



Leave Comparative Chart

1a	Family and Medical Leave Act (FMLA)	King County Family Medical Leave (KCFML)	Washington Family Leave Act (WFLA)	Washington Family Care Act (WFCA)
Eligible Employee	Employed at least 12 months (<i>need not be 12 consecutive months of employment</i>) and worked 1,250 hours in the past 12 months <i>29 CFR 825.100</i>	Employed at least 12 months and worked 510 hours (PT Local 587), or 910 hours (35-hr workweek), or 1040 hours (40-hr workweek). <i>KCC 3.12.220H(6), (7); KCC 3.12.220I</i>	Employed at least 12 months and worked 1,250 hours in the past 12 months. <i>RCW 49.78.030</i>	Employees who receive paid leave benefits may use any or all of the employee's choice of sick leave or other paid time off. <i>RCW 49.12.270 (1) WAC 296-130-030</i>
Exemptions for Key Employees	May deny reinstatement for highest paid 10% and denial is necessary to prevent "substantial and grievous economic injury" and employer notifies employee of its intent to deny reinstatement. <i>29 CFR 825.217</i>	Not addressed.	May deny reinstatement for highest paid 10% and denial is necessary to prevent "substantial and grievous economic injury" and employer notifies employee of its intent to deny reinstatement. <i>RCW 49.78.030 (5)</i>	Not addressed.
Reason for Leave	(1) Birth of a child (within 12 months of birth). (2) Placement of a child for adoption or foster care. (3) Serious health condition of employee's spouse, parent or child. (4) Serious health condition of employee that makes him/her unable to perform the functions of the position. (5) Qualifying exigency leave (6) Military caregiver leave <i>29 CFR 825.112a</i>	(1) Birth and care of a child and/or placement of a child for adoption or foster care (within 12 months of birth, adoption or placement). (2) Care of the employee's child or child of the employee's spouse or domestic partner whose illness or health condition requires treatment or supervision by the employee. (3) Care of a family member who suffers from a serious health condition. (4) Employee's serious health condition that makes him/her unable to perform the functions of the position. <i>KCC 3.12.220 (H,I)</i>	(1) Birth and care of a child and/or placement of a child for adoption or foster care (within 12 months of birth, adoption or placement). (2) Care for the employee's family member with a serious health condition or emergency. (3) Serious health condition of employee that makes him/her unable to perform the functions of the position. <i>Note: Leave for pregnancy disability may be in addition to FMLA.</i> <i>RCW 49.78.020</i>	(1) Care for a child under 18 years with a health condition requiring treatment or supervision. (2) Care for a child over 18 years who is incapable of self-care because of a mental or physical disability. (3) Care for a spouse, Washington State registered domestic partner, the parent of the employee, spouse or domestic partner, or grandparent of the employee who has a serious health condition or an emergency condition. <i>RCW 49.12.265, WAC 296-130</i>

1b	Family and Medical Leave Act (FMLA)	King County Family Medical Leave (KCFML)	Washington Family Leave Act (WFLA)	Washington Family Care Act (WFCA)
Definitions of Family Member	<p><u>Spouse</u>: Husband or wife as defined under state law for purposes of marriage in the state where the employee resides.</p> <p><u>Parent</u>: Biological, adoptive, step or foster parent of an employee or an individual who stands or stood <i>in loco parentis</i> to an employee when the employee was a child.</p> <p><u>Son or daughter</u>: Biological child, adopted child, foster child, stepchild, legal ward or child of a person standing <i>in loco parentis</i>, who is under 18 years of age or 18 years or older and incapable of self-care because of mental or physical disability.</p> <p><u>Son or daughter of a covered servicemember</u>: Biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.</p> <p><u>Son or daughter on active duty or call to active duty status</u>: The employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on active duty or called to active duty status, and who is of any age.</p>	<p><u>Spouse</u>: Husband or wife.</p> <p><u>Domestic partner</u>: Two people in a domestic partnership, one of whom is a county employee, and who are listed in the employee's Affidavit of Marriage/Domestic Partnership in Benefits, Payroll and Retirement.</p> <p><u>Employee's parent</u>: Biological or adoptive parent of an employee or an individual who stands or stood <i>in loco parentis</i> to an employee when the employee was a child.</p> <p><u>Parent of the spouse or domestic partner</u>: Biological or adoptive parent of the employee's spouse or domestic partner or an individual who stands or stood <i>in loco parentis</i> to the employee's spouse or domestic partner when he or she was a child.</p> <p><u>Child</u>: A biological child, adopted child, foster child, stepchild, legal ward or child of a person standing <i>in loco parentis</i>, who is under 18 years of age or 18 years or older and incapable of self-care because of mental or physical disability.</p> <p><i>KCC 3.12.220</i></p>	<p><u>Spouse</u>: Husband or wife.</p> <p><u>Domestic Partner</u>: Two people, one of whom is a county employee, who are in a Washington State registered domestic partnership and have been issued a certificate by the Secretary of State.</p> <p><u>Child</u>: A biological child, adopted child, foster child, stepchild, legal ward or a child of a person standing <i>in loco parentis</i>, who is under 18 years of age or 18 years or older and incapable of self-care because of mental or physical disability. This also includes the child of a Washington State registered domestic partner.</p> <p><u>Parent</u>: Biological parent of an employee or an individual who stands or stood <i>in loco parentis</i> to an employee when the employee was a child.</p> <p><i>RCW 49.78.020 and 26.60.030</i></p>	<p><u>Spouse</u>: Husband or wife.</p> <p><u>Domestic Partner</u>: Two people, one of whom is a county employee, who are in a Washington State registered domestic partnership and have been issued a certificate by the Secretary of State.</p> <p><u>Employee's parent</u>: Biological or adoptive parent of an employee or individual who stands or stood <i>in loco parentis</i> to an employee when the employee was a child.</p> <p><u>Parent of the spouse or domestic partner</u>: Parent of the employee's spouse or Washington State registered domestic partner.</p> <p><u>Child</u>: A biological child, adopted child, foster child, stepchild, legal ward or a child of a person standing <i>in loco parentis</i>, who is under 18 years old or 18 years or older and incapable of self-care because of a mental or physical disability. <i>(Note: This does not include healthy newborns.)</i></p> <p><u>Grandparent</u>: Parent of a parent of an employee.</p> <p><i>RCW 49.12.265 and 26.60.030 WAC 296.130.020</i></p>

<p>1b continued</p>	<p>Family and Medical Leave Act (FMLA)</p>
<p>Definitions of Family Member</p>	<p><u>Next of kin of a covered servicemember means:</u> the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA</p> <p><i>Note: FMLA does not cover domestic partners.</i></p> <p>29 CFR 825.800</p>

1c	Family and Medical Leave Act (FMLA)	King County Family Medical Leave (KCFML)	Washington Family Leave Act (WFLA)	Washington Family Care Act (WFCA)
Length of Leave	<p>12 workweeks during any 12-month period. King County has chosen to use the rolling calendar method of determination. 29 CFR 825.100</p> <p><u>Intermittent/reduced leave:</u> (1) By employer/employee agreement for the birth, adoption or placement of a child. (2) Without agreement when medically necessary for an employee's own or family member's serious health condition. (3) Leave due to a qualifying exigency. 29 CFR 825.202 (4) If foreseeable and based on planned medical treatment, employee may temporarily be transferred to an alternative position for which the employee is qualified and provides equivalent pay and benefits. 29 CFR 825.204</p> <p><u>Spouses of same employer:</u> A husband and wife employed by KC are limited to a combined total of 12 weeks of leave for birth, adoption or placement of a child. 29 CFR 825.201b</p>	<p>18 weeks of unpaid leave within a 12-month period (rolling).</p> <p><u>Intermittent/reduced leave only:</u> (1) For the birth, placement or adoption of a child and needs to be authorized by employee's appointing authority. (2) When medically necessary due to a serious health condition of the employee or a family member of the employee. (3) If foreseeable and based on planned medical treatment, employee may temporarily be transferred to an alternative position for which the employee is qualified</p> <p><i>KCC 3.12.220 (I)</i></p>	<p>12 workweeks during any 12-month period. King County has chosen to use the rolling calendar method of determination.</p> <p><u>Intermittent/reduced leave:</u> (1) By employer/employee agreement for the birth, adoption or placement of a child. (2) Without agreement when medically necessary for an employee's own or family member's qualifying condition. (3) If foreseeable and based on planned medical treatment, employee may temporarily be transferred to an alternative position for which the employee is qualified and provides equivalent pay and benefits. 49.78.230</p> <p><u>Limited Leave:</u> An employee and his or her spouse or domestic partner who are eligible for WFLA and employed by KC are limited to a combined total of 12 weeks of leave for the birth, adoption or placement of a child. <i>RCW 49.78.020, and 49.78.260</i></p>	Not addressed.

1d	Family and Medical Leave Act (FMLA)	King County Family Medical Leave (KCFML)	Washington Family Leave Act (WFLA)	Washington Family Care Act (WFCA)
Certification for Leave	May require certification from health care provider. Second opinion permitted at employer's expense if validity of certification doubtful. Third opinion at employer's expense conclusive. <i>29 CFR 825.305</i>	Not addressed.	May require certification from health care provider. Second opinion permitted at employer's expense if validity of certification doubtful. Third opinion at employer's expense conclusive. <i>RCW 49.78.050</i>	Employer may require certification.
Employee Notice to Employer	<u>Foreseeable</u> : 30 days <i>29 CFR 825.302</i> <u>Unforeseeable</u> : As soon as practicable (1-2 business days). Employees must provide sufficient notice to make employer aware of FMLA-qualifying leave. <i>29 CFR 825.303</i>	Not addressed.	<u>Foreseeable</u> : 30 days <u>Unforeseeable</u> : As soon as practicable (1-2 business days) <i>RCW 49.78.040</i>	Not addressed.
Alternative Duty Work	Employee may be required to work in an alternative position if employee is on intermittent or reduced-schedule leave. <i>29 CFR 825.204a</i>	Not addressed.	If employee requests intermittent leave/reduced leave schedule for their own or family member's serious health condition when the condition is foreseeable based on planned medical treatment, the employer may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and: (a) has equivalent pay and benefits, and (b) better accommodates recurring periods of leave than the employee's regular employment position. <i>RCW 49.78.230 (2)</i>	Not addressed.
Transitional Duty Work	Employee is permitted, but not required, to accept light duty when certified for full-time FMLA. If certified for intermittent or reduced-schedule FMLA, the employee may be required to accept alternative work for the hours he/she is able to work. <i>(Note: Wage replacement in the form of workers' compensation, short-term disability payment or long-term disability payment may be discontinued as a result of declining an offer of work.)</i> <i>29 CFR 825, 220d and 702d2</i>	Not addressed.	Not addressed.	Not addressed.

1e	Family and Medical Leave Act (FMLA)	King County Family Medical Leave (KCFML)	Washington Family Leave Act (WFLA)	Washington Family Care Act (WFCA)
Seniority	<p><i>Service dates are adjusted for all unpaid leaves of absence, including family and medical leave that exceed 30 days in length.</i></p> <p><i>2005 Personnel Guidelines – Adjusted Service Date</i></p>	<p>Accruals stop while employee is on leave, then restarts upon return to work. The employee is due the same seniority accrued before the date on which the leave commenced.</p> <p><i>KCC 3.12.220 (M2)</i></p>	<p>The taking of WFLA leave shall not result in the loss of any benefit, including seniority or pension rights, accrued before the date on which the leave began. The employer is not required to grant benefits, including seniority or pension rights, during any period of leave.</p> <p><i>RCW 49.78.080</i></p>	Not addressed.
Benefits	<p>An employee may choose to take this leave using whatever accruals he/she has in any order. However, if leave is for the employee's own serious health condition, sick-leave accruals must be used first and exhausted before going on an unpaid status.</p> <p><u>Paid status:</u> King County continues to pay its portion of health benefits (medical, dental and vision) and basic insurance benefits (life, accidental death and dismemberment and long-term disability) during leave as if employee was not on leave. Employees continue to pay their enhanced insurance benefits (life, accidental death and dismemberment and long-term disability).</p> <p><u>Unpaid status:</u> King County continues its contribution toward health care benefits (medical, dental and vision). The employee may self-pay for basic and enhanced insurance benefits (life, accidental death and dismemberment and long-term disability).</p> <p><i>29 CFR 825.209 and 210</i></p>	<p>KCFML runs concurrent with FMLA when employee is in an unpaid status.</p> <p><u>Unpaid status only:</u> King County continues its contribution toward health care benefits (medical, dental and vision). The employee may self-pay for basic and enhanced insurance benefits (life, accidental death and dismemberment and long-term disability).</p> <p><i>KCC 3.12.220 (K)</i></p>	<p><u>Paid status:</u> King County continues to pay its portion of health benefits (medical, dental and vision) and basic insurance benefits (life, accidental death and dismemberment and long-term disability) during leave as if employee was not on leave. Employees continue to pay their enhanced insurance benefits (life, accidental death and dismemberment and long-term disability).</p> <p><u>Unpaid status only:</u> King County continues its contribution toward health care benefits (medical, dental and vision). The employee may self-pay for basic and enhanced insurance benefits (life, accidental death and dismemberment and long-term disability).</p> <p><i>RCW 49.78.080</i></p>	Not addressed.

1f	Family and Medical Leave Act (FMLA)	King County Family Medical Leave (KCFML)	Washington Family Leave Act (WFLA)	Washington Family Care Act (WFCA)
Reinstatement	<p>Employee is entitled to: (1) Same or equivalent position with equivalent employment benefits, pay and other terms and conditions of employment (similar pay and benefits). <i>29 CFR 825.214</i></p> <p>If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under FMLA. However, the employer's obligations may be governed by the Americans with Disabilities Act (ADA) and/or the Washington Law Against Discrimination (WLAD). Exception: conditions have changed during the leave (reduction in work force or reorganization). <i>29 CFR 825.123</i></p> <p>If an employee fails to provide a requested fitness-for-duty certification to return to work, an employer may delay restoration until the employee submits the certificate. <i>29 CFR 825.312</i></p>	<p>Employee is entitled to: (1) The same position he or she held when the leave commenced, or (2) A position with equivalent status, benefits, pay and other terms and conditions of employment, and (3) The same seniority accrued before the date on which the leave began.</p> <p><i>(Note: Failure to return by expiration date of leave may result in termination.)</i></p> <p><i>KCC 3.12.220 (M, N)</i></p>	<p>Employee is entitled to: (1) Same or equivalent position with equivalent employment benefits, pay and other terms and conditions of employment at a workplace within 20 miles of the employee's workplace when leave commenced. (2) May not result in the loss of any employment benefits accrued before the date on which the leave commenced. <i>RCW 49.78.080(1)</i></p> <p>Nothing in this section entitles any restored employee to: (1) The accrual of any seniority or employment benefits during any period of leave, or (2) Any right, benefit or position of employment other than any right, benefit or position to which the employee would have been entitled had the employee not taken the leave.</p> <p><i>RCW 49.78.070</i></p>	Not addressed.
Posted Notice	<p>Posting required. <i>29 CFR 825.300</i></p>	Not addressed.	<p>Posting required. <i>RCW 49.78.200</i></p>	<p>Posting required. <i>RCW 49.12.275</i></p>
Enforcement	<p>U.S. Department of Labor. <i>29 CFR 825</i></p>	<p>King County. <i>King County Code 3.12.220</i></p>	<p>Washington Department of Labor and Industries. <i>RCW 49.78.090</i></p>	<p>Washington Department of Labor and Industries. <i>RCW 49.12.280</i></p>

2a	Pregnancy, Childbirth, and Pregnancy-Related Conditions <i>WAC 162-30-020</i>	Leave Without Pay (LWOP) <i>King County Code 3.12.250</i>	Americans with Disabilities Act (ADA)	Washington Law Against Discrimination <i>RCW 49.60</i>
Eligible Employee	Female employees disabled because of pregnancy or childbirth.	King County employees who are eligible for leave benefits.	Individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment. <i>29 C.F.R. §1630.2(g)</i>	Individual with a sensory, mental or physical condition (abnormality) that is medically recognizable or diagnosable, exists as a record or history, or is perceived to exist whether or not it exists in fact. <i>WAC 162-22-020(2)</i>
Exemptions	If an employer can demonstrate business necessity for the employment action. For example, an employer hiring workers into a training program that cannot accommodate absences for the first two months might be justified in refusing to hire a pregnant woman whose delivery date would occur during those first two months.	Not addressed.	No.	No.
Reason for Leave	Disability because of pregnancy, childbirth or pregnancy-related condition.	Not limited to purposes of recovering health.	Permitting the use of leave can be a reasonable accommodation. <i>EEOC Enforcement Guidance on RA and UDHS, No. 915.002 (3/1/99) at pp. 8-9.</i>	Permitting the use of leave can be a reasonable accommodation. <i>WAC 162-22-025(2) – unfair practice to fail to make a reasonable accommodation.</i> <i>Riehl v. Foodmaker, Inc., 152 Wn.2d 138 (2004) – leave must be medically necessary.</i>

Disclaimer: This comparison chart is not intended to be all inclusive and is meant only to be a summary of the key points of each leave law. Refer to appropriate collective bargaining agreements, department policies and relevant Washington State statutes and regulations for additional administrative guidance. The chart was updated by Benefits, Payroll and Retirement Operations on 6/24/2010.

2b	Pregnancy, Childbirth, and Pregnancy-Related Conditions <i>WAC 162-30-020</i>	Leave Without Pay (LWOP) <i>King County Code 3.12.250</i>	Americans with Disabilities Act (ADA)	Washington Law Against Discrimination <i>RCW 49.60</i>
Definitions	<p><u>Pregnancy</u>: Includes, but not limited to, pregnancy, the potential to become pregnant and pregnancy-related conditions.</p> <p><u>Pregnancy-related conditions</u>: Includes, but not limited to, related medical conditions, miscarriage, pregnancy termination and the complications of pregnancy.</p> <p><i>Subsection 2 (a and b)</i></p>	Not addressed.	<p><u>Employee</u>: An individual employed by an employer. <i>29 C.F.R. §1630.2(f)</i></p> <p><u>Employer</u>: A person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person. <i>29 C.F.R. §1630.2(e)(1)</i></p> <p><u>Qualified individual with a disability</u>: An individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who can perform the essential functions of such position with or without reasonable accommodation. <i>29 C.F.R. §1630.2(m)</i></p>	<p><u>Employee</u>: <i>RCW 49.60.040(4.)</i></p> <p><u>Employer</u>: Any person acting in the interests of an employer, directly or indirectly, who employs eight or more persons and does not include any nonprofit, religious or sectarian organization. <i>RCW 49.60.040(3)</i></p> <p><u>Able worker with a disability</u>: Person whose disability does not prevent the proper performance, with or without reasonable accommodation, of the particular job in question. <i>WAC 162-22-020(3)</i></p>

2d	Pregnancy, Childbirth, and Pregnancy-Related Conditions <i>WAC 162-30-020</i>	Leave Without Pay (LWOP) <i>King County Code 3.12.250</i>	Americans with Disabilities Act (ADA)	Washington Law Against Discrimination <i>RCW 49.60</i>
Transitional (Light) Duty Work	Not addressed.	Not addressed.	Employer not required to eliminate essential job functions, but required to offer reassignment if qualified and vacant position exists. <i>EEOC Technical Assistance Manual, Ch. 9.4</i>	An accommodation may include, but is not limited to, adjustments in job duties, work schedules or scope of work or changes in the job setting or condition of work, and notifying employee of vacant positions. <i>WAC 162-22-065(2)</i>
Seniority	Not addressed.	Not addressed.	Seniority system will prevail unless employer retained right to change seniority system and exercises that right frequently. <i>Barnett v. U.S. Air Inc. 228 F. 3d 1105 (9th Cir. 2000)</i>	See ADA column.
Benefits	Employer shall provide a woman a leave of absence for the period of time that she is sick or temporarily disabled because of pregnancy or childbirth. Employers must treat a woman on pregnancy-related leave the same as other employees on leave for sickness or other temporary disabilities. For example, if an employer provides paid leave for sickness or other temporary disabilities, the employer should provide paid leave for pregnancy-related sickness or disabilities. <i>Subsection 4 (a) (i)</i>	Health benefits (medical, dental and vision) are available through COBRA and by self-paying for basic and enhanced insurances (life, accidental death and dismemberment and long-term disability). <i>KCC 3.12.250D</i>	Employer cannot discriminate based on disability regarding the terms, conditions or privileges of employment. <i>42 U.S.C. §1211(a)</i>	Employer cannot discriminate based on disability regarding the terms or conditions of employment. <i>RCW 49.60.180(3)</i>

2e	Pregnancy, Childbirth, and Pregnancy-Related Conditions <i>WAC 162-30-020</i>	Leave Without Pay (LWOP) <i>King County Code 3.12.250</i>	Americans with Disabilities Act (ADA)	Washington Law Against Discrimination <i>RCW 49.60</i>
Reinstatement	Return to the same job or a similar job of at least the same pay, if she has taken a leave of absence only for the actual period of disability relating to pregnancy or childbirth. <i>Subsection 4 (c)</i>	If leave was granted for purposes of recovering health, the employee shall be required by the department director to submit a physician's statement concerning the employee's ability to resume duties prior to return to work.	Generally, same job unless circumstances have changed during the leave and reinstatement is unreasonable or presents an undue hardship. <i>EEOC Enforcement Guidance on RA and UDHS, No. 915.002 October 2002. Types of Reasonable Accommodation Related to Job Performance #18</i>	Generally, same job unless circumstances have changed during the leave and reinstatement is unreasonable or presents an undue hardship. <i>WAC 162-22-075 – undue hardship</i>
Reassignment	Not addressed.	King County offers a Reassignment Program to assist employees unable to continue in their jobs due to medical reasons. The program provides participants up to six months of priority for rehire into nonpromotional King County jobs that they are qualified to perform. You are entitled to the services of this program when it is determined that you are unable to continue in your present job but are able to work in another capacity. Please note that former employees eligible for the Reassignment Program must submit medical, work history and job application materials within one year of their termination date. <i>PER 22-4-2 (AEP)</i>	<u>Reassignment</u> : If an employee can no longer perform the essential functions of his/her position and there is a vacant position he/she is qualified to fill, he/she is eligible for that position, absent undue hardship. <i>EEOC Enforcement Guidance – reasonable accommodations and undue hardship under the ADA (10/17/2002).</i>	The following applies to nonpromotional positions: If the employee cannot perform his/her job but there is an open position that the employee is qualified for, the employer must take affirmative steps to help the employee transfer. To receive these services, the employee has a duty to cooperate with the employer in this process. <i>Clarke v. Shoreline School District, 106 Wn. 2d 102 720 p.2d 793(1986)</i> <i>Dean v. Municipality of Metropolitan Seattle-Metro, 104 Wn. 2d 627 (1985)</i>
Posted Notice	Not addressed.	Not addressed.	Posted notice required.	Not addressed.
Enforcement	Washington Human Rights Commission.	Department director and/or human resources director.	Equal Employment Opportunity Commission (EEOC).	Washington Human Rights Commission (HRC).

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