

SHRM Research

# Family and Medical Leave Act





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## About This Report

In 2003, the Family and Medical Leave Act (FMLA) celebrates its 10th anniversary while federal policy-makers review possible changes to FMLA regulations and interpretations. Additionally, SHRM's Information Center and conferences note a continual rise in FMLA inquiries among HR professionals. In 2000, the Society for Human Resource Management (SHRM) fielded its first FMLA-specific survey. Results from this first survey have been presented to policy-makers on numerous occasions. In recognition of the anniversary, SHRM conducted a shorter poll to gather updated information on HR professionals' perceptions of FMLA. The following report provides an analysis of the SHRM® 2003 FMLA Survey results which are based on the responses of 379 human resource professionals. Of the 416 HR professionals who completed the survey, 37 responses were submitted by HR professionals whose organizations do not employ 50 or more employees at their location or within 75 miles of their location. Even though these organizations may voluntarily comply with the FMLA, their responses were not included in the results seen in this report since the study was focused specifically on FMLA-related compliance issues.

Where the same question, hereinafter called "item," was asked in the 2000 FMLA survey, these results are also included for comparison. Using conventional statistical methods, any differences between survey item averages or percent favoring/not favoring a given response category are assumed to be not significant (i.e., not statistically reliable) except where noted.

In January 2003, an e-mail that included a link to the poll was sent to 2,500 randomly selected SHRM members. Of these, 2,092 e-mails were successfully delivered to respondents, and 416 HR professionals responded to the poll, yielding a response rate of 20%.

To assure that this survey reached the right people—those directly responsible for FMLA administration—specific instructions were provided at the beginning of the survey instrument to ensure that the person who handles FMLA compliance for the organization completed the survey.

## About SHRM

The Society for Human Resource Management (SHRM) is the world's largest association devoted to human resource management. Representing more than 170,000 individual members, the Society's mission is to serve the needs of HR professionals by providing the most essential and comprehensive resources available. As an influential voice, the Society's mission is also to advance the human resource profession to ensure that HR is recognized as an essential partner in developing and executing organizational strategy. Founded in 1948, SHRM currently has more than 500 affiliated chapters within the United States and members in more than 120 countries. Visit SHRM Online at [www.shrm.org](http://www.shrm.org).

## About the Author

Mary Elizabeth Burke is a survey program coordinator for the Society for Human Resource Management. Her responsibilities include designing, conducting and analyzing polls on HR-related topics, and assisting in larger survey projects.

# Introduction

Established in 1993, the Family and Medical Leave Act protects leave for an individual's own serious health condition lasting more than three calendar days, including reoccurring conditions; to take care of a sick parent or child; and for the birth or adoption of a child. An employee can take scheduled or unscheduled leave in increments as small as a few minutes or hours, or as long as 12 weeks. In order to be protected under FMLA, an employee must work for an employer with at least 50 employees (within a 75-mile radius) for 1,250 hours and one year.

Ten years later, FMLA has been the subject of much litigation and several congressional hearings. Employers have criticized FMLA for being cumbersome to understand and administer. Employees complain they cannot afford to take leave<sup>1</sup> and that the act fails to address pressure from an employer or co-workers not to take leave. Additionally, in 2002, California passed a Paid Family Leave law that goes above and beyond the provisions of the federal FMLA, raising more questions about how the government should influence organizations' leave policies.

<sup>1</sup> Greenwald, Judy. "Pressure builds to offer paid family leave." *Business Insurance* Apr 22, 2002: 3+.

# Key Findings

**M**ost respondents stated that their organizations are going above and beyond the provisions of the FMLA. More than half report that their organization does offer some type of job-protected leave beyond FMLA, and almost two-thirds said their organization makes exceptions to required FMLA leave policies to provide more flexibility to employees.

Only 3% of respondents were able to provide an approximate cost of FMLA to their organization over the last 12 months. Over one-quarter of respondents said it was too difficult to quantify, and more than two-thirds said they simply have not calculated it.

Almost half of workers taking FMLA leave schedule

it in advance. While family leave is the more publicly understood part of the FMLA, responding HR professionals stated that about one-third of their employees have taken FMLA leave for medical reasons, while about half that number have taken it for family care reasons.

One-third of respondents were aware of employee complaints in the last 12 months from co-workers because of another worker's questionable use of FMLA leave. Over half of respondents stated that they have had to grant FMLA requests that were not legitimate due to Labor Department regulations and the interpretation of these regulations.

# Methodology

The survey instrument was based on the instrument used in the 2000 SHRM®FMLA Survey, then modified for length to produce a streamlined final instrument based on the most relevant FMLA issues. Additionally, some items were reworded for clarity or scope. Lastly, an item was added regarding the percentage of workers who had taken FMLA leave in the last 12 months.

The sample was randomly selected from SHRM's membership database, which includes approximately 170,000 individual members. Only members who had not recently participated in a SHRM survey or

poll and who work at an organization which employs 50 or more employees at their location or within 75 miles of their location (and therefore are required to comply with FMLA) were included in the sampling frame. Also excluded were academics, consultants and students, as well as members without a valid e-mail address and members who live outside the United States. Each member of the sample was sent an e-mail invitation containing a link, which directed the participant to the online poll. The poll was fielded for a period of two weeks, and two e-mail reminders were sent to sample members in an effort to increase response rates.

# Survey Results

## Going Beyond FMLA

Respondents were first asked whether their location offers job-protected leave beyond federal FMLA provisions (e.g., paid leave, leave for parent-teacher conferences, and/or to employees who have been employed for less than 12 months). Chart 1 shows that 59% of HR professionals surveyed report that their organization does offer some type of job-protected leave beyond FMLA.

In the 2000 survey, respondents were given a list of specific types of job-protected leave other than FMLA and asked if their company provided each

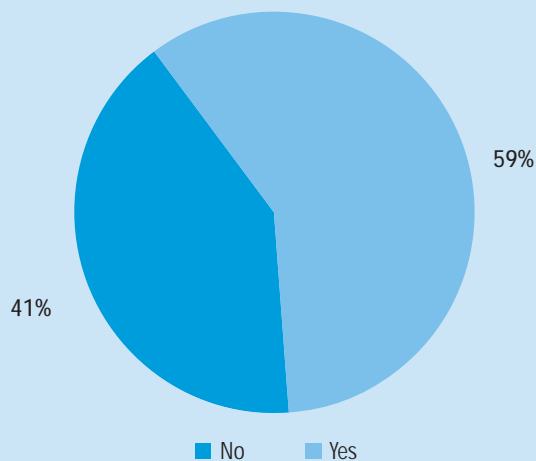
of them. Because the question was asked more concisely in 2003, the results are not comparable across surveys.

Additionally, respondents were asked if their organization ever makes exceptions to required FMLA leave policies to provide more flexibility to employees. As seen in Chart 2, 63% said that they do. These are comparable to the 2000 results, i.e., the two-point difference is not statistically significant.

These results seem to show that most employers are going above and beyond what is required of them by FMLA.

**Chart 1** Job Protected Leave Beyond Federal FMLA Provisions

(Number of Respondents=379)

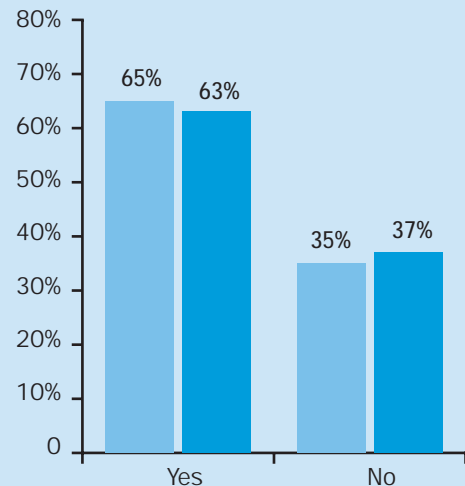


Source: SHRM® 2003 FMLA Survey

**Chart 2** Exceptions to FMLA to Provide Flexibility to Employees

■ 2000 (Number of Respondents=733)

■ 2003 (Number of Respondents=377)

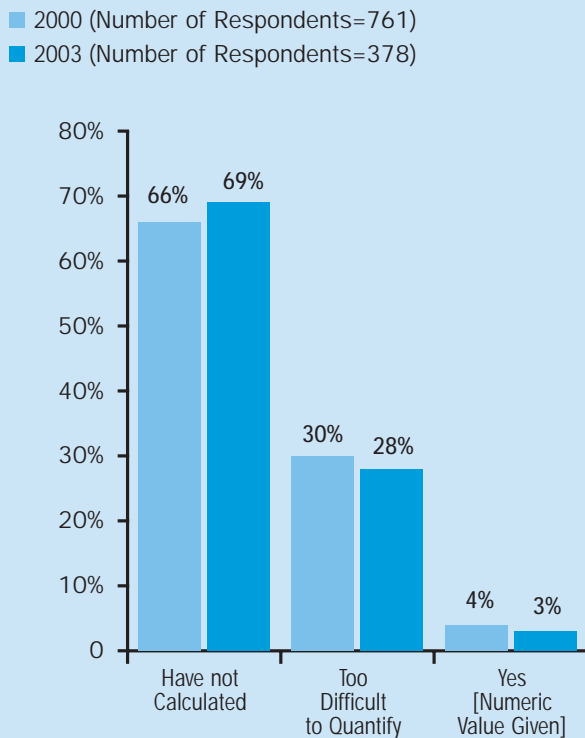


Source: SHRM® 2003 FMLA Survey, SHRM® 2000 FMLA Survey

### Costs of FMLA

Respondents were asked the approximate overall cost (including but not limited to administrative costs, costs for continuation of benefits, legal costs, costs due to loss of productivity, replacement costs, etc.) their organizations incurred over the last 12 months while complying with the requirements of FMLA. In addition to specifying a numeric value, respondents could choose “Too Difficult to Quantify” or “Have not Calculated.” As seen in Chart 3, only 3% of respondents were able to provide an approximate cost. Twenty-eight percent said it was too difficult to quantify, and 69% said they simply have not calculated it. Again, these are similar to the 2000 results.

**Chart 3** Costs of FMLA



Source: SHRM® 2003 FMLA Survey, SHRM® 2000 FMLA Survey

### Use of FMLA

Next, respondents were asked to report the approximate percentage of employees taking FMLA leave who schedule the leave in advance. Responses were averaged to indicate the “typical” percentage. The result was that about 48% of employees taking FMLA schedule the leave in advance. The standard deviation was 35. The standard deviation represents the spread of the data around the mean, or typical response. The larger the standard deviation, the greater the spread of responses—or the less consensus among respondents. The smaller the standard deviation, the smaller the spread of responses—or the more consensus among respondents. Accordingly, a standard deviation of 35 in this instance demonstrates a high degree of variability among respondents. In the 2000 FMLA survey, respondents reported an average of 40% of those taking FMLA leave scheduled the leave in advance. Using conventional statistical methods for comparing two sample means, the observed difference between these two means is considered dependable, implying that, proportionally, more people are now scheduling their FMLA leave in advance.

Respondents were also asked what percentage of their work force has taken FMLA leave in the last 12 months for family leave reasons and what percentage has taken FMLA leave for medical leave reasons. This item was new for the 2003 survey. The mean response for family leave was 17% of employees (standard deviation=24), and the mean for medical leave was 34% (standard deviation=34). Again, the large standard deviations indicate a lack of consensus among respondents.

### Consequences of FMLA in the Workplace

One-third (35%) of respondents were aware of employee complaints in the last 12 months from co-workers because of another worker’s questionable use of FMLA leave (Chart 4). Once again, these numbers were similar to those from the 2000 survey.

Respondents were asked how often they attend to the workload of an employee on FMLA leave in each of five ways:

- Assigning work temporarily to other employees.
- Hiring an outside temporary replacement.
- Allowing some work to go undone/not completed.
- Putting the work on hold until the employee returns from leave.
- Having the employee work from home while on leave.

Respondents rated how often they use each of these methods on a scale from 1 to 5, with "1" indicating "not at all often" and "5" indicating "extremely often." Chart 5 shows the mean response for each option (the higher the mean, the more frequently that option is utilized).

As in 2000, respondents rated "assigning work temporarily to other employees" the highest (i.e., most frequently used) method of attending to an FMLA employee's workload (mean=4.42).

As seen in Chart 6, 52% of respondents stated that they have had to grant FMLA requests that

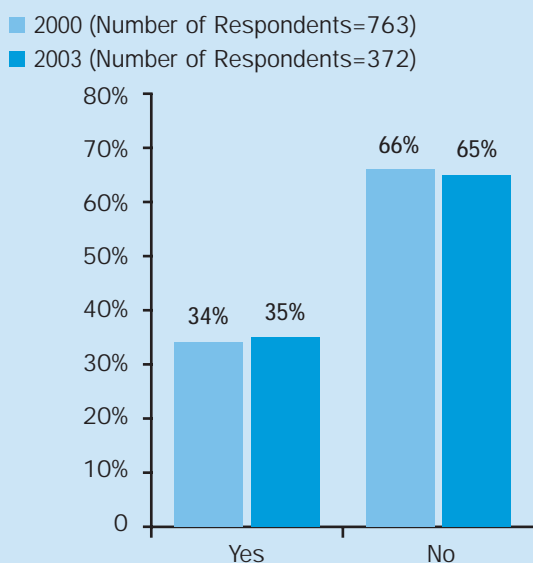
were not legitimate due to Labor Department regulations and the interpretation of the regulations. The interpretation of what was not a legitimate request was left up to the respondent. These results are identical to those from the 2000 survey.

### Tracking FMLA

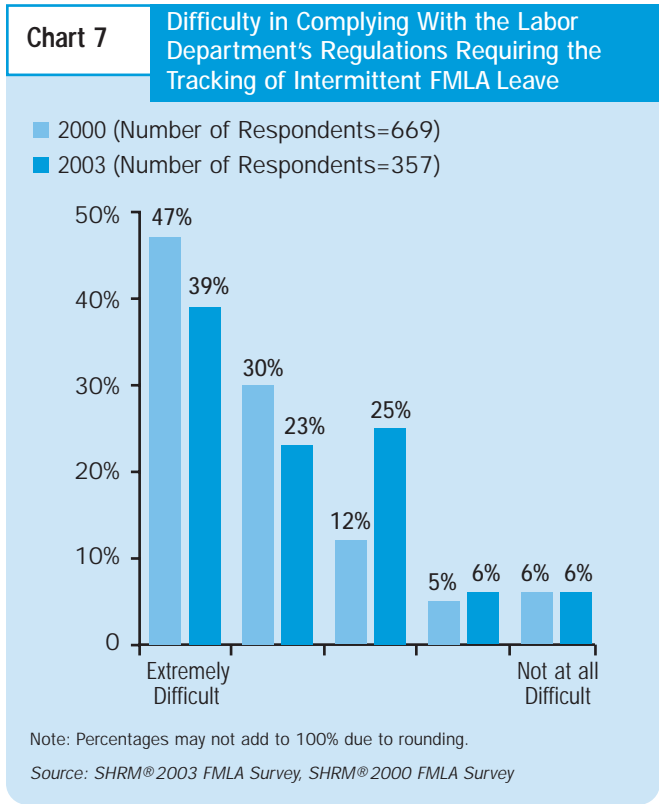
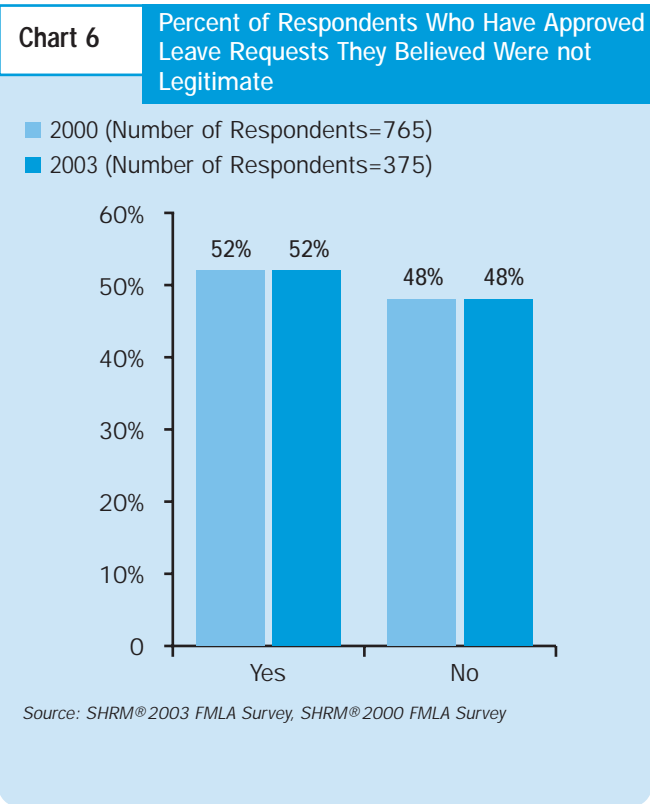
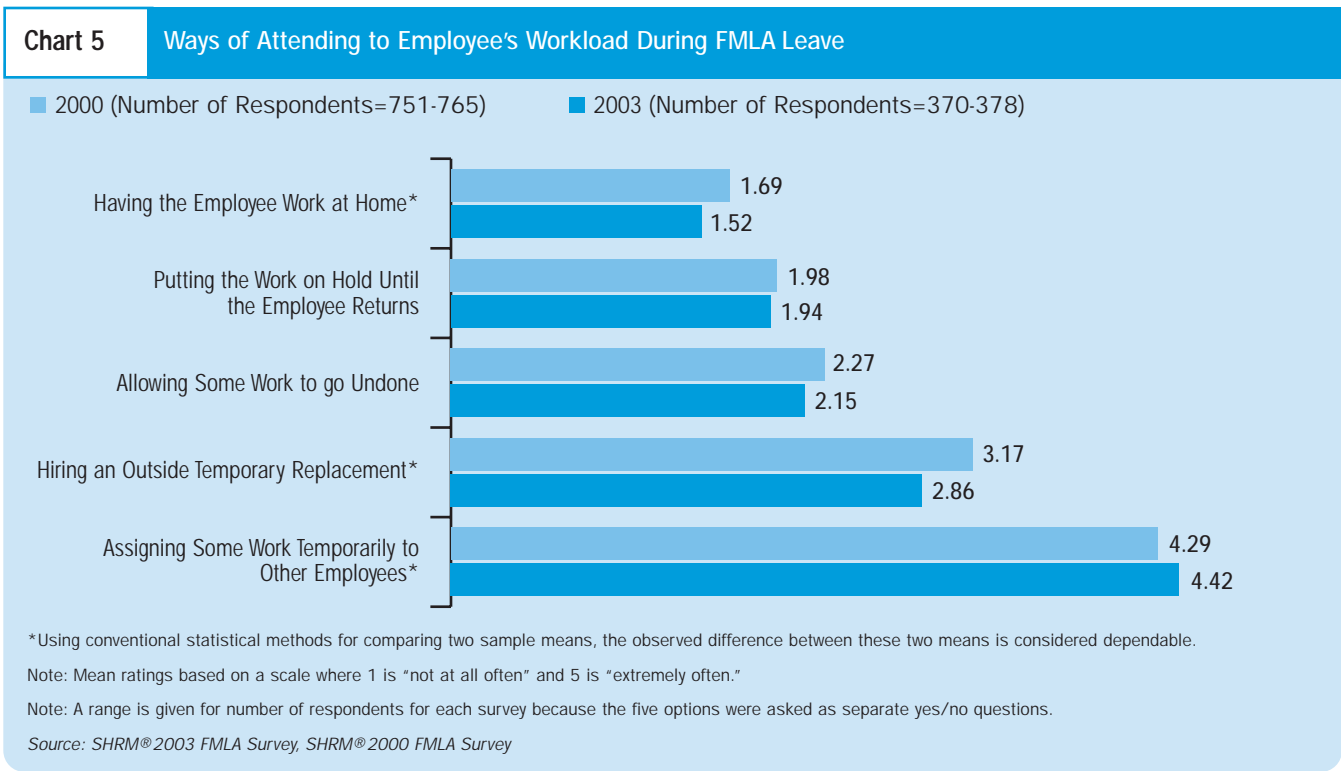
Lastly, respondents were asked how difficult it has been to comply with the Labor Department's regulations requiring the tracking of intermittent FMLA leave (small segments of leave) in increments as small as single minutes and no greater than an hour. Again, respondents were asked to rate the difficulty on a scale of 1 to 5, with "1" being "Extremely Difficult" and "5" being "Not at all Difficult." As seen in Chart 7, 39% of respondents responded "1" and 23% responded "2."

The mean response was 2.17 (the higher the mean, the less difficult it has been). The mean response in 2000 was 1.94, showing that while tracking is still perceived as difficult, it is now seen as less so than three years ago.

**Chart 4** Complaints From Co-workers Because of Another's Questionable Use of FMLA Leave



Source: SHRM® 2003 FMLA Survey, SHRM® 2000 FMLA Survey



# Analysis by Size

Overall, responses were similar regardless of the size of the organization. While there were some differences, most were small enough to be accounted for through expected variations due to sampling. The exceptions—items where a dependable difference across organization sizes was found—are discussed below.

The percentage of employees who had taken FMLA leave for family leave reasons (versus medical leave reasons) increased with company size. As shown in Table 1, respondents from small organizations reported on average that 7% of their employees had taken FMLA for this reason, while that average went up to 21% for respondents from organizations employing 500 or more people within a 75-mile radius.

The following differences are dependable based on a p value of 0.05 or less.

- Large (21%) compared to small (7%)

Respondents from large organizations were also more likely to report that they had approved FMLA leave requests they believed were not legitimate, but had to be granted due to the Labor Department's regulations and interpretations. As shown in Table 2, 24% of respondents from small organizations felt they have had to grant nonlegitimate leave, compared to half (49%) of respondents from medium organizations and nearly two-thirds (63%) of those from large organizations. As stated earlier, the interpretation of nonlegitimate leave was left to the respondent.

The following differences are dependable based on a p value of 0.05 or less.

- Large (63%) compared to small (24%) and medium (49%)

**Table 1** Percentage of Employees Taking FMLA for Family Leave Reasons by Size

	Number of Respondents	Average Percentage	Standard Deviation
Overall	329	17%	24%
Small (50-99 employees)	26	7%	16%
Medium (100-499 employees)	184	17%	23%
Large (500+ employees)	119	21%	28%

Source: SHRM® January 2003 FMLA Poll

**Table 2** Respondents Who Have Approved Leave Requests They Believed Were not Legitimate by Size

	Number of Respondents	Percent Responding Yes
Overall	365	52%
Small (50-99 employees)	29	24%
Medium (100-499 employees)	209	49%
Large (500+ employees)	137	63%

Source: SHRM® January 2003 FMLA Poll

# Demographics

**Table 3** Organization Size (Within 75 Miles)

(Number of Respondents=379)

Respondents indicated an average of 2,176 employees at their location and work locations within 75 miles of their location. The number of employees in their organizations ranged from 50 employees to 400,270 employees.

	2003
Mean	2,176
Fewer than 100 employees	8%
100 to 499 employees	55%
500 to 999 employees	14%
1,000 to 2,499 employees	12%
2,500 to 4,999 employees	5%
5,000 to 9,999 employees	4%
10,000+ employees	2%

**Table 4** Location Size

(Number of Respondents=375)

Respondents indicated an average of 658 employees at their location. HR professionals stated that the number of employees in their organizations ranged from two employees to 20,000 employees.

	2003
Mean	658
Fewer than 100 employees	22%
100 to 499 employees	54%
500 to 999 employees	10%
1,000 to 2,499 employees	9%
2,500 to 4,999 employees	4%
5,000 to 9,999 employees	1%
10,000+ employees	1%

# Conclusions

Ten years after the FMLA's enactment, many human resource professionals indicate difficulty in complying with the FMLA, specifically regarding the tracking of intermittent leave. Leave has been granted which is not believed to be legitimate and some co-workers are complaining to human resource professionals about abuse. Interestingly, large organizations, presumably with more legal and compliance assistance resources, report that they more frequently need to grant requests that they do not believe are legitimate.

And the vast majority of respondents noted that the costs associated with FMLA are either too difficult to quantify or not calculated. Clarifying FMLA requirements may help address some of these issues.

The results also show employers' willingness to comply with the spirit behind the act. Yet they also illustrate concerns that have been raised with the Department of Labor's FMLA interpretations, which may be having a negative effect on the further voluntary expansion of paid leave.

# SHRM 2003 FMLA Survey

On February 5, 2003, the Family and Medical Leave Act will be 10 years old. The Society for Human Resource Management (SHRM) is conducting a **CONFIDENTIAL** survey of HR professionals about the impact of the Family and Medical Leave Act. This survey is especially timely since federal policy-makers are currently reviewing changes to FMLA regulations and interpretations in light of a recent Supreme Court decision, and SHRM's Information Center and conferences note a continual rise in FMLA inquiries among HR professionals.

In 2000, SHRM fielded an FMLA-specific survey. Results from this first survey have been presented to policy-makers on numerous occasions. In recognition of the anniversary, we would once again like to hear from HR professionals on the issues you face regarding FMLA. Your insight and experiences as an HR professional are valuable to us in this effort.

Please participate in this survey by answering the following questions and clicking the "submit" button at the end no later than **January 21, 2003**. If you have any questions, please contact the SHRM Survey Program by telephone at (703) 535-6301 or by e-mail at [surveys@shrm.org](mailto:surveys@shrm.org). Your input is valuable. Thank you for sharing your time and experience!

Results of this survey, in aggregate, will be released to the media in time for the February 5 anniversary. SHRM will also share the results with several congressional offices and the Department of Labor, to help policy-makers as they look to make changes to the FMLA. In addition, SHRM may use the results in education pieces.

*This survey should take no more than 10-15 minutes to complete.*

*If you do NOT have responsibility for FMLA compliance in your organization, please pass this survey on to the person who handles FMLA compliance.*

- 
1. Does your location offer job protected leave beyond federal FMLA (Family and Medical Leave Act) provisions (e.g., paid leave, leave for parent-teacher conferences, and/or to employees who have been employed for less than 12 months)?  Yes  No
  2. Does your organization ever make exceptions to required FMLA leave policies to provide more flexibility to employees?  Yes  No
  3. In the past 12 months, do you know approximately what the overall costs (including but not limited to administrative costs, costs for continuation of benefits, legal costs, costs due to loss of productivity, replacement costs, etc.) your organization incurred while complying with the requirements of the Family and Medical Leave Act were?  Yes  Too difficult to quantify  Have not calculated

- 3a. Approximately how much were these overall costs? \$\_\_\_\_\_
- 4. In your experience, what percentage of employees taking FMLA leave schedule the leave in advance? \_\_\_%
- 5. Approximately what percentage of your work force has taken FMLA leave for the following reasons within the last 12 months? Family Leave Reasons \_\_\_% Medical Leave Reasons \_\_\_%
- 6. Are you aware of any employee complaints in the last 12 months from co-workers because of another worker's questionable use of FMLA leave?  Yes  No
- 7. During an employee's FMLA leave, how often does this location attend to the employee's workload by...?

	1-Not at all Often	2	3	4	5-Extremely Often
a. Allowing some work to go undone/not completed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. Assigning work temporarily to other employees	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c. Having the employee work at home while on leave	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d. Hiring an outside temporary replacement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
e. Putting the work on hold until the employee returns from leave	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

- 7a. During an employee's FMLA leave, does this location attend to the employee's workload in any other way not specified above?  Yes (please specify) \_\_\_\_\_  No
- 7b. How often does this location attend to the employee's workload this way?  1-Not at all Often  2  3  4  5-Extremely Often  Not Sure
- 8. In your opinion, do you feel that in any cases, FMLA requests were not legitimate, but had to be granted due to the Labor Department's regulations/interpretations?  Yes  No
- 9. In your opinion, how difficult has it been to comply with the Labor Department's regulations requiring the tracking of intermittent FMLA leave (small segments of leave) in increments as small as single minutes and no greater than an hour?  1-Extremely Difficult  2  3  4  5-Not at all Difficult  Not Sure
- 10. How many people are employed at this location and work at locations within 75 miles of this location? \_\_\_\_\_
- 11. How many people are employed at this location only? \_\_\_\_\_

# SHRM Survey Reports

## Downloadable Surveys

### Available to the public:

Job Satisfaction Poll (74 pages, December 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002965.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002965.asp#P-6_0)

HR Implications of the Attack on America (23 pages, September 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002959.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002959.asp#P-6_0)

Corporate Credibility and Employee Communications Survey (14 pages, August 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002955.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002955.asp#P-6_0)

Job Opportunities Poll (30 pages, August 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_003181.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_003181.asp#P-6_0)

Workplace Romance Survey (24 pages, February 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_003185.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_003185.asp#P-6_0)

School-to-Work Programs Survey (16 pages, January 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002941.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002941.asp#P-6_0)

HR Implications of the Attack on America: Executive Summary of Results of a Survey of HR Professionals (13 pages, October 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002932.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002932.asp#P-6_0)

Negotiating Rewards Poll (14 pages, October 2001) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002934.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002934.asp#P-6_0)

Search Tactics Poll (8 pages, April 2001) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002924.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002924.asp#P-6_0)

### Available to members only:

Fun Work Environment Survey (Members Only, 56 pages, November 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_003183.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_003183.asp#P-6_0)

Aligning HR With Organizational Strategy (Members Only, 53 pages, November 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002963.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002963.asp#P-6_0)

Recruiter Cost/Budget Survey (Members Only, 30 pages, October 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002961.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002961.asp#P-6_0)

2002 SHRM/Fortune Survey on the Changing Face of Diversity (Members Only, 16 pages, October 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002957.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002957.asp#P-6_0)

Workplace Demographic Trends Survey (Members Only, 37 pages, June 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002953.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002953.asp#P-6_0)

Global Leadership Survey (Members Only, 36 pages, June 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002949.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002949.asp#P-6_0)

SHRM 2002 Benefits Survey Results (Members Only, 57 pages, April 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002947.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002947.asp#P-6_0)

A Study of Effective Workforce Management (Members Only, 36 pages, February 2002) – <http://www.shrm.org/surveys/results/default.asp?page=UMDstudy02.asp>

Human Resource Strategies, Stages of Development and Organization Size Survey (Members Only, 46 pages, January 2002) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002938.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002938.asp#P-6_0)

Job Security and Layoffs Survey (Members Only, 76 pages, December 2001) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002936.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002936.asp#P-6_0)

World Events Survey—Impact on Global Mobility (Members Only, 4 pages, November 2001) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_003007.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_003007.asp#P-6_0)

Religion in the Workplace (Members Only, 58 pages, June 2001) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002930.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002930.asp#P-6_0)

Employee Referral Programs (Members Only, 40 pages, June 2001) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002926.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002926.asp#P-6_0)

Impact of Diversity Initiatives on the Bottom Line (Members Only, 41 pages, June 2001) – [http://www.shrm.org/hrresources/surveys\\_published/CMS\\_002928.asp#P-6\\_0](http://www.shrm.org/hrresources/surveys_published/CMS_002928.asp#P-6_0)

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