

# Electronic Alert

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## **Does Hurricane Harvey Trigger Family Medical Leave Laws? By Amy Angel and Nicole Elgin**

Our thoughts are with those affected by Hurricane Harvey as the devastation continues in Texas and Louisiana. Many employers, even on the West coast, may face challenges as a result of this terrible storm. Employees with family members affected by Hurricane Harvey may be asking for time off to grieve, make travel arrangements, or take care of family members affected by the hurricane. Employers should review these leave requests carefully as they may fall under federal and state protected leave laws.

### **Family and Medical Leave Act (FMLA)**

FMLA is the federal law granting employees up to 12 weeks of protected unpaid leave per year. Under FMLA, an employee can take leave for a “serious health condition” rendering the employee unable to perform the job. The employee may also be able to take leave in order to care for a spouse, child, or parent with a serious health condition. Examples of protected leave requests could include an employee who suffers from depression or anxiety triggered by the death of a family member or an employee who cares for a family member’s chronic condition that was aggravated by the hurricane such as stress or high blood pressure. Additionally, an employee could qualify for leave in order to help move an elderly parent into an assisted living facility or administer medication or treatment to a family member who cannot receive normal treatment due to the storm and resulting power outages, flooded roads, or medical facility closures. However, a request for leave to take care of a family member’s flooded basement, without more, would not qualify as FMLA leave.

### **Oregon Family Leave Act (OFLA)**

OFLA is Oregon’s state family medical leave law that generally protects more types of leave than FMLA. For example, OFLA includes up to two weeks of bereavement leave to deal with the death of a family member either to grieve, attend a funeral or similar service, or to take care of logistics arising from the death. Bereavement leave must be taken within 60 days of when the employee receives notice of the death of the family member and it may be taken intermittently. Also, under OFLA, an employee can qualify for leave to take care of a broader list of family members, including grandparents, grandchildren, parents-in-law, same gender domestic partners and children and parents of same gender domestic partners.

Employers should prepare for employment issues that may arise from this natural disaster and impact business operations. When an employee requests leave related to a natural disaster, the best practice for employers is to get as much information as possible from the employee. If your company has standard leave request paperwork, have the employee fill out the paperwork. These forms help the employer identify whether the leave is protected under FMLA or OFLA. Consider preparing these letters and medical certification forms if your workplace does not already use them.

For any specific questions about how Hurricane Harvey impacts your workplace, contact Amy Angel at (503) 276-2195 or [aangel@barran.com](mailto:aangel@barran.com).