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**Breaking Down
The Most Common
Leave Types**



No matter our efforts to slow it down, life continues building out our individual stories as moment after moment passes by.

When the moment is big enough, it can come with a level of force that completely derails us from the path we thought we were headed on. If we could compartmentalize the countless moments that define our lives over time we'd see a complex mosaic of highs and lows, work obligations and leisure, stressful situations and peace, tearful laughter and tearful sorrow.

Sometimes they are moments of joy, like bringing a new human into your orbit, other times it's mourning the loss of the only person that's ever mattered to you. It's moments like these that work suddenly becomes of secondary importance, and your journey toward adjusting to your new life begins.

Regardless of what the moment is, the ways in which employees are supported can be confusing at best.

At the federal level, FMLA provides eligible employees with unpaid, job-protected leave for certain family and medical reasons. While FMLA extends beyond pregnancy leave, it's an important element of most pregnancy leaves and therefore we're discussing it upfront.



Similarly many states have unpaid job protection laws similar to FMLA, and some even offer paid family and medical leave programs, which vary in policy from state to state, and typically include a state-administered leave benefit for workers when they encounter a serious health condition that prevents them from working, or when time is needed to care for a family member, bond with a new child, or to spend time with a family member preparing for military service overseas.

Each type of leave of absence has its quirks, processes and support needed to ensure that the transition from work to life for the human affected is a positive one. This information must spread beyond HR and People Teams so that employees and their managers alike can be informed across the board. In this book we breakdown the most common leave types.





New Child Leave

Whether you are a birthing parent, the partner of one, or realizing your adoption dreams, the ability to take care of yourself and your newest addition is vital to the health of your expanded family. How pregnancy and adoption leave is handled varies from organization to organization, so here are the most vital aspects you'll need to know.

Pregnancy Disability Leave

Some companies (hopefully yours) and states (also hopefully yours) offer leave benefits beyond FMLA like Pregnancy disability leave (PDL) to support birthing parents with medical issues during pregnancy and in their physical recovery from childbirth. The specifics of an organization's PDL policy will vary as will time off provided by a specific state.

As outlined in our 2022 State-By-State Leave Law Report, as of May, 2022, seven states (California, Connecticut, Massachusetts, New Jersey, New York, Rhode Island, and Washington) plus D.C. have paid family and medical leave programs. In addition, four other states have passed legislation to offer paid leave benefits in the near future: Oregon – 2023; Colorado – 2024; Maryland – 2025; Delaware – 2026

How does PDL work?

Pregnancy disability leave is a type of leave that a birthing parent takes because of a pregnancy, childbirth, conditions related to a pregnancy, or conditions that are exacerbated as a result of pregnancy or childbirth.

In some cases, this leave can be combined with baby bonding leave (more on that below). If a company or state offers baby bonding leave a birthing parent could potentially utilize PDL and then move into baby bonding leave per their organization's policy.

How long does it last?

The truth is...it varies. The total time a pregnancy disability leave lasts is dependent on a few factors including, but not limited to:

- The employee's company policy for PDL
- The state law for PDL or FMLA (if applicable)
- The medical certification provided by the employee's doctor.





New Child Bonding Leave

How does it work?

Just like with Pregnancy Disability Leave, some organizations and states provide leave in addition to FMLA which focuses specifically on baby bonding.

Similarly, the details of any given baby bonding leave policy will be company-specific, but unlike PDL, baby bonding leave may apply to not just birthing parents, but for non-birthing parents and a newly placed child via adoption or through foster care as well.

How long does it last?

Typically, a company will offer bonding leave for non-birthing parents as of the date of birth/placement, and bonding leave for birthing parents after they've physically recovered from childbirth. A company's bonding leave benefit will typically run concurrently with any available STD or paid state family leave benefit and act as a "top up."





Caregiver Leave

Taking care of a family member who is dealing with a serious health condition is the type of leave no one is prepared for. Sometimes organizations go above and beyond what FMLA leave provides, and in the event an employee isn't eligible for FMLA, caregiver leave can make all the difference to your people.

How does it work?

Let's start with where FMLA comes into play. An employee can use FMLA leave if the employee's spouse, child or parent has a serious health condition. In this case:

"Parent" means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a child. This term does not include "parents-in-law."

"Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is: a) under 18 years of age, or b) 18 years of age or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.

States can be much more expansive in terms of how they define a "family member" covered by their state-specific family and medical leave laws. Some cover grandparents, siblings, etc...Some States permit time off for caring for someone who is "like family," but not related. Take a look at the states where you have employees residing and document how they define it.

Some organizations provide a stand-alone caregiving leave policy on top of FMLA because there might be a situation where the employee either isn't eligible for FMLA, or the company wants to provide pay when there is no paid state leave benefit offered by the state--or a top up to that state benefit that exists to get the employee to 100% of their usual pay.





Medical Leave

How does it work? Employees eligible for FMLA may use it for their own serious health conditions if it means they're unable to perform the functions of their job, however, some employers offer a supplemental medical leave policy as well. An employer typically offers their own medical leave to provide some sort of payment while the employee is out on FMLA, unpaid state leave or even ADA. Or, if there is wage replacement from STD or a paid state benefit, the employer's policy acts as a top up to get the employee to 100% of their usual pay.

Medical leave policies are highly likely to vary, and some employers require employees to apply for state disability insurance (for states like California that have such programs) or short-term disability insurance in order to help with compensation.

A few words on ADA: While FMLA does cover leave for medical conditions, employers need to consider offering leave as an accommodation under the Americans with Disabilities Act (ADA). When an employee needs time off for their own medical condition, and: a) is ineligible for FMLA or any similar state leave laws; or b) has exhausted all of their leave entitlement under FMLA/state leave laws, ADA leave may be required

Some important ADA requirements for employers:

Employers must refrain from discriminating against qualified individuals because of a disability

Employers must provide a "reasonable accommodation" to individuals with a disability

In this case, a "reasonable accommodation" is: a change in the work, workplace or application process that helps make it possible for an individual with a disability to perform or apply for a job. Leave may also need to be provided as an accommodation if time away from work will help them return and perform their job duties.

A medical leave tidbit: In most instances, an employee will need to provide an official note from their medical provider in order to qualify for medical leave. FMLA and state programs require this as well, and it's extremely common for employers to require this in order to qualify for this benefit.





Military Leave

Military leave policies can come in a few varieties, but they're all centered around providing leave support for members of the military, or employees related to members of the military.

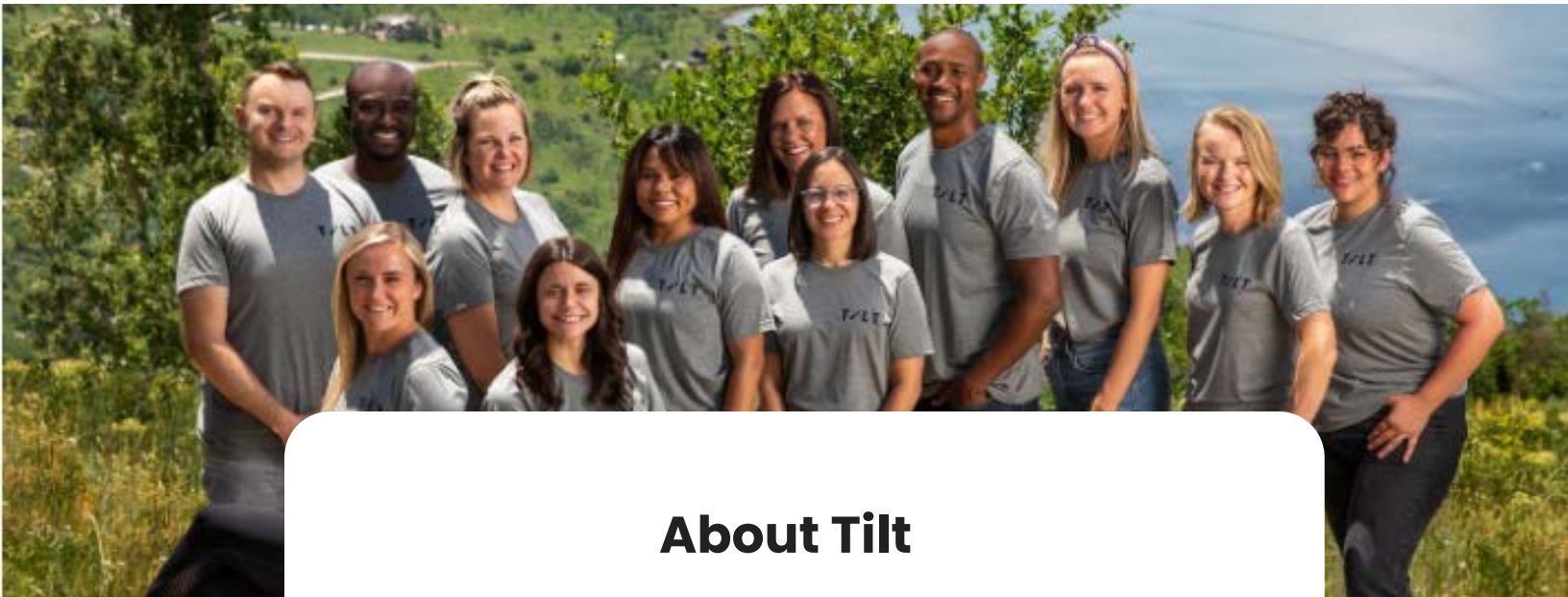
A military leave policy tells employees that their employer recognizes the special circumstances that are associated with military service, or being in a family with active service members.

Examples of Military Leave

Military Caregiver leave. A military caregiver leave is typically offered to a spouse, son, daughter, parent, or next of kin to a covered servicemember. An employee might use this leave to care for one's military family member who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty, including a preexisting injury or illness that was aggravated in the line of duty on active duty.

USERRA Military Leave. The "Uniformed Services Employment and Reemployment Rights Act," AKA USERRA is a federal law that generally provides up to five years of job and benefits protection to employees who are called to military training or service. It covers members of the Armed Forces, Reserves, National Guard and certain other uniformed services, and protects these military service members and veterans from discrimination on the basis of their service, and allows them to regain their civilian jobs following a period of uniformed service.





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