



BILLING CODE: 4510-27-P

## DEPARTMENT OF LABOR

### Wage and Hour Division

Agency Information Collection Activities; Comment Request; Information Collections: The Family and Medical Leave Act of 1993, As Amended.

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed revision of the information collection request (ICR) titled, “The Family and Medical Leave Act of 1993, As Amended.” This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. A copy of the proposed information request can be obtained by contacting the office listed below in the FOR FURTHER INFORMATION CONTACT section of this Notice. You may also review the proposed forms changes at: <https://www.dol.gov/whd/fmla/forms2019.htm>

DATES: Written comments must be submitted to the office listed in the ADDRESSES section below on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Control Number 1235-0003, by either one of the following methods: E-mail: WHDPRAComments@dol.gov; Mail, Hand Delivery,

Courier: Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S.

Department of Labor, Room S-3502, 200 Constitution Avenue, NW, Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via e-mail or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Robert Waterman, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693-0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889-5627 to obtain information or request materials in alternative formats.

#### SUPPLEMENTARY INFORMATION:

I. Background: The Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. 2601, requires private sector employers who employ 50 or more employees, all public and private elementary schools, and all public agencies to provide up to 12 weeks of unpaid, job-protected leave during

any 12-month period to eligible employees for certain family and medical reasons (for birth of a son or daughter and to care for the newborn child; for placement with the employee of a son or daughter for adoption or foster care; to care for the employee's spouse, son, daughter, or parent with a serious health condition; because of a serious health condition that makes the employee unable to perform the functions of the employee's job; and to address qualifying exigencies arising out of the deployment of the employee's spouse, son, daughter, or parent to covered active duty in the military), and up to 26 weeks of unpaid, job protected leave during a single 12-month period to care for a covered servicemember with a serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee.

The Wage Hour Division (WHD) created optional use forms: WHD Publication 1420, WH-380-E, WH-380-F, WH-381, WH-382, WH-384, WH-385, and WH-385-V to assist employers and employees in meeting their FMLA third-party notification obligations. WHD Publication 1420 allows employers to satisfy the general notice requirement. *See* § 825.300(a). Form WH-380-E allows an employee requesting FMLA leave for his or her own serious health condition to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the employee's own serious health condition. *See* § 825.305(a). Form WH-380-F allows an employee requesting FMLA leave for a family member's serious health condition to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the family member's serious health condition. *See* § 825.305(a). Form WH-381 allows an employer to satisfy the regulatory requirement to provide employees taking FMLA leave with written notice detailing specific expectations and obligations of the employee and explaining any

consequences of a failure to meet these obligations. See § 825.300(b) and (c). Form WH-382 allows an employer to meet its obligation to designate leave as FMLA-qualifying. See § 825.301(a). Form WH-384 allows an employee requesting FMLA leave based on a qualifying exigency to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification to support leave for a qualifying exigency. See § 825.309. Form WH-385 allows an employee requesting FMLA leave based on an active duty covered servicemember's serious injury or illness to satisfy the statutory requirement to furnish, upon the employer's request, a medical certification from an authorized health care provider. See § 825.310. Form WH-385-V allows an employee requesting leave based on a veteran's serious injury or illness to satisfy the statutory requirement to furnish, upon the employer's request, a medical certification from an authorized health care provider. See § 825.310.

II. Review Focus: The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Enhance the quality, utility, and clarity of the information to be collected;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks an approval for the revision of this information collection in order to ensure effective administration of the Family and Medical Leave Act of 1993, As Amended.

Type of Review: Revision.

Agency: Wage and Hour Division.

Title: The Family and Medical Leave Act of 1993, As Amended

OMB Control Number: 1235-0003

Affected Public: Business or other for-profit, Not-for-profit institutions, Farms, State, Local, or Tribal Government.

Total Respondents: 6,888,800

Total Annual Responses: 79,357,763

Estimated Total Burden Hours: 8,307,116

Estimated Time per Response: Varies with type of request (1.25-20 minutes):

Frequency: On occasion.

Total Burden Cost (capital/startup): \$0

Total Burden Cost (operation/maintenance): \$218,144,866

DATED: July 30, 2019

Robert M. Waterman,

Division of Regulations, Legislation and Interpretation

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