

BACKGROUND FOR HB 0880 (2020)

In February, 2019, I was faced with the impossible situation of trying to balance my work obligations as a professor as well as being day to day caregiver to an 81-year-old man with a mental disability (my spouse is his legal guardian) who needed to undergo radiation treatment for six weeks. My employer refused to grant me any kind of leave because, although legal wards are covered under FMLA, that provision does not extend to grant FMLA leave to care for the legal ward of the employee's spouse. My spouse is a sole proprietor of his business and having to take off in the middle of every day for six weeks to care for his legal ward would have created financial havoc in our household. I had over 100 days of sick leave accumulated at my place of employment, where I have been a high performer for over 20 years, but our HR department tried to force me to choose either resigning my position or caring for the legal ward of my spouse during his treatment for cancer. I implore the Maryland legislative body to consider changing or adding an addendum to covered relationships under MHWFA. Having the option to use some of my sick leave to provide care for my friend (who I consider as family) would have made a world of difference.

CURRENT FMLA AND MHWFA LEGISLATION

Under FMLA a legal ward is a covered relationship (with no age restriction). It is not mentioned under MHWFA. It is the *only* relationship in FMLA that is not included in MHWFA which makes me think that the language in MHWFA (5) was an error in that it should state (5) LEGAL WARD OF THE EMPLOYEE instead of LEGAL GUARDIAN OF THE EMPLOYEE. Further, I am unclear what person/relationship would fall under MHWFA (5) LEGAL GUARDIAN OF THE EMPLOYEE that wouldn't fall under MHWFA (6) AN INDIVIDUAL WHO ACTED AS A PARENT OR STOOD IN LOCO PARENTIS TO THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE WHEN THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE WAS A MINOR;

A simple change could be made to following relationship to MHWFA :

- “(5) THE LEGAL ~~GUARDIAN~~ **WARD** OF THE EMPLOYEE **OR EMPLOYEE'S SPOUSE.**”

If the legislative body has a problem with changing (5) then I suggest that a new relationship be added:

- **(X) THE LEGAL WARD OF THE EMPLOYEE OR EMPLOYEE'S SPOUSE.**”

The next page has tables that illustrate and compare FMLA and MHWFA.

Following are three tables with the relationships listed and compared between MHWFA and FMLA. The first table contains the relationships in question/missing. The second table contains relationships covered by both MHWFA and FMLA. The third table contains relationships only covered by MHWFA.

MHWFA Covered Family Relationships:	FMLA Covered Family Relationships:
(5) THE LEGAL GUARDIAN OF THE EMPLOYEE; <i>Not Covered</i>	<i>Not Covered</i>
(6) AN INDIVIDUAL WHO ACTED AS A PARENT OR STOOD IN LOCO PARENTIS TO THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE WHEN THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE WAS A MINOR;	A legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence.

RELATIONSHIPS COVERED BY BOTH FMLA AND MHWFA	
MHWFA Covered Family Relationships:	FMLA Covered Family Relationships:
(1) A STEPCHILD OF THE EMPLOYEE; AN ADOPTED CHILD OF THE EMPLOYEE	A stepchild of the employee An adopted child of the employee
A FOSTER CHILD OF THE EMPLOYEE, A BIOLOGICAL CHILD OF THE EMPLOYEE	A foster child of the employee A biological child of the employee
(7) THE SPOUSE OF THE EMPLOYEE;	Spouse means a husband or wife as defined or recognized in the State where the individual was married and includes individuals in a same-sex marriage or common law marriage. Spouse also includes a husband or wife in a marriage that was validly entered into outside of the United States if the marriage could have been entered into in at least one State.
(4) A BIOLOGICAL PARENT OF THE EMPLOYEE	Biological Parent
AN ADOPTIVE PARENT OF THE EMPLOYEE	Adoptive Parent
A FOSTER PARENT OF THE EMPLOYEE	Foster Mother or Foster Father
A STEPPARENT OF THE EMPLOYEE	Step Mother or Step Father

RELATIONSHIPS COVERED ONLY BY MHWFA	
MHWFA Covered Family Relationships:	FMLA Covered Family Relationships:
<i>A BIOLOGICAL PARENT OF THE EMPLOYEE'S SPOUSE</i>	Not Covered
<i>AN ADOPTIVE PARENT OF THE EMPLOYEE'S SPOUSE</i>	Not Covered
<i>A FOSTER PARENT OF THE EMPLOYEE'S SPOUSE</i>	Not Covered
<i>A STEPPARENT OF THE EMPLOYEE'S SPOUSE;</i>	Not Covered
<i>(8) A BIOLOGICAL GRANDPARENT OF THE EMPLOYEE,</i>	Not Covered
<i>AN ADOPTED GRANDPARENT OF THE EMPLOYEE,</i>	Not Covered
<i>A FOSTER GRANDPARENT OF THE EMPLOYEE,</i>	Not Covered
<i>A STEPGRANDPARENT OF THE EMPLOYEE;</i>	Not Covered
<i>(9) A BIOLOGICAL GRANDCHILD OF THE EMPLOYEE,</i>	Not Covered
<i>AN ADOPTED GRANDCHILD OF THE EMPLOYEE,</i>	Not Covered
<i>A FOSTER GRANDCHILD OF THE EMPLOYEE,</i>	Not Covered
<i>A STEPGRANDCHILD OF THE EMPLOYEE;</i>	Not Covered
<i>(10) A BIOLOGICAL SIBLING OF THE EMPLOYEE,</i>	Not Covered
<i>AN ADOPTED SIBLING OF THE EMPLOYEE,</i>	Not Covered
<i>A FOSTER SIBLING OF THE EMPLOYEE,</i>	Not Covered
<i>OR A STEPSIBLING OF THE EMPLOYEE.</i>	Not Covered