



BENTON COUNTY

FAMILY and MEDICAL LEAVE POLICY

March 2026

This policy provides Benton County employees with a general description of their family and medical leave rights under federal and state law. To the extent an issue is not addressed in this policy, the County will administer these programs consistent with applicable laws and regulations. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

This policy will be administered by the Human Resources (HR) Department, in partnership with elected officials, department heads, and the Benton County Auditor's Office.

SECTION 1 – FEDERAL FAMILY & MEDICAL LEAVE ACT (FMLA) LEAVE

I. General Provisions

Benton County provides Family and Medical Leave to employees to the extent provided by and in accordance with the FMLA and other applicable laws and regulations. The FMLA entitles eligible employees to take up to 12 workweeks of unpaid FMLA job protected leave in a 12-month period for certain family and medical reasons, as well as additional time for Military Family Leave.

To calculate the 12-month period, Benton County uses a rolling 12-month period measured backward from the date of the qualifying FMLA event. Under this method, each time an employee has a qualifying FMLA event, the total leave entitlement for that occurrence would be the remainder of the 12 workweeks not used during the immediately preceding 12 months.

II. Eligibility

To qualify for FMLA leave under this policy, an employee must meet all of the following conditions:

- a. Must have been employed by Benton County at least 12 months.
- b. Must have worked at least 1,250 hours in the preceding 12 months.
 - i. The 12 months of employment need not be consecutive, but employment periods prior to a break in service of seven years or more are not counted except in certain circumstances, such as a break due to National Guard or Reserve military obligation or as otherwise provided in a written agreement.

III. Types of Leave Covered

Eligible employees are entitled to up to 12 unpaid workweeks for FMLA leave during a 12-month period for one or more of the following reasons:

- a. To care for the employee's child upon birth or placement with the employee for adoption or foster care.
 - i. This leave must be taken continuously within one year of the birth or placement of child.

- b. The employee's own serious health condition that makes the employee unable to perform the essential functions of the position (including incapacity due to pregnancy, prenatal medical care, or childbirth).
 - i. A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice, or medical care facility, or any period of incapacity lasting more than three consecutive days that requires continuing care by a licensed health care provider.
 - ii. A serious health condition can be the result of an on-the-job injury or occupational disease.
- c. To care for the employee's spouse, child, or parent who has a serious health condition.
- d. Because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member who is a member of the Armed Forces (including the National Guard or Reserves) on active duty or has been notified of an impending call or order to covered active duty.
 - i. The leave may commence as soon as the individual receives the call-up notice. This type of leave would be counted towards the employee's 12-week maximum of FMLA leave in a 12-month period.
- e. To care for an injured or ill service member or veteran. An employee whose spouse, parent, child, or next of kin is a covered service member may take up to 26 weeks in a single 12-month period to care for that service member.
 - i. "Covered Service Member" is defined as a current member of the Armed Forces, including a National Guard or Reserves Member on active duty, who has a serious injury or illness incurred in the line of duty that may render the service member medically unfit to perform their job duties for which they are undergoing medical treatment, recuperation or therapy; or is in outpatient status; or is on the temporary disability retired list. "Covered Service Member" also includes a veteran who was an active member of the Armed Forces any time during the five years preceding their need for medical treatment, recuperation, or therapy for a serious injury or illness where the injury or illness was incurred or aggravated in the line of duty.
 - ii. "Next of Kin" is defined as the nearest blood relative, other than the covered service member's spouse, parent, or child. The employee may be required to provide confirmation of the family relationship to the covered service member.

IV. Leave Entitlement

An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (4) above under this policy during any 12-month period using the look back method as defined in Section A.

For military caregiver leave, an eligible employee may take up to 26 weeks for the FMLA during a single 12-month period. FMLA already taken for other FMLA qualifying circumstances will be deducted for the total of 26 weeks available.

If both spouses are employed by the County and each wish to take leave for the same qualifying event, the spouses may only take a combined total of 12 weeks of leave. If both spouses work for the County

and each wish to take leave to care of a covered injured or ill service member, the spouses may only take a combined total of 26 weeks of leave.

V. Use of Paid and Unpaid Leave

An employee who is taking FMLA leave must first use all applicable paid leave (vacation, sick, floating holiday) prior to being eligible for unpaid leave unless allowed by law. For employees using paid leave, sick leave will be applied first unless otherwise specified by the employee. An employee may also request to use any accrued Kelly time or compensatory time off for an FMLA-qualifying reason.

Paid leave shall run concurrently with FMLA leave and will be counted against the employee's FMLA leave entitlement.

VI. Employee Status and Benefits During Leave

During qualifying FMLA leave, Benton County maintains group health insurance coverage when such insurance was provided before the leave is taken and on the same terms as if the employee had continued to work.

- a. While on paid FMLA leave, the County will continue to make payroll deductions to collect the employee's share (if any) of benefits premiums for all lines of coverage, including voluntary benefits.
- b. While on unpaid leave, the employee must continue to pay the employee's share of benefits premiums, either in person or by mail. The payment must be received by the Benton County Auditor's Office by the 5th day of each month for that month's premiums. If at any time a payment is more than 30 days late, the employee's benefits coverage may be cancelled for the duration of the leave. HR will provide 15 days' notification to the employee prior to the employee's loss of coverage.

VII. Intermittent or Reduced-Schedule Leave

Except as set forth in Section III.a.i, an employee may take FMLA leave intermittently, which means taking leave in smaller blocks of time, or under some circumstance by reducing their workweek or workday.

- a. FMLA leave may be taken intermittently or on a reduced schedule when medically necessary for the employee's own serious health condition or to care for a family member with a serious health condition.
 - i. Reduced-schedule leave reduces an employee's usual number of working hours per workday or hours per workweek.
 - ii. Intermittent leave for planned medical treatments or reduced-schedule leave may be agreed upon through an interactive dialogue between the employee and the County.
 - iii. Intermittent or reduced-schedule leave for a serious health condition may require a physician's certificate that the intermittent or reduced-schedule leave is medically necessary.
 - iv. When intermittent or reduced-schedule leave is needed for a planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt Benton County's operations. In such cases, Benton County may transfer the employee temporarily to an alternative job with equivalent pay and benefits that better accommodates recurring periods of leave.

- b. Intermittent or reduced-schedule leave is also available, when necessary, because of a qualifying exigency arising from a family member's military service.

In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member) over a 12-month period.

VIII. Employee Status After Leave

An employee who takes leave under this policy for their own serious health condition shall be required to provide a Fitness for Duty (FFD) clearance from the health care provider to HR, except in the cases of pregnancy without complications. Return to work shall not be scheduled until this clearance has been received and reviewed by HR, including the determination for accommodation for any work restrictions indicated on the form. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits, and working conditions. The County may choose to exempt certain key employees, as that term defined by law from this requirement and not return them to the same or similar position; should such a situation arise; the County will provide notice to the employee as soon as practicable.

Benton County will not continue FMLA leave benefits or reinstate employees who would have been laid off or otherwise had their employment terminated had they continued to work during the FMLA leave period. Employees who are unable to return to work and have exhausted their 12 workweeks of FMLA leave in the designated 12-month period no longer have the right to reinstate under the FMLA.

IX. Notice and Certification Process

INITIAL NOTICE

Employees seeking to use FMLA leave must provide written notice of the need for leave to HR and their supervisor, following office/department policy for time off requests. To protect personal health information, employees are not required to provide specific medical information or documentation to their supervisor when requesting leave but may state that the leave is for "medical reasons." Details of the medical condition and any supporting documentation should be shared only with HR.

When the need for leave is foreseeable, the employee must provide the County with at least 30 days' notice. When an employee becomes aware of a need for leave less than 30 days in advance, the employee must provide notice of the need either the same day or the next business day. When the need for leave is not foreseeable, the employee must comply with the County's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If an employee is unable to provide notice due to incapacitation, another responsible party may provide notice on the employee's behalf.

Within five business days after becoming aware of an employee's need for leave either from the employee or their department, HR will provide the employee with a Notice of Eligibility and Rights

CERTIFICATION FOR A SERIOUS HEALTH CONDITION

Benton County may require that an employee's request for leave due to a serious health condition affecting the employee or covered family member be supported by a certification from a health care provider. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Benton County may delay leave approval to employees who do not

provide proper advance notice of a foreseeable need for leave and may delay or deny approval of leave for lack of proper certification.

Benton County may request a second opinion if it has reason to doubt the certification. The County will pay for the employee to get a certification from a second health care provider, selected by the County. If necessary to resolve a conflict between the original and second opinion, the County will require the opinion of a third health care provider, mutually agreed upon by the employee and the County and paid for by the County. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion. The County may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion.

CERTIFICATION FOR MILITARY LEAVE

Benton County will require certification of the qualifying exigency, or serious injury or illness of the covered service member, for military family leave. The employee must respond to such request within 15 days of the request or provide a reasonable explanation for the delay. Failure to respond to such a request may result in denial of continuation of leave.

RECERTIFICATION

Benton County will require recertification for the serious health condition of the employee or employee's family member no more frequently than every 30 days unless circumstances have changed significantly, if the employer receives information casting doubt on the reason given for leave, or if the employee seeks an extension of leave. The County may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

For leaves extending more than 12 months, Benton County will request recertification at the start of each new FMLA leave year.

X. Designation of FMLA Leave

Within five business days after the employee has submitted the necessary medical documentation, HR will provide the employee with a written response to the employee's request for FMLA leave using the appropriate Designation Notice and notify the employee's supervisor of the Designation. While related, the FMLA designation process is separate from the time off approval process, and both should proceed concurrently.

If an employee initially takes paid leave for a condition that progresses into a serious health condition, the County may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

SECTION 2 – WASHINGTON PAID FAMILY & MEDICAL LEAVE ACT (PFML)

I. General Provisions

The Washington State Paid Family and Medical Leave Act (PFML) (Chapter 50A RCW) and supporting regulations establish a program administered by the Washington State Employment Security Department (ESD) to provide paid leave benefits, job protection, and continuation of group health insurance coverage to eligible employees who need leave for certain family and medical reasons.

The PFML program is funded through premiums collected by ESD via payroll deductions and employer contributions. The premium rate is established by state law; employees are responsible for two-thirds of the total premium amount. Should the State modify the PFML premium rate or percentage of premiums subject to collection through payroll deduction, the County will modify payroll deductions to reflect those changes.

This policy will provide a summary of the program and employees may obtain additional information at www.paidleave.wa.gov.

II. Eligibility

Employees may be eligible for monetary benefits, job protection, and continuation of group health insurance coverage when taking leave for covered reasons.

- a. Monetary benefits eligibility: an employee must have worked at least 820 hours in the state of Washington during the year preceding the claim.
 - i. Employment can be with any employer or a combination of employers.
- b. Job protection eligibility: an employee must have worked for the County for at least 180 calendar days (6 months).
- c. Continuation of group health insurance coverage: employees who meet job protection eligibility also qualify for continuation of health benefits for the duration of their PFML approval period.

An employee is ineligible for PFML benefits during any period of suspension from employment or any period in which the employee works for remuneration or profits (e.g., outside employment or contracting).

III. Types of Leave Covered

To qualify for PFML, the employee must be taking leave for one of the following reasons:

- a. For bonding during the first 12 months following the birth of the employee's child or placement of a child under age 18 with the employee (through adoption or foster care).
- b. The serious health condition of the employee.
 - i. A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider, as defined under the FMLA and RCW 50A.05.010.
 - ii. An employee is not eligible for PFML benefits if the employee is receiving workers' compensation time loss benefits.
- c. To care for a covered family member with a serious health condition.
 - i. Covered family members include the employee's child (including in-laws), grandchild, parent (including in-laws), grandparent (including in-laws), sibling, spouse, domestic partner, or anyone who has an expectation to rely on the employee for care.
- d. Qualifying military exigency as defined under the FMLA.

- e. During the seven calendar days following the death of a child for whom an employee could have taken post-childbirth medical leave or bonding leave.

IV. Amount of Leave

An eligible employee is entitled to take up to 12 weeks of medical or family leave, or a combined total of 16 weeks of family and medical leave per claim year.

- a. An additional two weeks of leave may be available in the event the employee's leave involves incapacity due to pregnancy, for a total of up to 18 weeks.
- b. The claim year begins when an employee files a claim for PFML benefits or upon the birth/placement of a child.

FMLA runs concurrently with PFML when an absence is covered by both programs.

V. Employee Status and Benefits During Leave

As set forth in Section II.c., if an employee on PFML meets the eligibility requirements for job protection, Benton County will continue the employee's group health insurance coverage on the same terms and conditions that apply while on FMLA leave. If an employee does not meet the requirements, the employee is deemed to be on leave without pay for the purposes of the application of County policies and benefits programs. Benefits will be handled in the same manner as other leave without pay, in accordance with applicable Collective Bargaining Agreements (CBA) or County Policy and subject to any FMLA or other legal requirements for continuation of insurance coverage.

VI. Employee Status After Leave

An employee who takes leave under this policy for their own serious health condition shall be required to provide a Fitness for Duty (FFD) clearance from their health care provider to HR, except in the case of pregnancy without complications. Return to work will not be scheduled until this clearance has been received and reviewed by HR, including the determination for accommodation for any work restrictions indicated on the form. Generally, an employee who takes approved PFML will be able to return to the same position or a position with equivalent status, pay, benefits, and working conditions. The County may choose to exempt certain key employees, as that term is defined by the law, from this requirement and not return them to the same or similar position; should such a situation arise, the County will provide notice to the employee as soon as practicable.

VII. PFML Monetary Benefits

If ESD approves a claim for PFML benefits, partial wage replacement benefit payments will be made by ESD directly to the employee. The amount of the benefit is based on a formula outlined in RCW 50A.15.020, which is a percentage of an employee's average weekly wage, subject to a maximum benefit defined in the statute. The ESD website (www.paidleave.wa.gov) includes a calculator to assist employees in estimating their weekly benefit amount.

In most cases, PFML benefits are subject to a seven-day waiting period.

- a. The waiting period does not apply to PFML taken in connection with the birth or placement of a child.
- b. The waiting period begins on the Sunday of the week in which PFML is first taken.

- c. The waiting period is counted for the purposes of overall duration of the PFML, but no monetary benefits will be paid by ESD for that week.
- d. Employees may use applicable accrued paid leave to cover absences during the waiting period, or while their PFML claim is being reviewed by the state.
 - i. Once the County receives claim approval notice, applicable paid leave will no longer be applied unless otherwise directed by the employee.

Monetary PFML benefits received from ESD are not reported for service credit for any Department of Retirement (DRS) retirement plans. Employees may be able to purchase back service credit under certain conditions by contacting DRS.

VIII. Coordination With Other Monetary Benefits

Paid leave accruals (vacation, sick, floating holiday, compensatory time, or any other accrued leave) are not supplemental to PFML benefits. An employee may elect to use such accrued leave during PFML-covered absences, but receipt of paid leave benefits must be reported to ESD as part of the PFML claims process and will result in a pro-rated weekly PFML benefit.

- a. Failure to report the receipt of paid leave benefits from the County may result in an overpayment by ESD, which ESD may recoup from the employee.

IX. Intermittent Leave

PFML may be taken intermittently, but there is a minimum claim requirement of four consecutive hours of leave in a week for which benefits are sought.

- a. If taking leave intermittently, an employee must notify the County each time PFML is taken so that leave use can be properly tracked, and paid leave banks not applied.
- b. If the need for leave is foreseeable such as for the employee's or family member's planned medical treatment, or new child placement bonding, the employee must make a reasonable effort to schedule the leave so as not to unduly disrupt County operations.

X. Procedure For Requesting PFML

An employee must submit an application to ESD in order to apply for PFML benefits. For guidance on the application process please refer to the ESD website (www.paidleave.wa.gov). Eligibility determinations will be made by ESD. If approved, the employee will need to file weekly benefit claims with ESD to continue receiving benefits.

- a. ESD will temporarily deny PFML benefits if an employee fails to provide required notice to the County (see section XI).

XI. Notification Requirements

An employee seeking to use PFML must provide written notice of the need for leave to HR and their supervisor, following office/department policy for time off requests. If the need for leave is foreseeable, notice must be given at least 30 days in advance of the leave. If the need for leave is not foreseeable, notice must be given as soon as practicable.

- a. Written notice must include:
 - i. The type of leave (family or medical);
 - ii. Anticipated timing of the leave; and
 - iii. Anticipated duration of the leave.
- b. If an employee is unable to provide notice due to incapacitation, another responsible party may provide notice on the employee's behalf.
- c. Upon notification, HR will advise the employee whether the employee is eligible for benefits under PFML, or FMLA, or both.
- d. If the need for leave is foreseeable, such as for the employee's or family member's planned medical treatment, or new child placement bonding, the employee must make a reasonable effort to schedule the leave so as not to unduly disrupt County operations.
- e. If the leave is being taken for qualifying military exigency, the employee must provide written notice as soon as practicable, regardless of how far in advance such leave is foreseeable.

If an employee fails to provide proper notice to the County, the employee's benefits will be denied by ESD for the period of time equal to the number of days that notice was insufficient.

SECTION 3 – PROVISIONS APPLICABLE TO ALL FAMILY AND MEDICAL LEAVE

I. Discrimination and Retaliation

Benton County does not tolerate any interference, restraint, or denial of the exercise of any right provided by the FMLA or PFML, nor does it tolerate any adverse action or discrimination against any individual for exercising FMLA or PFML rights, opposing any practice related to the FMLA, or because of involvement in any preceding related to the FMLA or PFML.

II. Intent to Return to Work from Family and Medical Leave

Benton County will require all employees on FMLA or PFML leave to report periodically regarding their status and intent to return to work, including any significant changes in circumstances affecting leave. If an employee chooses not to return to work for any reason, the employee should notify the County as soon as possible.

III. Working While on Family and Medical Leave

Benton County employees on paid FMLA or PFML leave may not engage in other employment for the duration of paid leave. During periods of unpaid FMLA leave, an employee's situation may be evaluated on a case-by-case basis.

IV. Repealer

As of the date of adoption of this policy by the Board of Commissioners, any and all prior Family and Medical Leave (FML) policies are hereby repealed and superseded by this Family and Medical Leave Policy.

Approved and accepted by the undersigned Benton County Elected Officials:

**BENTON COUNTY
BOARD OF COMMISSIONERS**

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DISTRICT COURT

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