



Municipal Technical Advisory Service  
INSTITUTE *for* PUBLIC SERVICE

Published on *MTAS* (<https://www.mtas.tennessee.edu>)

May 25, 2020

## Leave to Care for Adult Children: ADA and FMLA

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Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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## Leave to Care for Adult Children: ADA and FMLA

**Reference Number:** MTAS-1071

With the expansion to the scope of ADA by the ADAAA, it is easier for an employee to take leave to care for an adult child who has a serious health condition. Under the FMLA, parents may be eligible to take family leave (FML) to care for adult children who are not in the military and are not veterans if the children are “incapable” of self-care and have a disability defined by ADA. Generally this means the adult children must require direct assistance or supervision providing self-care in three or more activities of daily living such as grooming, hygiene, bathing, dressing, and eating. These could also include instrumental activities of daily living such as essential errands, cooking, cleaning, shopping, transporting, paying bills, using communication devices, and maintaining a residence.

There are many different disabilities or conditions that could deem an adult child incapable of self-care. Conditions such as developmental disabilities including Down Syndrome, brain damage, paralysis, and any other long-term serious illness are just a few examples. If an adult child is incapacitated in a car accident this could also provide the opportunity for an eligible parent to provide care under FMLA. Temporary conditions or illnesses such as pregnancy related restrictions or routine surgeries would likely not result in someone being “incapable of self-care” as defined by the regulations.

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*DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.*

**Source URL (retrieved on 05/25/2020 - 2:55pm):** <https://www.mtas.tennessee.edu/reference/leave-care-adult-children-ada-and-fmla>



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