

Executive Order No. 11 – Paid Family Leave Frequently Asked Questions

These frequently asked questions provide guidance on Governor Lee's Executive Order 11 regarding paid family leave, issued January 7, 2020. This document will be updated as additional guidance becomes available.

What is Paid Family Leave (PFL)?

Pursuant to Executive Order 11, PFL will provide full-time executive branch employees, subject to Tennessee Code Annotated, Title 8, Chapter 30, with up to 12 workweeks of paid leave in a 12-month period in the event of a qualifying medical condition for themselves or a covered family member. PFL will compensate employees at 100% of their regular rate of pay/salary.

When will PFL go into effect?

Employees will be eligible for PFL effective March 1, 2020.

ELIGIBILITY

Who is eligible for PFL?

Any executive branch employee, subject to Tennessee Code Annotated, Title 8, Chapter 30, who qualifies for leave under the federal Family and Medical Leave Act (FMLA) will qualify for PFL. As with FMLA, to qualify for PFL, an employee must have worked for the State of Tennessee for at least 12 months during the past 7 years *and* worked at least 1,250 hours in the 12 months preceding the leave.

How can I find out if I am eligible for PFL?

Employees should consult with their agency FMLA coordinator and/or Human Resources officer for assistance regarding the determination of eligibility.

QUALIFYING EVENT

What events qualify me for PFL?

An employee must experience one of the following qualifying events to be eligible for PFL:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- A qualifying exigency, as determined by the Commissioner of Human Resources by policy, arising out of the fact that the spouse, child, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.
- To care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, or next of kin of the servicemember.

What is considered a “qualifying event”?

Each “qualifying event” requires a case-by-case analysis. A “qualifying event” is considered a serious health condition, which is an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. A serious health condition does not apply to routine medical examinations, such as a physical, or to common medical conditions, such as an upset stomach, unless complications develop.

What if I have more than one “qualifying event” in the 12-month period?

An employee is limited to a total of 12 workweeks of PFL within a 12-month period. This includes situations in which an employee may be eligible for leave for more than one qualifying event.

What if I am already on approved FMLA leave before March 1, 2020?

If an employee is on approved FMLA leave prior to March 1, 2020 and has not used all of his/her FMLA leave (continuous or intermittent), then the remainder of the employee's approved leave shall be considered PFL beginning March 1, 2020. This does not extend the 12-week eligibility for the 12-month period.

LEAVE USAGE

Will leave under PFL count against my accrued compensatory, annual, or sick leave balances?

No. An employee will not be required to use any accrued compensatory, annual, or sick leave while receiving PFL. However, if an employee has exhausted all PFL entitlements and requires additional leave, the employee will be required to use accrued compensatory, annual, or sick leave before entering into a leave without pay status.

Will I accrue leave while on PFL?

If an employee is taking PFL continuously, the employee will not accrue annual or sick leave. In order for an employee to accrue leave, the employee would have to work at least a major portion of a month. A major portion of a month is defined as one-tenth (0.1) of one (1) hour over fifty percent (50%) of the employee's portion of scheduled working hours in any month.

Am I still eligible for short-term disability or Sick Leave Bank benefits if I take PFL?

PFL does not impact an employee's eligibility for short term disability or sick leave bank benefits. However, an employee may not use short-term disability or sick leave bank benefits concurrently with PFL. Short-term disability and sick leave bank benefits require an employee to enter into a leave without pay status for a period of time before benefits will apply.

For more information on short-term disability, [click here](#). For more information on sick leave bank benefits, [click here](#).

If I have an injury that makes me eligible for workers' compensation, am I still eligible for PFL?

Workers' compensation is insurance that provides cash benefits and/or medical care for employees who are injured or become ill as a direct result of their job. Employees are not eligible for PFL if receiving workers' compensation benefits.

MISCELLANEOUS

How is PFL different from leave under the federal Family and Medical Leave Act (FMLA)?

The federal Family and Medical Leave Act is a United States labor law that provides job-protected, **unpaid** leave for employees for qualified medical and family reasons.

If an employee has an event that qualifies for leave under both FMLA and PFL, the leave will run concurrently, and the employee will be designated as such.

How does PFL coordinate with Tennessee Parental Leave Act (TPLA)?

The TPLA allows an employee to take up to 4 months of unpaid leave for pregnancy, childbirth, and nursing an infant. To be eligible, the employee must be in a full-time position with state government for at least 12 consecutive months.

Leave under the TPLA will run concurrently with PFL and FMLA; however, only 12 weeks will be covered by PFL.

How are my insurance premiums handled if I take PFL?

Insurance premiums should not be affected. However, for questions regarding insurance premiums, please contact your agency FMLA Coordinator and/or Human Resources Department.

Who may I contact if I have additional questions regarding PFL?

Employees should present PFL questions to the Department of Human Resources Service Center at (615) 741-4841 or HR.ServiceCenter@tn.gov.