



**RHRA EMPLOYMENT LAW UPDATE**

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December 9, 2025

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**Minnesota Paid Leave**

- According to DEED, paid leave supports employees when they need it most and strengthens connections in families, communities, and workplaces.
- The text of the law is Minnesota Statute Section 268B.

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**When does it start?**

- January 1, 2026.
- Wage deductions start on that date.
- Employee notices must be given by December 1, 2025.
- [https://mn.gov/deed/assets/paid-leave-notice-employee\\_tcm1045-707783.docx](https://mn.gov/deed/assets/paid-leave-notice-employee_tcm1045-707783.docx)

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## What is it?

- Minnesota Paid leave gives employees up to 20 weeks of paid time off each year for serious health conditions, birth or adoption of a child, to care for others etc.
- Up to 12 weeks of medical leave for the employee's own serious health condition, including pregnancy, childbirth, recovery, or surgery.
- Serious health condition defined in defined in Minn. Stat. 268B.01, subd. 39. Generally means a physical or mental illness, injury, impairment, condition, or substance use disorder that meets certain criteria.



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[illegible]

## What is it?

Group	Mean (SD)	95% CI	95% CI	95% CI
Control	1.0 (0.0)	0.9-1.1	0.9-1.1	0.9-1.1
Low	1.0 (0.0)	0.9-1.1	0.9-1.1	0.9-1.1
High	1.0 (0.0)	0.9-1.1	0.9-1.1	0.9-1.1

Table 1. Baseline health condition.

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## What is it?

- Up to 12 weeks of family leave.
  - Care for or bond with a child through birth, adoption, or foster placement.
  - Care for a loved one with a serious health condition.
  - Support a military family member called to active duty.
  - Respond to certain personal safety issues such as domestic violence, sexual assault, stalking, or similar issues.
  - Employees can take both types of leave in the same year but cannot exceed 20 weeks total within a benefit year.



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### Who is a family member?

- Spouse or partner
- Child (including biological, adopted, step, or foster children, or a child you raise even if you are not legally related)
- Parent or person who raised you
- Sibling
- Grandchild or grandparent
- In-laws (including son, daughter, father, or mother)
- Anyone close to you who depends on you like family, even if not related by blood.

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### Who is required to participate?

- All Minnesota employers except tribal nations and the federal government.
- All employees must participate.
- No exception for small employers.
- Does not apply to the self employed and independent contractors.
- Seasonal workers are not covered.
- Defined as work less than 150 days in 12 consecutive months.
- Seasonal workers must be notified they are not covered.

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### How is it funded?

- Paid Leave is funded by contributions or "premiums," which are collected from employers.
- Premiums are split between the employer and employee.
- First year .88%. This is higher than originally proposed at .7%.
- Lower for "small employer" – see next slide.
- Employers can elect to pay more than half up to the full amount.
- Private plans are on option.
- Will the premium go up?

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### Is there a small employer premium?

- Those who employ 30 or fewer people with an average wage of less than 150% of the statewide average weekly wage may qualify for a lower premium.
- Small employer rate at 0.66% (consisting of a 0.22% employer contribution and a 0.44% employee contribution).
- Employers will still have the option to pay for the entire amount.
- DOLI sets an annual average weekly wage.

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### How much is paid to employees?

- Paid leave offers partial wage replacement, not the full wage. The most an employee can get is \$1,423 per week, which is the average weekly wage in Minnesota for 2026.
- For weekly wages between \$0 and \$711.50 (half of the state average), employees get paid 90% of their weekly wage.
- For weekly wages between \$711.50 and \$1,423 (the state average), employees get paid 66% of their weekly wage.
- For weekly wages above \$1,423, employees get 55% of their weekly wage.

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### How do employees apply?

- Like UI, employees will go on the DEED website and submit their application.
- There is a 7-day consecutive day minimum, then retroactive to day 1.

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### What kind of documentation will be needed?

Certification will be required by a health care professional or service provider. For example,

- For medical leave, a health care provider will need to complete a certification form that demonstrates a serious health care condition that prevents the employee from working.
- For caring leave, to care for a family member, a health care provider will need to complete a certification form that demonstrates that the care is medically necessary, and the amount of time needed.



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### What kind of documentation will be needed?

Certification will be required by a health care professional or service provider. For example,

- For bonding leave, to welcome a child into the home, documentation will need to be completed by a health care professional, adoption agency, or foster care agency that demonstrates the child has arrived or been placed in the home.
- For military family leave, active-duty orders or other official military documents will be needed.
- For safety leave, documentation that includes proof of the need for leave will be required. This could include a letter from a qualified professional (such as a domestic violence advocate, counselor, or attorney), a police report, or a restraining order or other court order. This document does not require detailed information about what happened, only that safety leave is required.



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### 30-day notice to the employer is required if the need for Paid Leave is foreseeable

- If the need for Paid Leave is foreseeable, 30 days advance notice to the employer is required.
- If not able to give 30 days' notice, then it must be given "as soon as practical."



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### Can employers object?

- Employers cannot deny the leave.
- There is no hardship exception.
- There is no limit as to how many employees can use it at a time.
- No, unlike UI there is no one week waiting period.
- There is no qualifying period. Starts from day one except for new hires.
  - No job protection for first 90 days?
- There is a process in the statute that will work like UI.
  - The employee applies.
  - The employer is notified and can submit information and raise issue.
    - Fraud?
  - An initial determination is made.
  - There is an appeal process.
  - What about fraud?

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### Can employers object?

- What about fraud?

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### Can employees get PTO/sick leave and Paid Leave?

- No, employees cannot double up.
- For any day employees receive employer paid leave, they will not receive Minnesota Paid Leave.
- DEED is taking the position the employer cannot force the employee to use employer provided paid leave while on Minnesota Paid Leave. This means the employee would still have their accrued leave available in their return.

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### Can employees get PTO/sick leave and Paid Leave?

- But if an employee uses employer provided paid leave first, that does count toward the 12-week allotment.
- For example, an employee has a serious health condition and elects to use 2-weeks of employer paid leave. They would then have 10 weeks of Minnesota Paid Leave available to them.
- Employers can offer employer paid leave to make up the difference between Minnesota Paid Leave and full pay but according to DEED can't force employees to use it. If an employee elects to use it, it would reduce their employer provided leave bank.

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### What is the impact on other leaves?

- MPL can run concurrently with other types of leave such as FMLA and MPL (parental leave), if the reason for the leave qualifies for both.
- For example, if an employee is taking leave for a serious health condition covered by both MPL and FMLA, the leaves can run at the same time.
- Employees cannot "stack" them to get 12 weeks of Paid Leave and 12 weeks of FMLA.
- Employees on social security or on leave due to workers compensation might not qualify.

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### What is the benefit year?

- The benefit year for calculating how many weeks an employee has available starts the first day the employee takes paid leave, not a calendar year.
- In other words, a forward-looking rolling calendar year.

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### Can the leave be split up throughout the year?

Yes. It can be taken:

- In a single block,
- On a regular schedule (for example, the same day each week for medical treatments for employee or a family member),
- Taken only when needed (for example, to manage flare-ups of a chronic health condition),
- Or at different times for the same or different conditions.
- The employer must allow at least 480 hours of leave in a year as intermittent leave.
- After that, employer may allow additional time as intermittent leave or can require this additional time to be taken as continuous leave.

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### What about intermittent leave increments?

- Minimum period is the same as other employer benefits.
- For example, if the employer allows PTO in 1-hour increments, employees can use intermittent leave in 1-hour increments.
- Employees must accumulate at least 8 hours before a claim can be made.

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### Can an employee take bonding leave in 2026 for a child born in 2025?

- Yes, up to the full 12 weeks as long as taken within 12 months of the birth, adoption, etc.

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### What about 2025 leaves that cross over into 2026?

- Good question??

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### Is it job protected?

- Yes. Employees keep the same job, get the same job back, maintain employee benefits (employees pay their share), and are protected from retaliation.
- Benefits continue as if the employee was not on Paid Leave.
- Like the FMLA, being on Paid Leave does not protect an employee from job loss that would have happened anyway, such as a layoff due to lack of work.

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### Retaliation is prohibited

- Employers are prohibited from taking adverse employment action against employees for using Paid Leave.
  - **Retaliation prohibited.**
    - (a) An employer must not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee for requesting or obtaining benefits or leave, or for exercising any other right under this chapter.
- Employers can be liable for damages (wage losses), interest, liquidated damages, reinstatement, attorney fees, etc.
- Don't interfere or retaliate!!

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### What about remote workers?

- It depends on where the work is performed.
- Remote workers are covered if they work at least 50 percent of their time from a location in Minnesota. This includes employees who work from home in Minnesota or spend some time working in other states.
- Employees are not covered if they work more than 50 percent of their time in a different state.
- If an employee does not work at least 50 percent of their time in any single state, they are covered if they live in Minnesota.



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### Can employers offer an equivalent plan?

- Yes. Employers can choose to provide paid leave benefits through an equivalent plan instead of through Minnesota Paid Leave.
- Such a plan must offer benefits that are as good or better than those provided by Minnesota Paid Leave.
- A self-plan must be backed by a surety bond.
- Equivalent plans can either be purchased from an insurance company, or an employer can self-insure and provide coverage to their employees themselves.
- Insurance companies must be certified.
- Equivalent plans are approved by the Minnesota Department of Employment and Economic Development (DEED) in consultation with the Minnesota Department of Commerce.



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### Can employers choose to make up the difference between the Paid Leave benefits and what the employee would have earned?

Yes. But remember DEED is taking the position employers cannot force employees to do this.



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### What about MPLA, FMLA, and ADA?

- All these other laws are still in effect and employers must comply with all of them.
- Employers can require that they run concurrently (and probably should) but remember that the rules are different.
- Employers still might have to reasonably accommodate longer leaves as required by the MHRA and ADA.

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### What about ESST?

- ESST remains in place.
- Employees do not get ESST and MPL at the same time.

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### Employers must give notice to employees of Paid Leave

- Employers are required to post the notice developed by DEED in the same place as other required postings.
- Employers are required to give individual notice to employees by December 1, 2025, and within 30 days of the employees start date after that.
- Seasonal employees must be notified they are not covered.

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### Employers must give notice to employees of Paid Leave

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- Notice may be electronic or paper, but the employer must be able to prove it was given.
- Employers can be fined for not giving notice.
- If posted electronically, the employer must have an employer owned computer and printer available to employees for access during all working hours.

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### Should employers insert Paid Leave policies in employee handbooks?

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- Yes, although this is not set out in the statute.
- For example, employers should clearly set out that other leaves run concurrently if that is the intent.

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### ESST Changes

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- There has been an amendment that clarifies the issue of replacement workers. While the law prohibits employers from requiring employees to find shift coverage when using ESST, the law now explicitly states that employees may voluntarily seek or trade shifts with others. This took effect July 1, 2025.
- Notice requirements were modified. Previously, employees were required to notify their employer "as soon as practicable" for unforeseeable uses of ESST. Employers may now require employees to give notice "as reasonably required by the employer." This change took effect July 1, 2025.
- This gives employers greater flexibility in defining notice procedures.

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### ESST Changes

- Starting January 1, 2026, employers can give new employees ESST hours in advance based on their expected hours of work. The employer must later reconcile any difference between advanced and actual accrued hours.
- Employers can require reasonable documentation for ESST absences of two or more consecutive workdays, a change from the previous threshold of three days.
- Modify policies to address these changes.

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### New Employee Break Time Law

- Starting January 1, 2026, two 15-minute paid breaks are mandatory.
- Current law only requires opportunity to use a rest room.
- 30-minute minimum unpaid lunch break is mandatory if working 6 or more hours.
- Employers who fail to comply face penalties.
- Update policies, train managers and supervisors, and make sure the new policies are communicated to employees.

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### New Employee Break Time Law

- Under the law, employers must "allow" their employees to take rest and meal breaks. Employees may choose to not take these breaks.
- If an employee voluntarily waives their breaks, obtain a written waiver or other verification.
- Make sure that policies are clear that the employee had the option to take the breaks to which they were entitled; and any employee's decision not to take the breaks is well documented.

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Higher Minimum Wage

- Starting January 1, 2026, Minnesota's minimum-wage rate will be adjusted for inflation to \$11.41 an hour for all employers in the state.
- The 90-day training rate (for employees under 20 years old) will increase to \$9.31 an hour.

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Any Questions?

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