

# QuickGuide:

## Intermittent leave for bonding with a new child

The federal Family and Medical Leave Act (FMLA) permits leave to be taken intermittently or on a reduced schedule basis without employer agreement for all leave reasons except bonding. Leave taken for the purpose of bonding following the birth of employee's child or the placement of employee's child for adoption or foster care may only be taken on an intermittent or reduced schedule basis with the employer's agreement.

### Intermittent/Reduced Schedule Leave for bonding under the FMLA

Leave under the FMLA can be taken in the following ways: continuous, intermittent, or reduced schedule. Intermittent means leave taken in separate periods of time for a single qualifying reason rather than one continuous period. Reduced schedule means leave scheduled in a manner that reduces the usual number of hours worked per workweek or hours worked per workday for an employee.<sup>1</sup>

If the employer agrees to provide bonding leave intermittently or on a reduced schedule basis, the employer may require a specific minimum increment or schedule, such as one-week increments. The FMLA does not establish parameters or rules regarding the approval or denial of intermittent/reduced leave schedules for employees and appears to provide employers with the right to approve or deny such requests in their discretion. Employers need to bear in mind, however, that there are other laws that need to be considered when approving or denying such requests, including but not limited to federal, state, and local antidiscrimination laws.

If the employer wants to permit intermittent or reduced schedule leave usage for bonding, they may transfer the employee temporarily to an available alternative position for which the employee is qualified for, and better accommodates the leave schedule. If transfer to an alternative position is considered, the employer may need to comply with any applicable collective bargaining agreement, Federal Law (such as the Americans with Disabilities Act or Pregnant Workers Fairness Act), and state law.

Upon conclusion of the leave, the employee must be restored to the same or equivalent job which they had when the leave commenced.

### Intermittent/Reduced Schedule bonding leave under state leave laws

Some states have their own FMLA-like laws which can be similar to the federal FMLA and some also have parental leave laws. These laws vary significantly in the availability of intermittent or reduced schedule leave for bonding and may not align with FMLA.

Employers need to ensure that they comply with all applicable leave laws when determining whether or not they will permit non-continuous leave for bonding. Below please find a chart that summarizes state leave provisions related to intermittent and reduced schedule leave for bonding, which vary by state.

Employers should also consider applicable state leave law before making decisions on limiting intermittent bonding under the federal FMLA. Employers with a significant portion of employees subject to state leave requiring intermittent bonding, may consider allowing non-continuous bonding leave for FMLA for all employees, not only for concurrency but also to provide equitable access to intermittent bonding for all employees. Notably, minimum increments of leave vary by state law.



State	Intermittent bonding requirements
Alabama Parental Leave (Adoption Promotion Act)	Employer agreement is required to take bonding intermittently.
California Family Rights Act	Requires an employer to provide intermittent leave in two-week increments provided that the employer must grant an employee's request for bonding leave in less than a two week increments at least twice if requested.
California Paid Family Leave	Intermittent bonding available <i>without</i> employer agreement.
Colorado's Paid Family and Medical Leave	Intermittent bonding available <i>without</i> employer agreement.
Connecticut Paid Family and Medical Leave Act	Employer agreement is required to take bonding intermittently or on a reduced schedule.
Delaware Paid Family and Medical Leave	The requirement for intermittent and reduced schedule leave to be medically necessary may preclude the availability of intermittent or reduced schedule leave for bonding.
District of Columbia Family and Medical Leave Act	Employer agreement is required to take bonding intermittently or on a reduced schedule.
District of Columbia Universal Paid Leave	Intermittent bonding available <i>without</i> employer agreement.
Guam Family and Medical Leave	The law is silent on the ability to take leave intermittently.
Hawaii Family Leave Act	Intermittent or reduced schedule bonding leave available without employer agreement.
Maine Family and Medical Leave	Employer agreement is required to take bonding intermittently or on a reduced schedule.
Maine Paid Family and Medical Leave	Leave permitted intermittently in increments of not less than 8 hours or on a reduced leave schedule otherwise agreed to by the employee and the employer.
Maryland Parental Leave Act	Law is silent on availability of intermittent leave for any reason.
Maryland Paid Family and Medical Leave Act	Employee must make a reasonable effort to schedule time as to not unduly disrupt the operations of the employer and provide the employer with reasonable and practicable prior notice of the reason for which intermittent leave is necessary.
Massachusetts Paid Family and Medical Leave Act	Employer agreement is required to take bonding leave intermittently or on a reduced schedule.
Massachusetts Parental Leave Act	The MA Parental Leave Act is silent on the ability to take leave intermittently or on a reduced schedule. We are not aware of any case law suggesting that the MA Parental Leave Act creates an independent right to intermittent leave for bonding without employer approval.
Massachusetts Paid Family and Medical Leave Act	Employer agreement is required to take bonding leave intermittently or on a reduced schedule.
Minnesota Parental Law	The law is silent on availability of intermittent leave for any reason.
Minnesota Paid Family and Medical Leave	The requirement for intermittent leave to be medically certified may preclude the availability of intermittent or reduced schedule leave for bonding.

State	Intermittent bonding requirements
New Jersey Family Leave Act	Allows intermittent or reduced schedule bonding leave without employer agreement provided that the employee makes a reasonable effort to schedule such leave, so as not to unduly disrupt the operations of the employer, and if possible, prior to beginning the leave, the employee should provide the employer with a regular schedule of the hours, days, days of the week, or weeks on which the leave will be taken.
New Jersey Paid Family Leave	Allows intermittent or reduced schedule bonding leave without employer agreement provided that the employee gives 15 days' notice and makes a reasonable effort to take leave schedule as to not unduly disrupt operations of employer.
New York Paid Family Leave	Allows intermittent or reduced schedule bonding leave <i>without</i> employer agreement.
Oregon Family Leave Act	Permits intermittent leave to attend the birth or effectuate the adoption or foster care placement, but otherwise requires bonding to be taken in one continuous block of time unless intermittent time is approved by the employer. Bonding is no longer a covered leave reason under Oregon Family Leave Act effective July 1, 2024, however, between July 1, 2024, and January 1, 2025, up to 2 weeks of leave will be available to progress or facilitate a foster care or adoption placement.
Oregon Paid Family and Medical Leave Act	Allows intermittent or reduced schedule bonding leave without employer agreement.
Puerto Rico Working Mother's Act	The law is silent on the ability to take leave intermittently.
Rhode Island Parental and Family Medical Leave Act	The law is silent on the ability to take leave intermittently. Notably, the employer can force RI Parental & Family leave and federal FMLA to run concurrent with RI Temporary Caregiver Insurance and intermittent leave is also not permitted under Temporary Caregiver Insurance.
Tennessee Maternity Leave	The law is silent on the ability to take leave intermittently.
Vermont Parental and Family Leave	The law is silent, but general interpretation aligns with employer agreement being required to take bonding intermittently or on a reduced schedule.
Washington Paid Family and Medical Leave	Allows intermittent bonding leave with employer agreement.
Wisconsin Family and Medical Leave	Allows intermittent bonding leave without employer agreement, but the leave cannot "unduly disrupt" the employer's obligations.

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1. There are unique roles specific to intermittent and reduced schedule leave usage for airline flight crew and instructional teaching staff. They are not discussed in this QuickGuide. 29 CFR 825.601 (a) & 29 CFR 825.802 (b) & (c)

This content is not to be considered legal advice. We recommend Clients speak with legal counsel specializing in labor and employment law.

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