p>	<p>Upon agreement between the employer and the employee, [medical and family] leave may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.</p>	<p>The term “employer”—</p> <p>means any person engaged in commerce or any activity affecting commerce who employs <b>50 or more employees for each working day during each of 20 or more workweeks in the current or preceding calendar year.</b></p>
<p><b>S.5 Family and Medical Leave Act of 1991</b></p>	<p><i>Leave Requirement—</i></p> <p>Subject to [certification requirements] an eligible employee shall be entitled to <b>12 workweeks of leave during any 12-month period....</b></p>	<p>On agreement between the employer and the employee, [medical and family] leave may be taken on a reduced leave schedule. Such reduced leave schedule shall not</p>	<p>The term “employer”—</p> <p>means any person engaged in commerce or in any activity affecting commerce who employs <b>50 or more employees for each working day during each of 20</b></p>

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Jan. 14, 1991  Sen. Dodd (D-CT) 39 Cosponsors		result in a reduction in the total amount of leave to which the employee is entitled.	<b>or more calendar workweeks in the current or preceding calendar year ....</b>
<b>H.R. 4308 Family Emergencies and Medical Leave Act of 1992</b>  Feb. 25, 1992  Rep. Penny (D-MN)	<i>Leave Requirement—</i>  Subject to [certification requirements], an employee shall be entitled to leave during any 12-month period as follows:  <p style="text-align: center;"><b>6 workweeks of [family] leave....</b></p> <p style="text-align: center;"><b>6 workweeks of [medical] leave....</b></p> <p style="text-align: center;"><b>12 workweeks of leave for [birth, adoption, or foster care of a son or daughter].</b></p> The total leave which may be taken [for medical or family leave] may not exceed 6 workweeks.  The total amount of leave which may be taken [for birth or adoption] may not exceed 12 workweeks.  The total leave which may be taken [for medical leave, family leave, birth, adoption and foster care] may not exceed 12 workweeks.	On agreement between the employer and the employee, [medical and family] leave may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.	The term “employer” means—  during the first 2 years after the date of the enactment of this title, any person engaged in commerce or in any activity affecting commerce who employs <b>100 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year</b> , and  thereafter, any person engaged in commerce or in any industry or activity affecting commerce who employs <b>50 or more employees for each working day during each of 30 or more calendar workweeks in the current or preceding calendar year....</b>
<b>H.R. 5973 Family Investment Act of 1992 (Title I is the Family and</b>	<i>Leave Requirement—</i>  Subject to [certification requirements], an eligible employee shall be entitled to <b>12 workweeks of [medical or family] leave during any 12-month</b>	On agreement between the employer and the employee, [medical and family] leave may be taken on a reduced leave schedule. Such reduced leave schedule shall not	The term “employer”—  means any person engaged in commerce or in any industry or activity affecting commerce who employs <b>50 or more employees for each working day during</b>

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<p><b>Medical Leave Act)</b></p> <p>Sept. 17, 1992</p> <p>Rep. Schroeder (D-CO)</p> <p>16 Cosponsors</p>	<p>period....</p>	<p>result in a reduction in the total amount of leave to which the employee is entitled....</p>	<p><b>each of 20 or more calendar workweeks in the current or preceding calendar year....</b></p>
<b>103<sup>rd</sup> Congress</b>			
<p><b>H.R. 1 Family and Medical Leave Act of 1993</b></p> <p>Jan. 5, 1993</p> <p>Reps. Ford (D-MI) &amp; Clay (D-MO)-</p>	<p><i>Leave Requirement—</i></p> <p>Subject to [certification requirements], an eligible employee shall be entitled to <b>12 workweeks of [medical or family] leave during any 12-month period....</b></p>	<p>On agreement between the employer and the employee, [medical and family] leave ... may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled ... beyond the amount of leave actually taken.</p>	<p>The term “employer”—</p> <p>means any person engaged in commerce or in any industry or activity affecting commerce who employs <b>50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year....</b></p>
<p><b>S. 5 Family and Medical Leave Act of 1993</b></p> <p>Jan. 21, 1993</p> <p>Sen. Dodd (D-CT)</p> <p>46 Cosponsors</p>	<p><i>Leave Requirement—</i></p> <p>Subject to [certification requirements], an eligible employee shall be entitled to a total of <b>12 workweeks of [medical or family] leave during any 12-month period....</b></p>	<p>Subject to [employer option for foreseeable leave to transfer employee temporarily to an available alternative position that has equivalent pay and benefits and better accommodates recurring periods of leave], [requirements for foreseeable leave, including employee’s duties to make a reasonable effort to schedule medical treatments so as not to disrupt unduly employer operations</p>	<p>The term “employer”—</p> <p>means any person engaged in commerce or in any industry or activity affecting commerce who employs <b>50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year....</b></p>

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		<p>and to provide not less than 30 days notice to the employer before leave is to begin or if treatment requires a change in the date of treatment, prior notice as is practicable], and [certification that includes dates of treatment and expected duration], [medical and family] leave ... may be taken intermittently or on a reduced leave schedule when medically necessary.</p> <p>The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled ... beyond the amount of leave actually taken</p>	
<p><b>P.L. 103-3 Family and Medical Leave Act of 1993</b></p> <p>Feb. 5, 1993</p>	<p><i>Leave Requirement—</i></p> <p>Subject to [certification requirements] an eligible employee shall be entitled to a total of <b>12 workweeks of [medical or family] leave during any 12-month period....</b></p>	<p>Subject to [employer option for foreseeable leave to transfer employee temporarily to an available alternative position that has equivalent pay and benefits and better accommodates recurring periods of leave], [requirements for foreseeable leave, including employee’s duties to make a reasonable effort to schedule medical treatments so as not to disrupt unduly employer operations and to provide not less than 30 days notice to the employer before leave</p>	<p>The term “employer”—</p> <p>means any person engaged in commerce or in any industry or activity affecting commerce who employs <b>50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year....</b></p>

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		<p>is to begin or if treatment requires a change in the date of treatment, prior notice as is practicable], and [certification that includes dates of treatment and expected duration], [medical and family] leave ... may be taken intermittently or on a reduced leave schedule when medically necessary.</p> <p>The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled ... beyond the amount of leave actually taken.</p>	