



Expecting Better:

A State-by-State Analysis of Laws That Help Expecting and New Parents

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About the National Partnership for Women & Families

At the National Partnership for Women & Families, we believe that actions speak louder than words, and for 45 years we have fought for every major federal policy advance that has helped women and families.

Today, we promote fairness in the workplace, reproductive health and rights, access to quality, affordable health care, and policies that help women and men meet the dual demands of their jobs and families. Our goal is to create a society that is fair and just, where nobody has to experience discrimination, all workplaces are family friendly, and no family is without quality, affordable health care and real economic security.

Founded in 1971 as the Women's Legal Defense Fund, the National Partnership for Women & Families is a nonprofit, nonpartisan 501(c)(3) organization located in Washington, D.C.

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The findings and conclusions presented here are those of the authors alone and are current as of July 27, 2016.

Dear Readers,

For 45 years, the National Partnership for Women & Families has worked alongside organizational partners and policymakers to advance our vision of a country in which every person has equal opportunity, nobody has to experience discrimination and every workplace is fair and family friendly. Together, we have helped to win real advances for working families, laying the groundwork for even more progress in coming years. We are pleased to chronicle significant recent progress as well as the substantial work that remains in this fourth edition of *Expecting Better*.

The National Partnership published the first edition of *Expecting Better* in 2005. We have updated and expanded the comprehensive review of federal and state laws that help expecting and new parents twice – in 2012 and again in 2014 – each time recognizing policy developments and other advances. This fourth edition documents workers’ rights under current state laws and the progress states have made in promoting the economic security of expecting and new parents. It also includes a section on state policies that more broadly assist family caregivers – both parents and workers overall – in addressing the needs of their families.

Today, the issues that affect working families are taking center stage on the domestic policy agenda in new and exciting ways. Through the work of city council members and mayors, we have seen real progress for workers employed by municipal governments. Through the efforts of workers, lawmakers, advocates and voters, some states have made significant strides by enacting paid sick days laws, paid family leave laws and laws that guarantee pregnant workers reasonable workplace accommodations. And at the national level, elected leaders are championing policies that would benefit working families with new vigor and urgency.

Public opinion research shows that voters overwhelmingly approve of these policies and the elected officials who support them. Numerous surveys show strong and broad support for new, common sense policies, such as paid family and medical leave, paid sick days and accommodations for pregnant workers.

Business leaders from large and small companies are also joining the call for change as a matter of sound business strategy and competitiveness. These companies are leading the way by creating or expanding policies in their own companies and, increasingly, by supporting public policy standards.

We hope this fourth edition of *Expecting Better* adds to the current drumbeat for change. It documents the tremendous progress that has been made in advancing state policies in recent years and also reveals how much work still remains, including the imperative to enact national policy standards. We hope it will spark thoughtful conversations and actions at all levels of government and among a diverse set of stakeholders – ultimately leading to more fair and family friendly workplaces that help *all* working families, and especially those most in need, thrive.

Sincerely,



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Executive Summary

In the United States today, most expecting and new parents bring a new child into the world without key policies that recognize the simple fact that most parents are employed. Too often, the anticipation and excitement that they feel is offset by concerns about their financial and job security. This is because our nation's workplace policies and culture fail to provide the support families need. The status quo is harming families, perpetuating economic and gender inequality, and dampening our nation's economic productivity.

Dramatic shifts in the U.S. economy, labor markets and workplaces have resulted in an urgent need for public policies that address the demands working families face. Today, women make up nearly half of the nation's workforce.¹ Approximately 68 percent of children live in families in which all parents work.² This means that, in two-parent families, it is highly unlikely that one parent will stay home full time to care for a new child while the other returns to work and, in single-parent families, the parent's breadwinning role is especially important because it is often the sole source of income.

Women's wages are crucial to their families' economic survival. Women with children are primary or co-breadwinners in nearly two-thirds of families,³ and employed married women bring in, on average, 44 percent of their families' household income.⁴ Forty percent of married Latinas and more than 50 percent of married African American women bring in at least half of their families' income; these numbers have increased dramatically since 1975.⁵ The share of single-parent families has also grown;⁶ parents (usually mothers) in these households often bear sole responsibility for their families' economic security. All of this leads to the same conclusion: A woman's income loss during pregnancy or parental leave can have significant and even devastating consequences for her family.

The nation’s public policies fail to address these realities. Only three national laws provide support to some new and expecting parents upon the birth of a child: the Pregnancy Discrimination Act, the Family and Medical Leave Act (FMLA), and the Patient Protection and Affordable Care Act’s amendment of the Fair Labor Standards Act. Respectively, these laws aim to address pregnancy discrimination; provide unpaid, job-protected family and medical leave; and protect nursing mothers’ rights at work. But the United States lacks national policies that guarantee *paid* family and medical leave, paid sick days, pregnancy accommodations and other support to expecting and new parents. And despite the FMLA — the nation’s only law that helps people manage the dual demands of work and family — millions of working parents do not have even unpaid, job-protected leave they can use when a new child arrives. The situation is even more precarious for workers in low-wage jobs, which are disproportionately held by workers of color, because these jobs provide fewer benefits and workplace supports such as paid leave.

This fourth edition of *Expecting Better: A State-by-State Analysis of Laws That Help Expecting and New Parents* highlights what some states have done to offer more support to working parents and how others have fallen short, by cataloguing state laws that improve upon federal rights and protections. This report is the most comprehensive state-by-state analysis of laws that relate to workplace rights and protections for expecting and new parents. A special section provides a snapshot of laws that help parents and other family caregivers meet the needs of children as they grow, as well as the needs of other family members.

State laws that do more for working families than federal law requires often provide models that can be replicated in other states and at the national level. For example, California, New Jersey, Rhode Island and New York (beginning in 2018) are leading the way by providing *paid* family leave to new parents. States from Maine to Oregon have expanded access to unpaid, job-protected leave so that people who are ineligible for leave under the federal FMLA can care for a spouse or partner with a pregnancy-related disability, or take a longer period of time to care for a new child than federal law allows. Five states and the District of Columbia require employers to allow workers to earn paid sick days that can be used to care for a spouse or partner recovering from childbirth and to attend prenatal and postnatal medical appointments. Sixteen states and the District of Columbia guarantee some pregnant women reasonable accommodations on the job. And many states provide all nursing mothers the right to express breast milk at work.

Expecting Better concludes that every state has room for improvement, and most states are not doing nearly enough.

Despite these bright spots, this report concludes that every state has room for improvement — even California, the only state to earn a grade of “A,” can improve its existing laws, including by adding job protection to its paid family leave law. California received a grade of “A” for its panoply of laws that help new parents, including its first-in-the-nation paid family leave law and its paid sick days law. New York and the District of Columbia received grades of “A-” — New York for laws that guarantee paid family leave and pregnancy accommodations, and the District for its paid family leave for municipal workers, pregnancy accommodation and paid sick days laws, among others.

Connecticut, Hawaii, New Jersey, Oregon and Rhode Island received grades of “B+” in recognition of their advances in providing workers access to paid sick days, paid medical leave for pregnancy-related disabilities, job-protected paid family leave, or pregnancy or nursing accommodations. Illinois, Massachusetts and Vermont received grades of “B” for the steps they have taken to protect working parents through FMLA expansions, paid sick days or other family friendly policies.

Most unfortunately, 12 states received grades of “F” for failing to enact a single law or program to support families before and after the birth, adoption or foster placement of a child.

Most states fall somewhere in between; they are doing something — but not nearly enough — for working parents.

Notably, between the third and this fourth edition of *Expecting Better*, 11 states and the District of Columbia improved their grades as a result of implementing new laws:

- ▶ New York became the fourth state with a paid family leave program and passed a pregnancy accommodation law;
- ▶ The District of Columbia passed paid family leave for its own government employees and a pregnancy accommodation law;
- ▶ California, Massachusetts, Oregon and Vermont passed paid sick days laws; and
- ▶ Colorado, Delaware, Nebraska, North Dakota, Rhode Island and Utah passed pregnancy accommodation laws. The laws in Delaware, Nebraska and Utah explicitly include accommodations for nursing mothers.

Although some states have made tremendous progress, others lag far behind. Further advances at the state level are needed — and national progress is imperative — to guarantee all expecting and new parents the policies they need to promote their economic security and their families' well-being in connection with the birth, adoption or foster placement of a child. America's families and the nation as a whole simply cannot afford to wait any longer.

Glossary of Terms

Family Leave

Leave taken to provide care for a family member who is seriously ill (including a spouse or partner disabled by pregnancy or childbirth), or to provide care for a new baby or newly adopted or placed foster child.

Flexible Use of Sick Time

Sick time that may be used to care for a family member who is recovering from an illness, to accompany a family member to a medical appointment or, in some cases, to care for a new child.

Job-Protected Leave

Protection provided by law, regulation, contract or agreement that prohibits an employer from firing, demoting or otherwise penalizing a worker for taking leave, and requires that a worker be returned to the same or an equivalent position after the leave is over.

Maternity Leave

A broad term that encompasses both pregnancy disability leave (medical leave) and parental leave to care for a new baby (family leave). It applies only to pregnant women or birth or adoptive mothers (not to fathers).

Medical Leave

Leave taken to recover from one's own serious health condition.

Nursing Mothers' Workplace Rights

Rights under law, regulation, contract or agreement that provide a nursing mother reasonable break times and a private place to express breast milk at work.

Paid Family Leave

A state-administered program or employer policy that fully or partially replaces the wages of a worker who

takes leave to care for a seriously ill family member or new child.

Paid Medical Leave

A state-administered program or employer policy that fully or partially replaces the wages of a worker on leave for medical reasons, including pregnancy disability. Paid medical leave may be provided through a state-administered system, called a State Disability Insurance (SDI) or Temporary Disability Insurance (TDI) program. Paid medical leave may also be available through privately purchased or employer-provided short-term disability insurance, or through employer-provided paid sick days or paid time off.

Paid Sick Days

Employer-provided full wage replacement to a worker who takes sick time for his or her own illness or medical appointment or a family member's illness or medical appointment.

Parental Leave

A type of family leave taken by a mother or father to provide care for a new baby or newly adopted or placed foster child.

Pregnancy Accommodations

Changes to workplace duties or conditions – such as lifting restrictions or “light duty,” carrying a water bottle, taking more frequent bathroom breaks, temporary transfer to a less hazardous position or other workplace adjustments – that a pregnant worker might need to be able to continue working without compromising her health or the health of her pregnancy.

Pregnancy Disability Leave

A type of medical leave taken by an expecting or new birth mother

who is temporarily disabled by her pregnancy, childbirth or a related medical condition. It may be taken prior to and/or following childbirth for the period during which a woman is actually disabled.

Private Place

A place other than a bathroom or toilet stall where a woman can express breast milk without intrusion from a co-worker or the public.

Reasonable Accommodations

Changes in facilities or work schedules; reassignment to a vacant position; modification of examinations, training materials or policies; provision of certain services; or other similar accommodations that a worker with a disability needs to perform the essential functions of the worker's position. These accommodations are guaranteed to workers with a disability as defined by the Americans with Disabilities Act, as amended.

Reasonable Break Times

Intermittent breaks from work that are long and frequent enough to meet a nursing mother's physiological need to express milk. These breaks may be paid or unpaid.

Sick Time

Short-term time taken to recover from a brief illness or, in some cases, to obtain preventive or routine care.

Small Necessities Leave

Short-term leave taken for occasional family-related activities, most frequently involving a child's schooling (such as a parent-teacher conference) or a family member's medical appointment.

Introduction

New and expecting parents in the United States need new policy standards that better reflect the realities and challenges of their lives, while strengthening our nation. New fair and family friendly workplace policies would help reduce economic inequalities and provide working families and children greater opportunities, promote gender equality and create a more productive national economy.

There is growing consensus among elected officials, business leaders and the public that the country's workplace policies need to be modernized, yet change has been slow and public policies still do not reflect that, in 21st century America, most children live in families in which all parents have jobs, women are more likely than ever to be family breadwinners, and too many families are living paycheck to paycheck.

Workers and their families urgently need public policies that create greater economic security and opportunity. For expecting and new parents in particular, inadequate workplace policies mean that the birth, adoption or foster placement of a child — which one hopes will be an exciting and joyful time — instead often begins or deepens a family's financial struggles. And the nation's economy loses billions of dollars annually because public policies hinder instead of support women's full workforce participation.

The absence of public policies that address the realities working families face leaves pregnant women vulnerable to losing their jobs or risking their health and the health of their pregnancies. It also means many new parents do not receive any pay and are in danger of losing their jobs when they need or want time away from work to care for a new child. Too many parents face conflicts between needing to care for a child and needing to return to work to regain their income before they or their children are ready. Shockingly, 23 percent of new mothers return to work within two weeks of giving birth.⁷

Upon returning to their jobs, many new mothers find it difficult to continue nursing, and most new parents find it challenging to be away from their children when their children need them most. As children grow, parents continue to face significant challenges in meeting their own needs, the needs of their families and the needs of their employers.

If public policies addressed these challenges, women and men would be better able to stay and advance in the labor force. The economy would be more equitable and productive, powered by working people who can better provide for *and* care for themselves and their loved ones. Research from the cities, states and worksites that have family friendly workplace policies in place demonstrates that they offer enormous benefits for worker and family economic security and health, as well as for businesses and their bottom lines, public health and the economy.

The nation needs a comprehensive set of policies that recognize people's work demands and personal responsibilities, including fair and flexible work arrangements, high-quality and affordable child and after-school care, and job-protected time away from work to attend school meetings. A higher minimum wage and pay equity are also critical to creating and maintaining economic security for families.

While all of these policies are crucial to addressing families' economic insecurity, this report focuses on the federal and state workplace policies that expecting and new parents need just before and after the arrival of a child. These policies include:

- ▶ Paid and unpaid family and medical leave laws that allow people time away from work to care for a new child, address their own pregnancy- or childbirth-related disability or care for a spouse with a pregnancy- or childbirth-related disability;

- ▶ Laws that allow workers to use paid sick time to care for a spouse or partner recovering from childbirth and to attend prenatal and postnatal medical appointments;
- ▶ Laws that help nursing mothers continue to provide breast milk to their babies after returning to work; and
- ▶ Pregnancy accommodation laws that allow pregnant women to continue working.

This report catalogues these policies in particular because they enable people to tend to their family needs around the time of a child's arrival, which is closely linked to the economic security, health and well-being of workers and their families.

State Progress is Key and Leads to Change at the National Level

State progress in enacting laws that help expecting and new parents is critically important because it provides people in those states with the protections and workplace supports they need. It also demonstrates that these policies help families, dispels myths about effects on business, shows support from smaller businesses, and strengthens the economy. This evidence helps enable other states to take action, paving the way for change at the national level. Therefore, this report focuses on state laws that improve upon federal standards that help families in connection with the birth, adoption or foster placement of a child. At the same time, the report discusses why a patchwork of state laws is not enough and the urgent need for national policy solutions.

If past is prologue, state-by-state progress will only yield better protections for some people. As this report shows, 12 states have never adopted policies that provide greater protections or supports for expecting and new parents than federal law provides; and 21 have never adopted such policies for private sector workers, who comprise the vast majority of the workforce. And a 2015 analysis by the National Partnership shows that the states with populations that would benefit most from paid family and medical leave and other supportive policies are some of the least likely to adopt such policies.⁸ Ensuring that all workers have access to these common sense supports requires national public policy standards.

Progress is underway at the national level. Since the last edition of this report, the White House has hosted two summits highlighting issues that affect women and families: the Summit on Working Families in June 2014 and the United State of Women Summit in June 2016. President Obama issued an executive order in September 2015 requiring certain federal contractors to provide employees with paid sick time, which will benefit an estimated 828,000 workers. In 2014, he directed federal agencies to improve access to paid leave and more flexible work schedules for federal employees. The U.S. Department of Defense has also expanded access to paid maternity leave for service members as part of its "Force of the Future" initiative. The U.S. Department of Labor invested in an analysis of the feasibility of new state paid family and medical leave programs and the evaluation of existing ones. And the president, the U.S. Secretary of Labor and senior administration staff have traveled the country championing paid family and medical leave and paid sick days, using their bully pulpit to advance these policies.

In Congress, strong proposals that would provide paid sick days and paid family and medical leave have unprecedented levels of support. For the first time, members on both sides of the political aisle have introduced multiple proposals to address working families' lack of access to paid leave – an indication of growing consensus around the need for new public policies. And federal legislation that would clarify pregnant workers' right to reasonable workplace accommodations has bipartisan support in both chambers of Congress.

While policy leaders are recognizing more than ever before that the status quo is not sustainable, much more work lies ahead. The country and its working families urgently need national policies that enable people to earn paid sick days and to take paid family and medical leave, and that make clear that pregnant workers must receive reasonable workplace accommodations. These policies are critical to: reducing economic inequality by helping to ensure all working families have income and job protections; reducing gender inequality in the workplace by boosting women's workforce participation and wages and normalizing men as caregivers; and increasing the country's economic competitiveness globally by boosting productivity and gross domestic product.

New Realities, Outdated Policies

Over the past several decades, America’s workforce has changed dramatically, but the nation’s public policies have not kept pace. Women and mothers are in the workforce in greater numbers than ever before. The “Leave it to Beaver” family in which a woman stays home full time while the child’s father is the family’s sole breadwinner — which was never the reality for many women, particularly women of color and working-class women — is the exception rather than the rule today. Seventy-two percent of women are employed at some point before giving birth to their first child; among women who hold full-time jobs during pregnancy, 59 percent return to work within three months after giving birth.⁹ Sixty-four percent of mothers with children under the age of six and 74 percent of mothers with elementary- to high-school-age children work outside the home.¹⁰ In fact, approximately 68 percent of children live in households in which all parents are employed.¹¹

Women’s wages are critical to their families’ economic security. Women with children are now the primary or co-breadwinners in more than six out of 10 households, and more than 40 percent are the main or sole breadwinners.¹² Married women bring home, on average, 44 percent of their household’s income.¹³ Forty percent of married Latinas and more than 50 percent of married African American women bring in at least half of their families’ income; these numbers have increased dramatically since 1975.¹⁴ In lower-income households, women’s wages are even more important to their families’ economic survival.¹⁵ In addition, the number of single-parent households is growing, making the wages provided by that sole breadwinner — overwhelmingly a mother — especially crucial for her family’s economic survival. Yet breadwinning moms in these households are more likely to live in poverty.¹⁶

Despite these dramatic increases in women’s workforce participation and contributions as family breadwinners, women still most often continue to be the primary caregivers for children and older parents.¹⁷ Men are increasingly interested in, and taking on, family caregiving, but most family caregiving continues to be done by women.¹⁸ Yet, for most workers, neither public policies nor private sector standards support them in these roles.

Too often, outdated assumptions about effects on business and economic competitiveness discourage the policy updates that are needed. But economic research clearly shows that employers and economies are not harmed — and may, in fact, be helped — when working people are able to care for themselves and their loved ones.¹⁹ Publicly traded companies that have adopted family friendly policies see greater returns.²⁰ And surveys of business leaders show widespread support for policies such as paid sick days, paid parental leave, higher wages and more predictable scheduling.²¹

Existing U.S. Policies Do Not Apply to Everyone — and Do Not Address All Needs

Throughout our country’s history, lawmakers at the federal level have enacted just three laws that provide workplace protections for expecting and new parents. Millions have benefited from the Pregnancy Discrimination Act of 1978 (PDA) and the Family and Medical Leave Act of 1993 (FMLA). The PDA prohibits employers from discriminating against many women in the workplace on the basis of pregnancy, and the FMLA enables many new parents to hold on to their jobs while taking unpaid leave to care for a new child, recover from childbirth or care for a spouse with a pregnancy-related serious health condition. Millions of women workers who are paid hourly or entitled to overtime are also benefiting from a provision of the 2010 health reform law that protects new mothers who want to continue breastfeeding after returning to work. Each of these laws sets important minimum standards, but they contain significant gaps.

THE PREGNANCY DISCRIMINATION ACT

The PDA was the first federal law to explicitly protect pregnant workers. Before its passage, women were routinely fired as soon as their employers found out they were pregnant. The PDA prohibits employers from using pregnancy as a barrier to job opportunity. According to the law, workers cannot be fired, denied a promotion, demoted or forced to stop working because they are or might become pregnant, and employers cannot refuse to hire someone because she is or might become pregnant.²² The law also requires employers to treat a pregnant woman the same as any other employee who becomes sick or temporarily disabled with respect to providing leave.

Although the PDA has helped combat discrimination against millions of pregnant women, it has shortcomings. The PDA applies only to employers with 15 or more workers. Additionally, some courts have ruled that it does not require employers to provide reasonable accommodations to pregnant workers who need to modify their job duties, conditions or schedules as a result of physical limitations related to their pregnancies; thus, about a quarter-million women annually have been denied reasonable workplace accommodations, and many more are not asking for the accommodations they need.²³ However, following the U.S. Supreme Court's 2015 decision in *Young v. United Parcel Service*, many of these workers should now be accommodated. A recent analysis from the National Women's Law Center of published opinions since *Young* shows that women are having greater success bringing pregnancy accommodation claims: 73 percent of plaintiffs' pregnancy accommodation claims have been allowed to proceed instead of being short-circuited early in legal proceedings.²⁴

As the analysis of state laws in this report shows, some states do better. They offer an affirmative right to reasonable accommodations for pregnant workers; they provide job-protected pregnancy disability leave to pregnant workers and women recovering from childbirth; they have expanded protections to include smaller workplaces; or they guarantee a woman the same or an equivalent job when she returns to work.

THE FAMILY AND MEDICAL LEAVE ACT

The FMLA has allowed millions of new parents to take time away from work after the birth, adoption or foster placement of a new child. The FMLA also provides family leave to care for a spouse disabled by pregnancy or childbirth and personal medical leave for a worker's own serious health condition, including a pregnancy- or childbirth-related disability.²⁶ Since its enactment in 1993, workers have used the FMLA more than 200 million times.²⁷ More than one in five FMLA users is a parent taking leave to care for a new child.²⁸ By providing job-protected leave, the law has made an enormous difference in the lives of working people striving to care for their families.

However, the FMLA covers only 59 percent of the workforce — and just 56 percent of the private

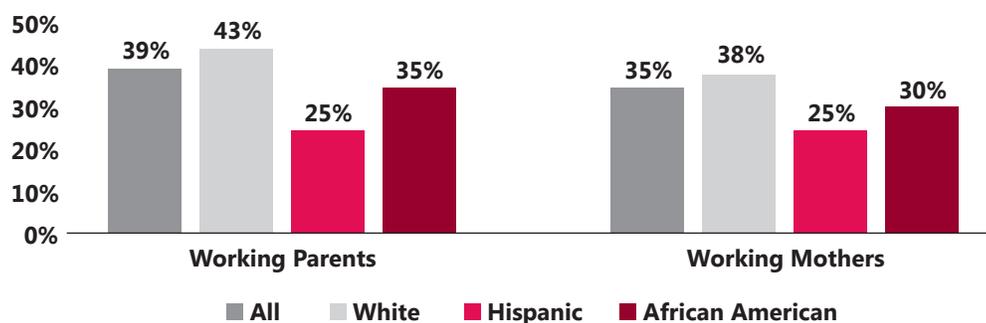
Young v. United Parcel Service

Employers' failure to provide reasonable accommodations to pregnant workers gained national attention after the U.S. Court of Appeals for the Fourth Circuit ruled against a former United Parcel Service (UPS) employee, Peggy Young, and the U.S. Supreme Court heard the case.²⁵ Peggy Young had a medical restriction against lifting more than 20 pounds during part of her pregnancy, so she requested a light duty assignment as an accommodation. UPS denied her request, even though it had a policy of granting light duty assignments to other workers who were temporarily unable to perform their jobs. The Supreme Court ruled in favor of Peggy Young and found that, if an employer accommodates most injured or nonpregnant workers with disabilities while refusing to accommodate most pregnant workers with similar needs, they are likely violating the PDA. The decision was a victory for Peggy Young and some pregnant workers, but others may still not be protected or may face uncertainty about their rights in their own workplaces. These women need pregnancy accommodation laws.

sector workforce.²⁹ Forty-nine percent of working parents and 45 percent of working mothers are eligible for leave under the FMLA.³⁰ In the private sector, workers are excluded because the FMLA only applies to employees in workplaces with 50 or more workers within a 75-mile radius. Even in covered workplaces, workers must have worked for their employer for at least a year and worked at least 1,250 hours during the previous year to be eligible. As a result of coverage and eligibility limitations, about 49 million private sector workers and a subset of public sector workers are excluded from the FMLA’s basic protections.³¹

Even among workers who are eligible for leave under the FMLA, many simply cannot afford to take time away from work without pay. Only 39 percent of working parents and 35 percent of working mothers are eligible for and can afford to take FMLA leave.³² For working parents of color, the situation is much worse: Only 25 percent of Hispanic working parents and 35 percent of African American working parents are eligible for and can afford to take FMLA leave; those numbers are 25 percent and 30 percent, respectively, for working mothers.³³

FIGURE 1. PERCENTAGE ELIGIBLE FOR AND CAN AFFORD UNPAID FMLA LEAVE



Source: Brandeis University, The Heller School Institute for Child, Youth and Family Policy. (2016). *Working Parents Who Are Eligible For and Can Afford FMLA Unpaid Leave (Share)*.

According to the most recent U.S. Department of Labor (DOL) study on FMLA use, the most common reason cited by workers who needed FMLA leave but did not take it was that they could not afford to take unpaid leave.³⁴ And the percentage of workers who needed but did not take leave is growing. The share of workers who needed but did not take FMLA leave doubled between DOL studies conducted in 1995 and 2000 and the most recent DOL study, which was conducted in 2012.³⁵

For some workers, the need to take time from work for family or personal care is unavoidable, even when it will result in financial hardship. Fifteen percent of workers who take unpaid FMLA leave or receive only partial pay during an FMLA leave seek public assistance to make ends meet, and 37 percent dip into savings earmarked for another purpose.³⁶ Nearly one-third of all those who take FMLA leave (31 percent) cut their leave time short.³⁷

The FMLA is also limited by its definition of a “family member” for whom an employee can take leave. FMLA leave can only be used to care for one’s child, spouse or parent with a serious health condition. Notably, the FMLA’s definition of “spouse” does not permit domestic partners to take time to care for each other.³⁸

The analysis of state laws in this report shows that many states have done better by providing workers in smaller businesses access to unpaid, job-protected leave, by requiring employers to provide longer periods of unpaid leave, by extending unpaid leave rights to workers who have had less time on the job, by permitting domestic partners to take unpaid leave to care for a pregnant partner, or by creating paid family and medical leave insurance programs that supplement the right to unpaid leave provided by the FMLA.

NURSING MOTHERS' WORKPLACE RIGHTS

The Patient Protection and Affordable Care Act, the major national health care reform law, amended the Fair Labor Standards Act (FLSA) to provide nursing mothers with a new “right to pump” at their worksites.³⁹ As a result, many nursing mothers who return to work now have the right to take reasonable break time and use a private place to express breast milk while at work for one year after giving birth. The nursing mothers protected by the law are those who are paid hourly or are eligible for overtime (“non-exempt” employees under the FLSA) — a population that is least likely to have control over breaks and schedules or, previously, to have had a private place to express milk at work. The law generally applies to employers of all sizes, with only a limited exemption in cases of undue hardship.⁴⁰

The right-to-pump provision was an important national breakthrough for the women and children who will benefit from it. However, it excludes many workers, including salaried managerial and professional women as well as other women whose jobs are classified as exempt.

As the analysis of state laws in this report shows, some states do better by providing the right to pump to all women, both salaried and hourly, and by extending a mother’s right to pump into her child’s toddler years.

Low-Wage Parents and Parents of Color Are Hit the Hardest

Low-wage workers face particular challenges arising from our nation’s failure to adopt family friendly policy standards. Low-wage workers disproportionately lack access to unpaid, job-protected leave under the FMLA because they tend to work for smaller employers, have shorter tenures and work multiple part-time jobs.⁴¹ They are also much more likely to be without access to employer-provided short-term disability insurance, paid sick days, paid vacation days and employer-provided paid family leave (see Table 1). These challenges compound the daily hardship these workers face, including low pay, little access to employer-provided health insurance or other workplace benefits, vulnerability to discrimination and harassment, and little control over hours or schedules.

TABLE 1. PERCENTAGE OF PRIVATE SECTOR WORKERS WITH ACCESS TO PAID TIME OFF

	ALL WORKERS	WORKERS IN THE LOWEST-WAGE QUARTILE (PAID \$11.64 PER HOUR OR LESS)	WORKERS IN THE HIGHEST-WAGE QUARTILE (PAID \$27.89 PER HOUR OR MORE)
Paid family leave	12%	5%	23%
Short-term disability insurance	40%	17%	63%
Paid sick time	61%	31%	84%
Paid vacation leave	76%	48%	91%

Source: U.S. Bureau of Labor Statistics. 2015 National Compensation Survey of Employers.

African American and Latino workers are also disproportionately impacted by a lack of public policies that address the needs of new and expecting parents and family caregivers. For example, Latino workers are 11.5 percent less likely to have access to paid sick days than their white counterparts, and African American workers are more than 7 percent less likely than white workers to have access to flexible work hours.⁴² For expecting parents, one effect of not having these and other workplace supports is that pregnant workers may find it more difficult to attend prenatal care appointments, which are important for the health of women and their pregnancies. This is particularly problematic for women of color, given

that African American women and Latinas are at a higher risk for pregnancy-related complications like gestational diabetes and hypertensive disorders.⁴³

Workers of color are also less likely to be able to take time away from work after the birth or placement of a child for adoption or foster care. African American and Latino workers are less likely than white workers — by more than 6 percent and nearly 25 percent, respectively — to have access to paid parental leave.⁴⁴ Without access to paid leave, workers are forced to consider taking unpaid leave. However, even among African American and Latino working parents who are eligible to take unpaid leave under the FMLA, many cannot afford to do so: 35 percent of African American working parents and 25 percent of Latino working parents are eligible for and can afford to take unpaid leave under the FMLA, compared to more than 43 percent of white working parents.⁴⁵

Lack of access to paid leave, coupled with the financial hardship of taking unpaid leave, make it nearly impossible for some parents of color to take time away from work to care for a new child. Yet, the need may be greater: In 2013, the preterm birth rate for infants born to African American mothers was 60 percent higher than for infants born to white mothers and the rates of low birth weight were nearly twice as high.⁴⁶ Without access to paid leave in these situations, parents are more likely to face impossible choices between making sure their new babies get the care they need and maintaining their families' economic stability.

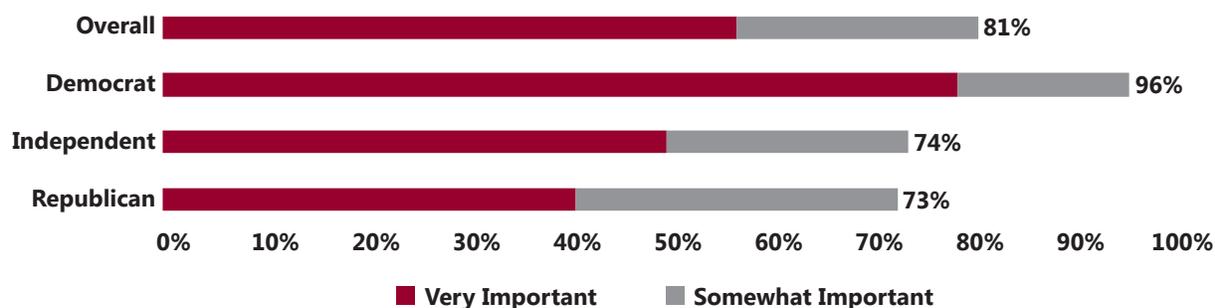
Strong Public Support for New Workplace Standards

Financial insecurities and anxieties about making ends meet are common among Americans.⁴⁷ In a 2014 survey, an overwhelming majority of voters, across demographic and party lines, said they or their families would likely face significant financial hardship if they had a serious illness, had to care for a family member with a serious illness or had a new child: 66 percent said it was likely, and more than one-third (36 percent) said it was “very likely.”⁴⁸

Given the challenges faced by most working families, it is no surprise that they are hungry for change and want elected officials to take action. National and state public opinion polls routinely show that paid family and medical leave, paid sick days, pregnancy accommodations and similar policies have the support of roughly three-quarters or more of U.S. adults and voters across gender, party and other demographic lines.⁴⁹ Eighty-one percent of voters say it is important for lawmakers to consider new laws that help keep working families economically secure, such as paid sick days and a paid family and medical leave insurance system. Fifty-seven percent say it is “very important” that they do so. Strong support for family friendly policies exists across party lines: 96 percent of Democrats, 74 percent of independents and 73 percent of Republicans say it is important for lawmakers to consider new family friendly workplace laws.⁵⁰

Public opinion polling also shows that voters approve of candidates who support policies that promote families' economic security: Nearly two-thirds of voters (64 percent) say that an elected official's support for equal pay for women, paid sick days and paid family and medical leave would make them more likely to vote for that elected official, including nearly half (46 percent) who say they would be much more likely to cast a favorable vote.⁵¹ Analysis from the 2014 midterm elections confirms that support for paid leave and paid sick days affect a candidate's standing with voters. Candidates for the U.S. House, U.S. Senate and governor in 2014 who mentioned paid sick days or paid family and medical leave, in addition to fair or equal pay, on their websites were 8 percent more likely to win than candidates who did not, taking other factors like party and incumbency into account.⁵²

FIGURE 2. IMPORTANCE OF LAWMAKERS CONSIDERING NEW LAWS LIKE PAID SICK DAYS AND PAID FAMILY AND MEDICAL LEAVE



Source: Lake Research Partners & The Tarrance Group. (2014, November 2-4). *Election Eve/Night Omnibus*.

States Are Leading the Way Toward a Better Future for Families

Fortunately, some states are taking the lead in addressing the challenges facing working families. Dramatic state and local progress on paid sick days, paid family leave and pregnancy accommodations is a hallmark of the last few years. Coalitions and leaders across the nation have won significant policy changes — and those advances have galvanized new champions and paved the way for more public policy and private sector innovation. The states and localities with these policies are also strengthening a growing body of evidence that promotes additional state action and national-level change, building awareness and creating a shared sense of possibility and momentum.

In 16 states and the District of Columbia (and four cities), pregnant women can now receive reasonable workplace accommodations to address pregnancy-related limitations. In some states, people can now take longer unpaid, job-protected time away from their jobs than the FMLA provides. Many workers in California, Connecticut, the District of Columbia, Massachusetts, Oregon and Vermont, as well as in more than two dozen cities and one county, are now entitled to paid sick time to use for prenatal, postnatal and children’s medical appointments.⁵³ And in California, New Jersey, Rhode Island and — beginning in 2018 — New York, statewide paid family leave insurance programs will provide four to 12 weeks (once the New York law is fully implemented) of income support for new parents to care for a child, and for workers to care for a recovering spouse or partner.⁵⁴ More than two dozen localities have adopted paid parental leave for public employees. And advocates in Connecticut, the District of Columbia, Massachusetts, Minnesota and elsewhere have mounted campaigns for new paid family leave laws.

State innovation can lead to national progress. For example, 23 states had passed FMLA laws for private sector workers prior to the 1993 enactment of the federal FMLA.⁵⁵ And more than a dozen states had created rights for nursing mothers at work prior to the 2010 adoption of a federal standard.⁵⁶ By surveying states and charting their progress, this report provides a glimpse of what the future can — and should — hold for expecting and new parents across the country.

Spotlight: Paid Family and Medical Leave

At some point, nearly everyone will need to take time away from work to deal with a serious personal or family illness, or to care for a new child. But, most workers do not have access to paid family or medical leave through their employers, and only four states have passed paid family leave laws.

The United States Trails the Rest of the World in Providing Paid Leave

The United States distinguishes itself unfavorably from much of the rest of the world by failing to provide adequate supports and protections for parents. The absence of national paid leave protections for new parents is in striking contrast to the 183 nations that guarantee paid leave for new mothers and the 79 nations that guarantee paid leave for new fathers, out of 185 nations surveyed by the International Labor Organization (ILO).⁵⁷ The United States is the only high-wealth country that fails to provide paid leave to new mothers; indeed, the majority of these countries guarantee at least 14 weeks of paid maternity leave, which is in line with ILO standards.⁵⁸ Other developed nations began providing paid maternity leave to new mothers more than 100 years ago. The United States does not even provide *unpaid* leave to all new parents. The president, advocates and the media have increasingly focused on this as an embarrassment in need of correction.

Our nation's absence of guaranteed access to paid family and medical leave generally means that, in all but a handful of states, workers' ability to take paid leave depends on the policies of their employers. Just 40 percent of private sector workers have access to employer-provided short-term disability insurance, which provides some income during pregnancy-related disability leave. And only 12 percent have access to employer-provided paid family leave to care for a new child.⁵⁹ Workers in low-paying jobs are hit the hardest — only 5 percent of private sector workers in the lowest-wage quartile have access to employer-provided paid family leave, and 17 percent have access to employer-provided short-term disability insurance.⁶⁰

Some employers have stepped up by creating or expanding paid family and medical leave policies for their workers.⁶¹ Yet many fail to provide men and women with equal amounts of leave upon the birth of a new child, which is important for caregiving purposes, as well as for gender equality. Many of these policies apply to some workers within a workplace — for example, to higher-wage, higher-skill or full-time workers — but not to lower-wage or part-time workers. These inequalities create stark economic and gender divides: Only 22 percent of workers have employers that provide paid *maternity* leave to *all* workers; 58 percent have employers that provide paid maternity leave to at least *some* workers — meaning other workers are left out. Just 9 percent of workers have employers that provide paid *paternity* leave to *all* workers, and nearly 41 percent have employers that provide paid paternity leave to at least *some* workers.⁶²

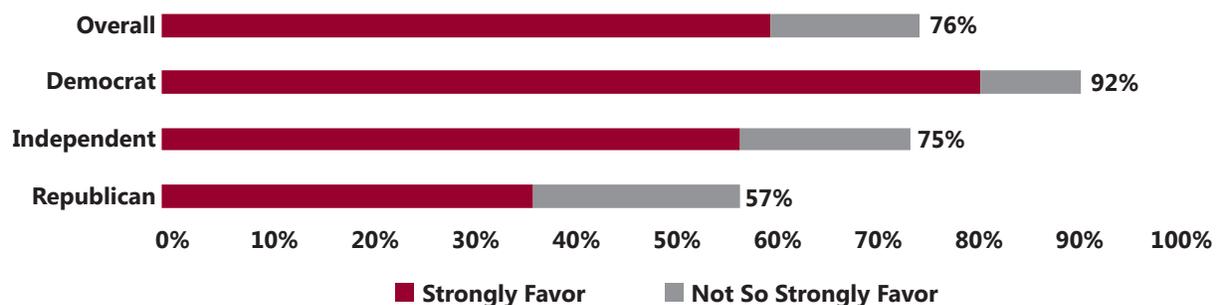
At some companies, even if designated paid parental or family leave is not available, workers may be able to use accrued paid vacation and sick time. Notably, however, a significant portion of workers in the United States do not have access to any vacation or sick time — 24 percent of private sector workers do not earn paid vacation time, and 39 percent of private sector workers do not earn paid sick time.⁶³ Women are less likely than men to hold jobs that offer paid sick time or paid vacation time.⁶⁴ Only 50 percent of new mothers take paid leave of any kind, of any length, after the birth of their first child.⁶⁵ That number has not changed appreciably in more than a decade. Among women with the lowest levels of education, less than one-fifth take any type of paid leave around the birth of their first child — approximately the same percentage as in the 1960s.⁶⁶

Voters Support National Paid Leave

A national survey conducted earlier this year demonstrates that voters overwhelmingly want access to a national paid family and medical leave program and say it is important to update current law: Four in five likely 2016 voters (79 percent) say it is important for elected officials to update the law to guarantee access to *paid* family and medical leave, including 57 percent who say it is “very important.” And 76 percent of voters say they favor a law that would create a national fund that allows workers to take up to 12 weeks of paid family and medical leave, including 61 percent who say they “strongly favor” such a law. There is strong support across party lines: Virtually all Democrats (92 percent) favor a national fund, along with 75 percent of independents and 57 percent of Republicans.⁶⁷ Across all demographic and regional subgroups — including gender, age and education — voters say they support and that it is important to provide paid family and medical leave.

Furthermore, elected officials who address these issues stand to benefit. For example, by more than a seven-to-one ratio, voters say they would be more likely to feel that an elected official understands their own and their families’ needs if that official supports a paid family and medical leave law.⁶⁸

FIGURE 3. SUPPORT FOR CREATING A NATIONAL PAID FAMILY AND MEDICAL LEAVE FUND AMONG LIKELY 2016 VOTERS



Source: Lake Research Partners. (2016, February 4). *Findings from National Survey Shows Strong Support for Paid Family and Medical Leave.*

California, New Jersey and Rhode Island Show That Paid Leave Works

In 2002, California became the first state to enact a paid family leave insurance program to help new parents and other family caregivers make ends meet when a new baby arrives or a family member becomes ill. When the law took effect in July 2004, new parents in California could receive 55 percent of their wages, up to a capped amount, for up to six weeks. The California law was expanded this year so that beginning in 2018, for a four-year period, workers will receive either 60 or 70 percent of their income. At the end of 2021, the state is expected to evaluate the impact of increased wage replacement on paid family leave usage rates. While California led the way in implementing a paid family leave insurance program and has even expanded its law, the program does not provide job protection for workers who use paid family leave and are not covered by the FMLA or the California Family Rights Act; advocates are working to get job protection added to the law.

New Jersey enacted a paid family leave insurance program in 2008 and started paying benefits in 2009. Under the program, new parents may be eligible for up to two-thirds of their wages, up to a capped amount, for up to six weeks of family leave. The New Jersey law, like California’s, lacks job protection for workers who access paid family leave but are not FMLA-eligible.

Rhode Island enacted a paid family leave or “temporary caregiver insurance” law in 2013, which took effect in January 2014. Rhode Island’s law provides four weeks of wage replacement, up to about 60 percent

of the employee's usual wages. Rhode Island's law includes job protection for all workers regardless of whether they work for an employer with fewer than 50 employees or a larger employer — a major advance.

All of these programs were implemented by building on temporary disability programs and administrative structures that had existed in these states for decades. These states, plus New York (the most recent state to adopt paid family leave), are the only states that have temporary disability insurance programs in place.⁶⁹

These programs demonstrate that:

- ▶ New parents are using paid family leave programs.
 - ▶ Between July 2004 and June 2015, California's paid family leave program saw nearly 1.9 million claims filed by parents caring for new children.⁷⁰
 - ▶ Between July 2009 and December 2015, New Jersey's paid family leave program saw more than 176,000 claims filed by parents caring for new children.⁷¹
 - ▶ Between January 2014 and December 2015, Rhode Island's paid family leave program approved 6,650 paid leave claims filed by parents caring for new children.⁷²
- ▶ Employers are adjusting well to providing paid family leave.
 - ▶ The vast majority of California employers report seeing a positive impact or no effect on employee productivity, profitability and performance⁷³ — and smaller businesses are even less likely than larger ones to report negative effects.⁷⁴
 - ▶ In October 2015, *Bloomberg News* reported on paid leave's effect on businesses in California in an article entitled "California Shows How Paid-Leave Law Affects Businesses: Not Much" and noted that "California's employment growth outpaced the U.S. average by 2 percentage points" over the last decade.⁷⁵
 - ▶ A report prepared on behalf of the New Jersey Business and Industry Association found that a majority of small businesses said they had adjusted easily to the state's paid family leave law and experienced no effects on business profitability or performance.⁷⁶
 - ▶ In Rhode Island, business supporters were critically important in passing the paid family leave law, and early research suggests that businesses in key industries have adjusted easily.⁷⁷
- ▶ Paid leave is helping new parents and families.
 - ▶ In California, parents who used the state paid family leave program were much more likely than those who did not to report that the leave had a positive effect on their ability to care for their new children and to arrange child care.⁷⁸
 - ▶ California fathers who used the state paid family leave program stayed home to care for their children twice as long as fathers who did not use the program,⁷⁹ and in the first year of Rhode Island's program, a greater proportion of new dads took leave to bond with a newborn or adopted child than did new dads in the first year of the California or New Jersey programs.⁸⁰
 - ▶ In California, among workers in low-quality jobs, 87 percent of workers who took paid family leave under the state program reported that the time they took to care for a new child or ill family member had a positive effect, compared to 72 percent of workers who did not take paid family leave through the state's program.⁸¹
 - ▶ In California, mothers more than doubled their use of maternity leave, with even larger growth among Latina and African American mothers.⁸²

- ▶ Women in states with paid family and medical leave programs are less likely than those in other states to receive public assistance or food stamp income following a new child's arrival, and that is particularly the case among those who used their state's paid leave program.⁸³
- ▶ It is also clear that there is more to do, and advocates are working on improvements.
 - ▶ Neither California's nor New Jersey's program offers job protection to workers who take paid family leave, leaving workers who do not have job protection through state family and medical leave laws or the federal FMLA at risk of job loss when they take leave.
 - ▶ Many of the workers who need paid family leave the most are not aware that the programs exist, suggesting the need for strategic public education and outreach efforts to increase program uptake.⁸⁴

Paid Leave Provides Health Benefits for Mothers and Children

All of the available research — from studies of California's paid leave program, to data that reflect the experiences of new parents who work for employers that offer some form of paid leave, to analyses of the experiences of parents in other countries — demonstrates the clear health benefits of paid leave.

Paid leave gives parents time to establish and build a strong bond with a new child during the first months of life, which results in long-term health benefits for both children and parents. Parental leave can decrease maternal depression and infant mortality.⁸⁵ A recent review of international literature concludes there are benefits for maternal health when fathers take paid leave, including a reduction in maternal illness and depression and an increase in well-being.⁸⁶ And children whose mothers take longer periods of leave after giving birth and before returning to work full time are more likely to be taken to pediatricians for regular checkups,⁸⁷ with clear health benefits and likely cost savings down the road. In an international study of paid family leave, each additional month of paid leave was predicted to decrease infant mortality by as much as 13 percent.⁸⁸ Paid time off also supports detection of a child's potential developmental delays early on, when problems can be most effectively addressed and interventions put in place to minimize them.⁸⁹

Fathers and Children Benefit From Paid Leave

When fathers take leave after a child's birth, they are more likely to be involved in the direct care of their children in the longer term. One longitudinal study of U.S. families showed that fathers who took two or more weeks off after the birth of their children were more involved in the direct care of their children nine months after birth than fathers who took no leave.⁹⁰ And a father's involvement in his newborn's care in the first six months can mean both mother and baby sleep better.⁹¹

Access to paid family leave encourages fathers to take leave. In California, as the state's family leave insurance program has become better established, fathers have become more likely to take paid family leave: Fathers now account for 34 percent of new parents seeking to take paid family leave to care for a new child, up from 17 percent when the law took effect more than a decade ago.⁹² Among fathers in lower-quality jobs in California, access to paid family leave has greatly impacted the average length of leave, nearly tripling the amount of time fathers reported taking off work after the birth of a child from an average of three weeks to an average of eight weeks.⁹³ In the first year of Rhode Island's program, a greater proportion of new dads had taken leave to bond with a newborn or adopted child than did new dads in the first year of the California or New Jersey programs.⁹⁴

Paid Leave Leads to Better Child Care Placements

Many working parents need to arrange child care in order to return to work after the arrival of a new child. Working parents seeking institutional day care face significant obstacles, such as high costs, waiting lists and restrictive rules about minimum enrollment age. Being forced to go back to work soon after a

child's arrival increases the pressure and the odds that a child will be placed in a poor or unstable child care situation. Parents who must settle for unreliable child care often find themselves struggling to fill unexpected gaps in care in order to keep their jobs. For some, discipline at work and serial unemployment are common.

Access to paid leave gives parents time to find child care. In Rhode Island, nearly seven out of 10 people who used the temporary caregiver insurance (TCI) program reported satisfaction with their ability to arrange child care, compared to just four out of 10 people who did not use the program.⁹⁵ The impact is particularly dramatic for workers in lower-quality jobs. Among Californians in lower-quality jobs who reported having taken leave to care for a new child, 70 percent of those who took leave through the state paid leave program reported that the leave had a positive effect on their ability to arrange child care, and only 58 percent of those who took leave and did not participate in the state paid leave program reported that the leave had a positive effect on their ability to arrange child care.⁹⁶

Businesses Benefit From Paid Family Leave

Paid leave makes good business sense. Access to paid family leave helps businesses retain workers, especially those in lower-quality jobs.⁹⁷ Reducing turnover is good for businesses both because it fuels consumer spending as people continue working and getting paid income they can spend, and because replacing workers is expensive: Turnover costs are estimated to average one-fifth of an employee's annual salary.⁹⁸ First-time mothers with access to paid maternity leave are more likely to return to work — and to return to work for the same employer — within a year after giving birth.⁹⁹ In California, nearly 88 percent of workers reported returning to their employers after taking paid family leave.¹⁰⁰

Despite the fears of some employers and employer associations, small and large businesses have adjusted easily to the California and the New Jersey paid family leave programs. Research among California employers shows that the vast majority perceived a positive or negligible effect on employee productivity, profitability, performance and morale.¹⁰¹ New Jersey employers interviewed as part of a

Employer Support for Paid Leave

Some leading employers have not only adopted their own policies guaranteeing paid time off for new parents and other family caregivers, but they also support public policies that would allow all workers to take needed time off. Nationwide, nearly 60 percent of smaller employers support a program like California's or New Jersey's.¹⁰²

"[We're] headquartered in California, with offices in Oregon, Washington and Florida. Among our more than 300 employees, it's no secret that those at headquarters have a particular advantage: paid family and medical leave insurance. After California established the law, we began to notice that our employees who took time off when a new baby arrived or when a serious illness struck were less stressed than those in similar circumstances working in our other states." — Annette Bonilla, Vice President and Director of Human Resources, Environmental Science Associates¹⁰³

"Creating a workplace that supports family life is the right thing to do. But it's also the right decision economically... At Patagonia, over the past five years, we've seen 100 percent of moms return to work after maternity leave.... And public policy helps. Under California's paid family leave program, the average length of leave has doubled, with the greatest benefit accruing to women of color and in lower-wage jobs." — Dean Carter, Vice President, Patagonia¹⁰⁴

"When we increased paid maternity leave at Google from 12 to 18 weeks, we discovered it wasn't just good for mothers, it was good for business, doubling our retention rate amongst mothers. I've personally benefitted from Google's policy but all working families, regardless of their employer or state of residence, deserve the benefits of paid family leave." — Susan Wojcicki, CEO, YouTube¹⁰⁵

study about that state's paid family leave insurance program noted that paid leave helped reduce stress and improve morale among workers taking leave, as well as among their co-workers.¹⁰⁶ And the majority of Rhode Island employers interviewed after the state's temporary caregiver insurance program's first year of implementation said they supported the new law.¹⁰⁷

What's more, research on California's paid family leave program demonstrates how beneficial such a program can be for businesses that already provide some form of paid leave. Sixty percent of California employers reported coordinating their own benefits with the state's paid family leave insurance system, which likely resulted in cost savings for those that previously permitted employees to use vacation, sick time, family leave or personal time during maternity or parental leave and shouldered the entire cost of providing that time off.¹⁰⁸

Some business executives recognize the value of policies like paid leave and paid sick days. A recently leaked poll shows that current and potential members of state chambers of commerce across the country overwhelmingly support workplace policies such as paid sick days and paid family and medical leave.¹⁰⁹ The poll finds that 82 percent of current or prospective chamber members support increased paternity leave time, 73 percent support paid sick days and 72 percent support increased maternity leave time.¹¹⁰

Paid Leave Provides Economic Benefits for Families and Governments

Having a baby is the most expensive health event that families face during their childbearing years,¹¹¹ and it is estimated that nearly 13 percent of families with a new infant become poor within a month.¹¹² Yet, when new parents have access to paid leave, they are more likely to remain in the workforce, contributing to the tax base and boosting their own economic security. Access to leave may incentivize women to remain in the workforce as long as possible during their pregnancies.¹¹³ In addition, an analysis of paid leave use among new parents shows that women who take paid leave after the birth of a child are more likely to return to work nine to 12 months after the child's birth than those who take no leave (paid or unpaid) at all.¹¹⁴ New mothers who have taken paid leave are also more likely to report higher wages in the year following a child's birth, controlling for other factors that might affect wage rates.¹¹⁵

In addition, families have less need for public assistance when new parents have access to paid leave, even when controlling for other socioeconomic factors that might affect the use of public assistance. New mothers who return to work after taking paid leave are about 40 percent less likely to report receiving public assistance and food stamps (now known as SNAP, the Supplemental Nutrition Assistance Program) in the year after a child's birth than those who return to work without taking paid or unpaid family leave.¹¹⁶ New fathers who take paid leave are also significantly less likely to report receiving public assistance or food stamps in the year following a child's birth than those who return to work and take no leave at all.¹¹⁷ An analysis of states with paid leave programs found that women in those states are less likely than women in other states to receive public assistance or food stamp income (SNAP) following a child's birth, and this is particularly the case among women who use the state's paid leave program.¹¹⁸

In short, paid leave makes economic sense for families, for businesses and for taxpayers.

Research and experience demonstrate what some policymakers, forward-thinking business leaders and tens of millions of working families already know: Support for new parents, particularly paid family and medical leave, should be available to every worker in the United States.

States that provide greater legal rights and protections than federal law prove that progress is possible. These states showcase new models that can and should be replicated to help millions more working families across the country. The nation cannot afford to wait.

Methodology

This report provides the most comprehensive assessment to date of state policies that support expecting and new parents just before and soon after the arrival of a new child. It discusses:

- ▶ State laws that exceed the FMLA in guaranteeing job protection or pay to women and men who take leave from their jobs to care for a new child (“parental leave”) or a spouse or partner disabled by pregnancy or childbirth (“family leave”);
- ▶ State laws that exceed the FMLA in guaranteeing job protection or pay to birth mothers who take leave from their jobs during a period of disability prior to or following childbirth (“medical leave” or “maternity leave”);
- ▶ State laws that allow workers to earn paid sick time that can be used for health needs in connection with pregnancy or childbirth (“paid sick days”);
- ▶ State laws that require employer-provided sick, vacation or personal leave to be available for workers to care for a new child or an ill spouse or partner (“flexible use of sick time”);
- ▶ State laws that guarantee pregnant women the right to reasonable accommodations at work when pregnancy-related physical limitations necessitate such accommodations (“pregnancy accommodations”); and
- ▶ State laws that exceed federal standards in enabling new mothers to continue to provide breast milk to their new babies after returning to work (“nursing mothers’ workplace rights”).

The National Partnership used legal search engines and searched state websites, statutes, regulations and state government personnel handbooks to identify state laws and policies that guarantee access to family or medical leave to expecting and new parents, paid sick days, reasonable accommodations for pregnant workers and support for breastfeeding mothers.¹¹⁹

States may have other laws in place that help new parents, such as laws affecting state employees’ ability to pool unused vacation or sick time to help co-workers when a new child arrives. These laws are unquestionably valuable but are not within the scope of this analysis.

This analysis differentiates between laws affecting private sector workers and public sector state workers.

Scoring Criteria and Results

Each state was awarded points based on the protections provided to private sector and state employees. Because most employees work in the private sector, the point system favors laws that provide protection and leave to private sector employees.

PRIVATE SECTOR WORKERS

To evaluate family or medical leave, sick time, pregnancy accommodation and breastfeeding support laws that apply to private sector workers, the following criteria were considered.

Paid Family Leave

Thirty points were awarded to states with laws that:

- ▶ Guarantee wage replacement to workers while they take leave from work to care for a new child or a spouse or partner disabled by pregnancy.

30 points: California, New Jersey, New York and Rhode Island

Paid Medical/Pregnancy Disability Leave

Twenty-five points were awarded to states with laws that:

- ▶ Guarantee wage replacement to workers while they take leave due to a pregnancy- or childbirth-related disability.

25 points: California, Hawaii, New Jersey, New York and Rhode Island

Paid Sick Days

Fifteen points were awarded to states with laws that:

- ▶ Guarantee workers the ability to earn a limited number of paid sick days each year that can be used for a worker's own illnesses, to care for an ill family member or for personal or family medical visits.

15 points: California, Connecticut, District of Columbia, Massachusetts, Oregon and Vermont

Job-Protected Family Leave

Up to 40 points (10 points for each criterion) were awarded to states with laws that:

- ▶ Guarantee workers greater access to job-protected family leave than the federal FMLA by requiring smaller employers (those with fewer than 50 employees) to provide leave;
- ▶ Guarantee workers greater access to job-protected family leave than the federal FMLA by expanding eligibility to include workers with less time on the job (less than one year of job tenure or fewer than 1,250 hours worked in the previous year);
- ▶ Guarantee workers access to job-protected family leave for a longer period of time away from work than the federal FMLA (more than 12 weeks); or
- ▶ Guarantee more workers access to job-protected family leave than the FMLA by providing them leave to care for a pregnant domestic partner or the new child of a domestic partner.

40 points: District of Columbia, Oregon and Rhode Island

30 points: Maine, New Jersey and New York

20 points: Connecticut, Hawaii, Massachusetts, Minnesota, Vermont and Wisconsin

10 points: California, Colorado, Maryland, Tennessee and Washington

Job-Protected Leave for Pregnancy, Childbirth or Related Medical Conditions

Up to 30 points (10 points for each criterion) were awarded to states with laws that:

- ▶ Guarantee workers greater access to job-protected medical or pregnancy disability leave than the federal FMLA by requiring smaller employers (those with fewer than 50 employees) to provide leave;
- ▶ Guarantee workers greater access to job-protected medical or pregnancy disability leave than the federal FMLA by providing access to workers with less time on the job (less than one year of job tenure or fewer than 1,250 hours worked in the previous year); or
- ▶ Provide workers with a longer period of job-protected time off for medical or disability leave than the federal FMLA (more than 12 weeks).

30 points: California, Louisiana and Washington

20 points: Connecticut, Hawaii, Iowa, Montana and New Hampshire

10 points: District of Columbia, Oregon and Vermont

Note: If a state has identical provisions for job-protected family leave and job-protected medical leave in its law, only one set of points was awarded. Two sets of points were awarded only if the state expands each type of leave (family or medical) in different ways or provides separate allocations of time for each type of leave. The jurisdictions in the latter group are California, Connecticut, the District of Columbia, Hawaii, Oregon, Vermont and Washington.

Flexible Use of Sick Time

Fifteen points were awarded to states with laws that:

- ▶ Have a flexible sick time requirement that permits workers to use accrued paid sick time as leave to care for a new child and/or a spouse or partner with a pregnancy-related disability.

15 points: California, Connecticut, District of Columbia, Hawaii, Maine, Maryland, Massachusetts, Minnesota, Oregon, Vermont, Washington and Wisconsin

Nursing Mothers' Workplace Rights

Fifteen points were awarded to states with laws that:

- ▶ Guarantee nursing mothers greater rights to express breast milk at work than federal law.

15 points: Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Indiana, Maine, Minnesota, Nebraska, New Mexico, New York, Oregon, Rhode Island, Tennessee, Utah and Vermont

Pregnancy Accommodations

Fifteen points were awarded to states with laws that:

- ▶ Guarantee pregnant workers the right to reasonable workplace accommodations.

15 points: California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Louisiana, Maryland, Minnesota, Nebraska, New Jersey, New York, North Dakota, Rhode Island, Utah and West Virginia

STATE WORKERS

To evaluate family and medical leave, pregnancy accommodation and breastfeeding support laws that apply exclusively to public sector workers, the following criteria were considered. States were awarded points if they provide at least some of their own workers, but not private sector workers, with the protections listed below.

Paid Family and Medical Leave

Twenty points were awarded to states with laws that:

- ▶ Guarantee wage replacement to workers while they take leave from work to care for a new child or a spouse disabled by pregnancy or childbirth; or
- ▶ Guarantee wage replacement to workers when they take leave due to a pregnancy- or childbirth-related disability.

20 points: District of Columbia, Illinois, Ohio and Virginia

Job-Protected Family and/or Medical Leave

Up to 20 points (10 points for each criterion) were awarded to states with family or medical leave laws that:

- ▶ Guarantee workers greater access to job-protected family and/or medical leave than the federal FMLA by expanding eligibility to include workers with less time on the job (less than one year of job tenure or fewer than 1,250 hours worked in the previous year); or
- ▶ Guarantee workers access to job-protected family and/or medical leave for a longer period of time away from work than the federal FMLA (more than 12 weeks).

20 points: Alaska, Arkansas, Connecticut, Florida, Illinois, Kansas, Massachusetts, New York and North Carolina

10 points: Colorado, District of Columbia, Kentucky, Montana, Pennsylvania, Texas, Vermont, Washington, West Virginia and Wisconsin

Flexible Use of Sick Time

The report provides information about state statutes, administrative rules or policies that permit state workers to use accrued sick time to care for a new child or ill family member, but points were not awarded for these policies.

Nursing Mothers' Workplace Rights

The report provides information about state statutes, administrative rules or policies that provide all nursing mothers returning to work for the state with reasonable break time and a private place to express breast milk, but points were not awarded for these policies.

Pregnancy Accommodations

Ten points were awarded to states with laws that:

- ▶ Guarantee pregnant workers the right to reasonable workplace accommodations.

10 points: Alaska

2016 State-by-State Report Card

The following grades reflect the degree to which each state improves upon federal law.

	POINTS AWARDED		
A		D+	
California.....	155	Tennessee.....	25
		West Virginia.....	25
A-		D	
District of Columbia.....	140	Florida.....	20
New York.....	135	Iowa.....	20
		Kansas.....	20
B+		New Hampshire.....	20
Rhode Island.....	125	North Carolina.....	20
Connecticut.....	120	Ohio.....	20
Hawaii.....	110	Virginia.....	20
New Jersey.....	100		
Oregon.....	95	D-	
		Indiana.....	15
B		New Mexico.....	15
Vermont.....	85	North Dakota.....	15
Illinois.....	70	Kentucky.....	10
Massachusetts.....	70	Pennsylvania.....	10
		Texas.....	10
B-		F	
Minnesota.....	65	Alabama.....	0
Washington.....	65	Arizona.....	0
Maine.....	60	Georgia.....	0
		Idaho.....	0
C+		Michigan.....	0
Colorado.....	50	Mississippi.....	0
		Missouri.....	0
C		Nevada.....	0
Louisiana.....	45	Oklahoma.....	0
Wisconsin.....	45	South Carolina.....	0
Maryland.....	40	South Dakota.....	0
		Wyoming.....	0
C-			
Arkansas.....	35		
Alaska.....	30		
Delaware.....	30		
Montana.....	30		
Nebraska.....	30		
Utah.....	30		

Summary of State Laws

The state-by-state descriptions that follow provide a snapshot of how rights and protections under state law compare to the 12 weeks of leave for new and expecting parents provided by the federal Family and Medical Leave Act (FMLA), the protections provided by the Pregnancy Discrimination Act (PDA) and the right to express breast milk at work provided under the Fair Labor Standards Act (FLSA).¹²⁰

ALABAMA

F

PRIVATE SECTOR WORKERS

Alabama law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Alabama has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

Alabama state workers who earn sick time can use it to care for an ill family member, including a spouse (or other person with “unusually strong personal ties” to the employee) disabled by pregnancy.¹²¹

ALASKA

C-

PRIVATE SECTOR WORKERS

Alaska law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Job-Protected Family and Medical Leave

State workers have greater access to family and pregnancy disability leave under state law than under the federal FMLA. Alaska’s public sector leave law applies to employees who have worked at least 35 hours per week over six consecutive months or 17.5 hours per week over 12 consecutive months, and grants workers 18 weeks of leave.¹²²

Pregnancy Accommodations

State workers who are pregnant may request a transfer to a position that is less strenuous or hazardous, and the state must grant the transfer if the employee is qualified for and immediately able to perform the duties of the position and the transfer is recommended by a licensed health care provider.¹²³

ARIZONA

F

PRIVATE SECTOR WORKERS

Arizona law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Arizona has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

FLEXIBLE USE OF SICK TIME

State workers who earn sick time can use up to 40 hours to attend medical appointments or care for an ill family member, including a spouse disabled by pregnancy or childbirth.¹²⁴

ARKANSAS

C-

PRIVATE SECTOR WORKERS

Arkansas has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

Nursing Mothers' Workplace Rights

All nursing mothers must be provided reasonable break time to express breast milk at work, unless providing such time would impose an undue hardship on the employer's operations. Employers must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.¹²⁵

STATE WORKERS

Job-Protected "Maternity" Disability Leave

Full-time public employees have greater access to "maternity" disability leave under Arkansas law than under the federal FMLA. Workers may take up to six months of unpaid leave for maternity leave, regardless of the worker's tenure.¹²⁶

Flexible Use of Sick Time

State workers who earn sick time can use it to care for a seriously ill family member, including a spouse disabled by pregnancy.¹²⁷

Nursing Mothers' Workplace Rights

Like private sector workers, women who work for the state of Arkansas must be provided reasonable break time to express breast milk at work, unless providing such time would impose an undue hardship on the employer's operations. The state must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.¹²⁸

CALIFORNIA

A

PRIVATE SECTOR WORKERS

Paid Family and Medical Leave

Private sector workers who qualify for the state's disability insurance system can take up to six weeks of paid family leave that can be used by either parent.¹²⁹ The state's paid family leave program is an expansion of California's State Disability Insurance (SDI) program that provides partial wage replacement for new parents and for workers caring for a seriously ill family member, including a spouse or domestic partner disabled by pregnancy. The program is funded through employee payroll contributions. The paid family leave law provides wage replacement only; it does not provide job protection for workers while they are on family leave.

In addition, California's SDI program provides partial wage replacement to workers with a non-work-related illness, injury or medically disabling condition, including disability resulting from pregnancy or childbirth.¹³⁰ In essence, SDI functions as paid pregnancy disability leave for women preparing for or recovering from childbirth. The SDI program is funded through employee payroll contributions.¹³¹ Women who take SDI leave for a pregnancy-related disability are also eligible to take paid family leave; SDI leave and paid family leave must be taken sequentially rather than concurrently.¹³² Although SDI covers a disabled worker for up to 52 weeks, typical coverage for a pregnancy-related disability is four weeks prior to a woman's due date and six weeks after delivery.¹³³ The law does not provide job protection for workers while they are on SDI leave.

Job-Protected Family Leave

Private sector workers have greater parental and family caregiving leave rights under the California Family Rights Act (CFRA) than under the federal FMLA. CFRA extends parental and family leave rights to workers caring for a domestic partner or the child of a domestic partner.¹³⁴

Job-Protected Medical Leave for Pregnancy Disability

Workers disabled by pregnancy, childbirth or related medical conditions also have protections under California anti-discrimination law. Workers are eligible for up to four months of job-protected leave to address a disability related to pregnancy, childbirth or a related medical condition.¹³⁵ The law applies to women working for employers with five or more employees, regardless of the worker's tenure or the number of hours worked.¹³⁶ Once a pregnancy-related disability ends, a woman eligible for leave under CFRA can request up to 12 additional weeks of leave to care for her new baby.¹³⁷

Job-Protected Paid Sick Days

Many private sector workers in California have the right to earn paid sick time.¹³⁸ The law allows pregnant workers to use paid sick time to seek prenatal or postnatal care. It also enables workers to use paid sick time for an ill family member, including a spouse or domestic partner's pregnancy-related health condition or medical care.¹³⁹ Workers may earn up to 48 hours and use 24 hours per year.¹⁴⁰ The law was expanded in 2016 to cover in-home supportive services workers.¹⁴¹

Flexible Use of Sick Time

Private sector workers whose employers provide sick time beyond California's statutory requirement can use up to half of their allotted leave each year for the care of a sick family member, including a spouse or domestic partner with a pregnancy-related disability.¹⁴²

Nursing Mothers' Workplace Rights

All nursing mothers must be provided reasonable break time to express breast milk at work while their children are infants. Employers must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.¹⁴³

Pregnancy Accommodations

Private sector employers with five or more employees must make reasonable accommodations for a worker's condition related to pregnancy, childbirth or a related medical condition if the worker requests such an accommodation with the advice of her health care provider. The accommodation may include a transfer to a less strenuous or hazardous position if the transfer can be reasonably accommodated.¹⁴⁴

STATE WORKERS

Paid Family and Medical Leave

State workers are eligible for State Disability Insurance (SDI) and paid family leave only if their bargaining unit has opted in to the system.¹⁴⁵ The time allotted for SDI and paid family leave, the wage replacement level and the lack of job protection are the same for covered state workers as for private sector workers.

Job-Protected Family Leave

Like private sector workers, state workers have greater parental and family caregiving leave rights under CFRA than under the federal FMLA because CFRA extends parental and family leave rights to workers caring for a domestic partner or the child of a domestic partner.¹⁴⁶

Job-Protected Medical Leave for Pregnancy Disability

Like private sector workers, state workers disabled by pregnancy, childbirth or related medical conditions enjoy protections under California anti-discrimination law. They are eligible for up to four months of job-protected leave to address a disability related to pregnancy or childbirth or a related medical condition, regardless of their tenure on the job or the number of hours worked.¹⁴⁷ Once a

pregnancy-related disability ends, a state worker eligible for leave under CFRA may take up to 12 additional weeks of leave to care for her new baby.¹⁴⁸

Flexible Use of Sick Time

Like private sector workers, state workers who earn sick time beyond California's statutory requirement can use up to half of their allotted time each year for the care of a sick family member, including a spouse or domestic partner with a pregnancy-related disability.¹⁴⁹

Nursing Mothers' Workplace Rights

As in private sector workplaces, nursing mothers working for the state of California must be provided reasonable break time to express breast milk at work while their children are infants. The state must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.¹⁵⁰

Pregnancy Accommodations

As in the private sector, the state must make reasonable accommodations for a worker's condition related to pregnancy, childbirth or a related medical condition if the worker requests such an accommodation with the advice of her health care provider. The accommodation may include a transfer to a less strenuous or hazardous position if the transfer can be reasonably accommodated.¹⁵¹

COLORADO

C+

PRIVATE SECTOR WORKERS

Job-Protected Family Leave

Private sector workers have greater family leave rights under Colorado law than under the federal FMLA. The Colorado family leave law extends family leave rights to workers caring for a domestic partner or partner in a civil union.¹⁵²

Nursing Mothers' Workplace Rights

All nursing mothers must be provided reasonable break time to express breast milk at work for up to two years after giving birth. Employers must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.¹⁵³

Pregnancy Accommodations

Private sector employers of all sizes must make reasonable accommodations for a worker's pregnancy-related health condition or physical recovery from childbirth if the worker requests such an accommodation, unless the accommodation would impose an undue hardship on the employer. The accommodation may include a transfer to a less strenuous or hazardous position if available.¹⁵⁴

STATE WORKERS

Job-Protected Family Leave

Like private sector workers, state workers have greater family rights under Colorado law than under the federal FMLA. The Colorado family leave law extends family leave rights to workers caring for a domestic partner or partner in a civil union.¹⁵⁵

Job-Protected Family and Medical Leave

Employees of the state who work full time and meet federal FMLA eligibility requirements can take up to 520 hours (the equivalent of 13 weeks) of family leave or leave for a pregnancy-related disability per rolling 12-month period. The number of hours available to part-time employees is prorated.¹⁵⁶

Flexible Use of Sick Time

State workers who earn sick time can use it to seek medical diagnosis or treatment or to care for a sick family member, including a spouse (or other person in the household for whom the employee is the primary caregiver) disabled by pregnancy.¹⁵⁷

Nursing Mothers' Workplace Rights

As in private sector workplaces, women who work for the state of Colorado must be provided reasonable break time to express breast milk at work for up to two years after giving birth. The state must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.¹⁵⁸

Pregnancy Accommodations

As in the private sector, the state must make reasonable accommodations for a worker's pregnancy-related health condition or physical recovery from childbirth if the employee requests such an accommodation, unless the accommodation would impose an undue hardship on the employer. The accommodation may include a transfer to a less strenuous or hazardous position if available.¹⁵⁹

CONNECTICUT

B+

PRIVATE SECTOR WORKERS

Job-Protected Family and Medical Leave

Private sector workers who work for employers with 75 or more employees have greater family leave and pregnancy disability leave rights than the federal FMLA provides.¹⁶⁰ Connecticut's family and medical leave law applies to private sector workers who have worked for an employer for at least 12 months and have worked at least 1,000 hours for that employer during the previous year.¹⁶¹ The Connecticut law also provides workers with up to 16 weeks of leave in a 24-month period (rather than 12 weeks in a 12-month period under federal law).¹⁶²

Job-Protected Medical Leave for Pregnancy Disability

Workers disabled by pregnancy also have protections under Connecticut anti-discrimination law. Employers with three or more employees must grant workers a reasonable leave of absence for a disability resulting from pregnancy. The law protects employees regardless of tenure and number of hours worked.¹⁶³

Job-Protected Paid Sick Days

Many Connecticut workers in service industries and in other occupations requiring public contact, who work in businesses with 50 or more employees, are able to earn paid sick time. The law allows pregnant workers to use paid sick time to seek prenatal or postnatal care. It also enables workers to use paid sick time for an ill family member, including a spouse disabled by pregnancy.¹⁶⁴ Workers may earn up to 40 hours per year.

Flexible Use of Sick Time

Under the state family and medical leave law, private sector workers in firms with 75 or more employees who earn sick time can use up to two weeks for the birth or adoption of a child or to care for a seriously ill family member, including a spouse with a serious pregnancy-related health condition.¹⁶⁵

Nursing Mothers' Workplace Rights

Employers must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk at work. Unlike most other states, Connecticut's law does not require that workers also be provided reasonable break time to express breast milk.¹⁶⁶

Pregnancy Accommodations

Employers with three or more employees must make a reasonable effort to transfer a pregnant employee to a temporary position if the employee's current position could cause injury to her or to her fetus.¹⁶⁷

STATE WORKERS

Job-Protected Family and Medical Leave

State workers have greater family and pregnancy disability leave rights than under the federal FMLA. Public sector workers also enjoy greater leave rights than Connecticut's private sector workers. Connecticut's public sector family leave law protects employees after six months of employment, regardless of the number of hours worked,¹⁶⁸ and grants workers up to 24 weeks of leave in a two-year period.¹⁶⁹

Job-Protected Medical Leave for Pregnancy Disability

Like many private sector workers in Connecticut, state workers disabled by pregnancy have protections under Connecticut anti-discrimination law. The state must grant workers a reasonable leave of absence for a disability resulting from pregnancy. The law protects employees regardless of tenure and number of hours worked.¹⁷⁰

Flexible Use of Sick Time

State workers who earn sick time can use up to three days per year to care for a family member with a critical illness or severe injury, including a spouse disabled by pregnancy.¹⁷¹

Nursing Mothers' Workplace Rights

As in private sector workplaces, the state must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk at work. Unlike most other states, Connecticut's law does not require that workers also be provided reasonable break time to express breast milk.¹⁷²

Pregnancy Accommodations

Like private sector employers, the state must make a reasonable effort to transfer a pregnant employee to a temporary position if the employee's current position could cause injury to her or to her fetus.¹⁷³

DELAWARE

C-

PRIVATE SECTOR WORKERS

Delaware has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

Pregnancy Accommodations

Private sector employers with four or more employees must make reasonable accommodations for an employee's known limitations related to pregnancy, childbirth or related conditions, unless doing so would impose an undue hardship on the employer.¹⁷⁴

Nursing Mothers' Workplace Rights

Under Delaware's pregnancy accommodations law, break time and appropriate facilities for employees to express breast milk are included as reasonable accommodations that employers with four or more employees must provide unless doing so would cause an undue hardship.¹⁷⁵

STATE WORKERS

Delaware has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers who earn sick time can use it upon the birth of a child or upon the adoption of a pre-kindergarten-age child,¹⁷⁶ or after being employed full time for one year, to travel out of the country for the purpose of adopting a child.¹⁷⁷

Pregnancy Accommodations

As in the private sector, state employers with four or more employees must make reasonable accommodations for an employee's known limitations related to pregnancy, childbirth or related conditions, unless doing so would impose an undue hardship on the employer.¹⁷⁸

Nursing Mothers' Workplace Rights

As in private sector workplaces, under Delaware's pregnancy accommodations law, break time and appropriate facilities for employees to express breast milk are included as reasonable accommodations that state employers with four or more employees must provide, unless doing so would cause an undue hardship.¹⁷⁹

DISTRICT OF COLUMBIA

A-

PRIVATE SECTOR WORKERS

Job-Protected Family and Medical Leave

Private sector workers have greater access to family and pregnancy disability leave under District law than under the federal FMLA. The D.C. family and medical leave law applies to employers with 20 or more employees.¹⁸⁰ Employees who have worked for their employer for at least one year and at least 1,000 hours over the preceding year are eligible for leave. The family leave law provides a broader definition of "family member" than the federal FMLA so that a worker may take leave to care for a person with whom the employee shares a mutual residence and maintains a committed relationship.¹⁸¹ Workers can take up to 16 weeks of family leave over two years to care for a new child or a family member with a serious health condition, including a spouse (or person with whom the employee shares a mutual residence and maintains a committed relationship) with a pregnancy-related serious health condition.¹⁸²

Women with a pregnancy-related serious health condition are eligible for up to 16 weeks of medical leave over two years;¹⁸³ this leave is in addition to any period of family leave taken to care for a new child or seriously ill family member.¹⁸⁴

Job-Protected Paid Sick Days

Most private sector workers in the District have the right to earn paid sick time that may be used for their own medical care or the medical care of a child or other family member.¹⁸⁵ The law allows pregnant workers to use paid sick time to seek prenatal or postnatal care. It also enables workers to use paid sick time for an ill family member, including a spouse or domestic partner disabled by pregnancy.¹⁸⁶ A full-time worker earns between three and seven days, depending on the size of his or her employer.¹⁸⁷ The law was amended in 2014 to expand coverage to tipped restaurant and bar workers who were excluded from coverage under the law as passed in 2008.¹⁸⁸

Nursing Mothers' Workplace Rights

All nursing mothers must be provided reasonable break time to express breast milk at work, unless providing such break time would impose an undue hardship on the employer's operations. Employers must make reasonable efforts to provide a place other than a bathroom for nursing employees to express breast milk.¹⁸⁹

Pregnancy Accommodations

Private sector employers of all sizes must provide reasonable accommodations to workers with known limitations related to pregnancy, childbirth and related medical conditions, unless doing so would cause an undue hardship. The accommodation may include a temporary transfer to a less strenuous or hazardous position.¹⁹⁰

DISTRICT WORKERS

Paid Family Leave

District workers can take up to eight weeks of paid family leave that can be used upon the birth or placement of a new child or to care for a family member with a serious health condition, including the pregnancy-related serious health condition of a spouse or person with whom the employee shares a mutual residence and maintains a committed relationship. The leave is job-protected for all District employees other than short-term or intermittent employees, and any paid leave taken counts against the 16 weeks of family leave provided under the D.C. Family and Medical Leave Act.¹⁹¹

Job-Protected Family and Medical Leave

Like private sector workers, District workers have greater access to family and pregnancy disability leave under District law than under the federal FMLA. Employees who have worked for the D.C. government for at least one year and at least 1,000 hours in the previous year can take up to 16 weeks of family leave over two years to care for a new child or family member with a serious health condition,¹⁹² and female workers may take up to 16 weeks of medical leave over two years for a serious health condition related to pregnancy¹⁹³ — which is in addition to any period of family leave taken to care for a new child or to care for a seriously ill family member.¹⁹⁴

In addition, the broader definition of “family member” that includes taking leave to care for a person with whom the employee shares a mutual residence and maintains a committed relationship applies to District workers as it does to private sector workers.¹⁹⁵

Flexible Use of Sick Time

District workers who earn sick time can use it to care for a family member, including a spouse or domestic partner disabled by pregnancy, or upon the birth, adoption or foster placement of a child.¹⁹⁶

Nursing Mothers’ Workplace Rights

Like private sector workers, women employed by the District must be provided reasonable break time to express breast milk at work, unless providing such break time would impose an undue hardship on the employer’s operations. The District must make reasonable efforts to provide a place other than a bathroom for nursing employees to express breast milk.¹⁹⁷

Pregnancy Accommodations

As in the private sector, the District government must provide reasonable accommodations to workers with known limitations related to pregnancy, childbirth and related medical conditions, unless they would impose an undue hardship on the employer. The accommodation may include a temporary transfer to a less strenuous or hazardous position.¹⁹⁸

FLORIDA

D

PRIVATE SECTOR WORKERS

Florida law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Job-Protected Family Leave

State workers have greater family leave rights than under the federal FMLA. Florida’s public sector family leave law provides career service employees with up to six months of leave to care for a new child or deal with a family member’s serious medical issues, including a spouse with serious medical issues arising from pregnancy or childbirth.¹⁹⁹ Workers do not have to satisfy any tenure requirements to be eligible for leave.

Flexible Use of Sick Time

State employees who earn sick time can use it to care for an ill family member, including a spouse disabled by pregnancy, or to attend the family member’s well-care check-ups.²⁰⁰

GEORGIA

F

PRIVATE SECTOR WORKERS

Georgia law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Georgia has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers who earn sick time can use it for the adoption of a child if the employee’s presence is required for health-related reasons, or for the illness of a family member which requires the employee’s presence, including a spouse disabled by pregnancy.²⁰¹

HAWAII

B+

PRIVATE SECTOR WORKERS

Paid Medical Leave for Pregnancy Disability

Under Hawaii’s Temporary Disability Insurance (TDI) law, eligible private sector workers disabled by pregnancy or the termination of a pregnancy can receive up to 26 weeks of partial wage replacement each year. Under Hawaii’s law, employers of all sizes are required to provide TDI for their employees.²⁰² Employers may ask their workers to contribute up to half of the premium cost, as long as that amount does not exceed half of one percent of the employee’s weekly wages.²⁰³ The law does not provide job protection for workers while they are on leave.

Job-Protected Family Leave

Private sector workers in firms with 100 or more employees have greater family leave and caregiving rights than under the federal FMLA. The Hawaii family leave law provides employees with six months’ tenure four weeks of family leave in a one-year period, regardless of the number of hours worked,²⁰⁴ and defines family more broadly than the federal FMLA to include caregiving for a designated “reciprocal beneficiary,” which may include a same-sex partner.²⁰⁵

Job-Protected Medical Leave for Pregnancy Disability

Women in the private sector have greater access to pregnancy disability leave under state law than under federal law. Pregnant workers must be granted leave for a “reasonable period of time.”²⁰⁶ The law applies to employers of all sizes and protects employees regardless of tenure and number of hours worked.

Flexible Use of Sick Time

Under the state family leave law, private sector workers in firms with 100 or more employees who earn sick time can use up to 10 days for the care of a new child or to assist a seriously ill family member.²⁰⁷

Nursing Mothers’ Workplace Rights

All nursing mothers must be provided reasonable break time and a place other than a restroom to express breast milk at work for up to one year after giving birth. Employers with fewer than 20 employees are not required to provide time or a place to pump if doing so would impose an undue hardship on the employer.²⁰⁸

Pregnancy Accommodations

Private sector employers of all sizes must make reasonable accommodations for pregnant employees with a disability due to pregnancy, childbirth or related medical conditions.²⁰⁹

STATE WORKERS

Paid Medical Leave for Pregnancy Disability

Like private sector workers, state workers disabled by pregnancy or childbirth are eligible for partial wage replacement under Hawaii's TDI law.²¹⁰ As in the private sector, the law does not provide job protection for workers while they are on leave.

Job-Protected Family Leave

Like private sector workers, workers for state employers with 100 or more employees have greater access to parental and caregiving leave under Hawaii law than under the federal FMLA. Hawaii's family leave law provides workers with six months' tenure four weeks of family leave in a one-year period, regardless of the number of hours worked, and defines family more broadly than the federal FMLA.²¹¹

Job-Protected Medical Leave for Pregnancy Disability

Like private sector workers, state workers employed by Hawaii have greater access to pregnancy disability leave under state law than under federal law. Hawaii's leave law provides pregnant workers with leave for "a reasonable period of time" and protects workers regardless of tenure and number of hours worked.²¹²

Flexible Use of Sick Time

Like private sector workers, workers for state employers with 100 or more employees who earn sick time can use up to 10 days for the care of a new child or to assist a seriously ill family member, pursuant to Hawaii's family leave law.²¹³

Nursing Mothers' Workplace Rights

Like private sector workers, women employed by the state of Hawaii who are nursing must be provided reasonable break time and a private place other than a restroom to express breast milk at work for up to one year after giving birth. Employers with fewer than 20 employees are not required to provide time or a place to pump if doing so would impose an undue hardship on the employer.²¹⁴

Pregnancy Accommodations

As in the private sector, the state must make reasonable accommodations for pregnant employees with a disability due to pregnancy, childbirth or related medical conditions.²¹⁵

IDAHO

F

PRIVATE SECTOR WORKERS

Idaho law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Idaho has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State executive branch workers who earn sick time can use it to care for an ill family member, including a spouse disabled by pregnancy, and to attend family members' medical appointments. State workers may also be able to use sick time due to adoption or foster care placement if the child requires medical care.²¹⁶

PRIVATE SECTOR WORKERS

Illinois has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

Nursing Mothers' Workplace Rights

Nursing mothers employed by private employers with more than five employees must be provided reasonable break time to express breast milk at work while their children are infants, unless providing such time would unduly disrupt the employer's operations. Employers must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.²¹⁷

Pregnancy Accommodations

Private employers of all sizes must make reasonable accommodations for an employee's medical or common condition related to pregnancy or childbirth if the employee requests such an accommodation, unless doing so would impose an undue hardship on the employer.²¹⁸

STATE WORKERS**Paid Parental Leave**

State workers can take four weeks of paid parental leave that can be used by either parent upon the birth or adoption of a child.²¹⁹

Job-Protected Family Leave

State workers have greater access to family leave under state law than under the federal FMLA. Illinois's public sector "family responsibility leave" law applies to full-time employees, regardless of tenure. Workers may take up to one year of leave to care for a new child or a disabled family member. The law defines family more broadly than the federal FMLA to include household members who share a custodial or financially and emotionally dependent relationship.²²⁰

Nursing Mothers' Workplace Rights

Like private sector workers, nursing mothers working for state employers with more than five employees must be provided reasonable break time to express breast milk at work while their children are infants, unless providing such time would unduly disrupt the employer's operations. The state must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.²²¹

Pregnancy Accommodations

As in the private sector, the state must make reasonable accommodations for an employee's medical or common condition related to pregnancy or childbirth if the employee requests such an accommodation, unless doing so would impose an undue hardship on the employer.²²²

Flexible Use of Sick Time

State workers who earn sick time can use it to care for a family member with a serious illness or disability. The law is silent as to which family relationships are covered.²²³

PRIVATE SECTOR WORKERS

Indiana has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

Nursing Mothers' Workplace Rights

All nursing mothers who work for employers with 25 or more employees must be provided a private place other than a toilet stall to express breast milk, as well as cold storage space for the expressed milk or the

opportunity to bring their own storage device, to the extent reasonably possible. Unlike most other states, Indiana’s law does not require that workers also be provided reasonable break time to express breast milk.²²⁴

STATE WORKERS

Indiana has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers who earn sick time can use it for the illness or injury of a family member, including the pregnancy-related illness or injury of a spouse or a person residing in the employee’s household who depends on the employee for care and support. Sick time can also be used to attend health care provider visits with such family members.²²⁵

Nursing Mothers’ Workplace Rights

Women employed by the state of Indiana must be provided reasonable paid break time to express breast milk at work while their children are infants, unless providing such time would unduly disrupt the state’s operations. The state must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk as well as cold storage space for the expressed milk.²²⁶

IOWA

D

PRIVATE SECTOR WORKERS

Job-Protected Medical Leave for Pregnancy Disability

Women in the private sector have greater access to pregnancy disability leave under state anti-discrimination law than under federal law. Iowa law prohibits employers with four or more employees from denying a woman’s request for up to eight weeks of leave to address disability due to pregnancy, childbirth or related medical conditions. Leave must be granted regardless of a woman’s tenure on the job or the number of hours she has worked.²²⁷ The law is silent as to whether the leave is job-protected.

STATE WORKERS

Job-Protected Medical Leave for Pregnancy Disability

As in the private sector, state workers have greater access to pregnancy disability leave under state law than under federal law. State employers with four or more employees may not deny a woman’s request for up to eight weeks of leave to address disability due to pregnancy, childbirth or related medical conditions. Leave must be granted regardless of a woman’s tenure or the number of hours she has worked.²²⁸ The law is silent as to whether the leave is job-protected.

Flexible Use of Sick Time

State workers who earn sick time can use up to 40 hours per year to care for a family member, including a spouse or other household member disabled by pregnancy.²²⁹

KANSAS

D

PRIVATE SECTOR WORKERS

Kansas law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Job-Protected Family Leave

State workers have greater access to family leave under state law than under federal law. New hires may be granted up to 60 days of unpaid leave for pregnancy or childbirth, adoption or foster placement

of a child, or to care for a family member with a serious health condition, including a spouse disabled by pregnancy. Permanent employees may be granted up to one year of unpaid leave for the same reasons. Upon returning from leave, workers must be returned to a position in the same class or in another class with the same pay grade.²³⁰

Flexible Use of Sick Time

State workers who earn sick time can use it to care for the illness of or attend medical appointments of a family member, including a spouse disabled by pregnancy or recovering from childbirth. State workers can also use sick time for adoption or foster placement of a child.²³¹

KENTUCKY

D-

PRIVATE SECTOR WORKERS

Kentucky law does not expand upon federal rights or protections for new and expecting birth parents who work in the private sector.

COMMONWEALTH WORKERS

Job-Protected Family and Medical Leave

Commonwealth workers have greater access to family and pregnancy disability leave under Kentucky law than under the federal FMLA. Kentucky's public sector sick time law applies to employees regardless of tenure and number of hours worked and provides up to 30 continuous days of leave for an employee's own injury or illness, including disability due to pregnancy or childbirth, or to care for an ill or injured family member.²³³

Flexible Use of Sick Time

Commonwealth workers who earn sick time can use it to care for a sick or injured family member, including a spouse disabled by pregnancy.²³⁴

Adoptive parents in Kentucky have a novel right to leave. Under Kentucky law, employers must grant new adoptive parents of a child under the age of seven a period of "reasonable personal leave" of up to six weeks. Workers are not required to have met any tenure or hours worked requirements to qualify, and the law applies to employers of all sizes.²³²

LOUISIANA

C

PRIVATE SECTOR WORKERS

Job-Protected Medical Leave for Pregnancy Disability

Women in the private sector have greater access to pregnancy disability leave under state anti-discrimination law than under federal law. Louisiana's pregnancy disability law applies to employers with more than 25 employees.²³⁵ Women are protected by the law regardless of tenure or the number of hours they have worked. An employer must allow a worker to take up to four months of leave for her own disability related to pregnancy, childbirth or related medical conditions.²³⁶ The law does state, however, that no employer is required to provide more than six weeks of leave for a normal pregnancy, childbirth or related medical condition.²³⁷ The law is silent as to whether the leave is job-protected.

Pregnancy Accommodations

A private sector worker who is pregnant may request a temporary transfer to a less strenuous or hazardous position with the advice of her physician, and employers must grant the transfer if it can be reasonably accommodated. The law applies to employers who employ more than 25 employees.²³⁸

STATE WORKERS

Job-Protected Medical Leave for Pregnancy Disability

Like private sector workers, state workers with pregnancy-related disabilities have greater access to leave under state law than under federal law. Women may receive up to four months of leave for

a disability related to pregnancy, childbirth or related medical conditions.²³⁹ The law applies to all workers, without eligibility requirements related to tenure or hours worked, for state employers with more than 25 employees.²⁴⁰ The law does state, however, that no employer is required to provide more than six weeks of leave for a normal pregnancy, childbirth or related medical conditions.²⁴¹

Pregnancy Accommodations

Like private sector workers, a pregnant state worker may request a temporary transfer to a less strenuous or hazardous position with the advice of her physician, and the state must grant the transfer if it can be reasonably accommodated. The law applies to state employers who employ more than 25 employees.²⁴²

While Louisiana law does not require employers to provide time and space to pump for nursing mothers, buildings owned by the state are required to provide a room, other than a toilet stall, exclusively for women to breastfeed or express breast milk.²⁴³

MAINE

B-

PRIVATE SECTOR WORKERS

Job-Protected Family and Medical Leave

Private sector workers have greater access to family and pregnancy disability leave under Maine law than under the federal FMLA. The Maine family leave law applies to employers with 15 or more employees, and eligible workers are those with 12 consecutive months' tenure, regardless of the number of hours worked.²⁴⁴ The Maine law also defines family more broadly than the federal FMLA to include domestic partners.²⁴⁵ The duration of family and medical leave under Maine law is less than under the federal FMLA, however (10 weeks in a two-year period).²⁴⁶

Flexible Use of Sick Time

Private sector workers who earn paid leave and are employed by a firm with 25 or more employees can use at least 40 hours per year for the care of an ill family member, including a spouse disabled by pregnancy.²⁴⁷

Nursing Mothers' Workplace Rights

All nursing mothers must be provided adequate break time to express breast milk at work for up to three years after childbirth. Employers must make reasonable efforts to provide a place other than a bathroom for nursing employees to express breast milk.²⁴⁸

STATE WORKERS

Job-Protected Family and Medical Leave

Like private sector workers, state workers have greater access to family and pregnancy disability leave under Maine law than under the federal FMLA. Workers with at least 12 consecutive months' tenure are eligible for leave regardless of the number of hours they have worked.²⁴⁹ The Maine law also defines family more broadly than the federal FMLA to include domestic partners.²⁵⁰ As it is for private sector workers, the duration of family and medical leave under Maine law is less than under the federal FMLA.²⁵¹

Flexible Use of Sick Time

Like private sector workers, workers for state employers with 25 or more employees who earn paid leave can use at least 40 hours per year for the care of an ill family member, including a spouse disabled by pregnancy.²⁵²

Nursing Mothers' Workplace Rights

Like private sector workers, women employed by the state of Maine must be provided adequate break time to express breast milk at work for up to three years after childbirth. The state must make reasonable efforts to provide a place other than a bathroom for nursing employees to express breast milk.²⁵³

PRIVATE SECTOR WORKERS

Job-Protected Family Leave

Private sector workers in firms with 15 to 49 employees who meet the FMLA hours-worked requirements can take up to six weeks of leave in any one year for the birth or adoption of a child. However, employers may deny employees leave or reinstatement if the denial is necessary to prevent “substantial and grievous economic injury” to the employer.²⁵⁴

Flexible Use of Sick Time

Private sector workers who work for employers with 15 or more employees and earn paid sick time can use it for the care of an ill family member, including a spouse disabled by pregnancy.²⁵⁵

Pregnancy Accommodations

Private sector employers with 15 or more employees must explore means of accommodating an employee’s pregnancy-related disability if the employee requests a reasonable accommodation, unless the accommodation would impose an undue hardship on the employer. Employers may also be required to transfer an employee to a less strenuous or less hazardous position for a specified period of time in some circumstances.²⁵⁶

STATE WORKERS

Maryland has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers who earn paid sick time can use it for the care of an ill family member, including a spouse disabled by pregnancy, and may use up to 30 days for the birth or adoption of a child.²⁵⁷

Pregnancy Accommodations

As in private sector workplaces, state employers with 15 or more employees must explore means of accommodating an employee’s pregnancy-related disability if the employee requests a reasonable accommodation, unless the accommodation would impose an undue hardship on the employer. Employers may also be required to transfer an employee to a less strenuous or less hazardous position for a specified period of time in some circumstances.²⁵⁸

MASSACHUSETTS

PRIVATE SECTOR WORKERS

Job-Protected Parental Leave

Workers in the private sector have greater access to parental leave rights (leave for giving birth or caring for an adopted or newly placed child) under commonwealth law than under the federal FMLA. The Massachusetts leave law applies to employers with six or more workers and provides up to eight weeks of job-protected leave;²⁵⁹ full-time workers with three months’ tenure are eligible.²⁶⁰ The law originally applied only to female employees, but was expanded in 2014 to cover all parents.²⁶¹

Job-Protected Paid Sick Days

Many private sector workers in Massachusetts who work in businesses with 11 or more employees have the right to earn paid sick time that may be used for their own medical care or the care of a family member. Workers who work for businesses with fewer than 11 employees receive an equivalent amount of unpaid time.²⁶² The law allows pregnant workers to use paid sick time to seek prenatal or postnatal care. It also enables workers to use paid sick time for an ill family member, including for a spouse’s pregnancy-related health condition or medical care. Workers may earn up to 40 hours per year.²⁶³

COMMONWEALTH WORKERS

Job-Protected Parental Leave

Like private sector workers, workers employed by the commonwealth have greater access to parental leave rights under commonwealth law than under the federal FMLA. The Massachusetts leave law provides up to eight weeks of job-protected leave;²⁶⁴ full-time employees with three months' tenure are eligible.²⁶⁵

Job-Protected Family and Medical Leave

Executive branch employees have greater access to family and pregnancy disability leave than under the federal FMLA. Massachusetts' public sector family and medical leave regulations apply to employees with three months' tenure, regardless of the number of hours worked, and grant workers up to 26 weeks of leave in a year for birth, adoption, foster placement, or the serious health condition (including pregnancy-related conditions) of the employee, employee's spouse or other family member.²⁶⁶

Flexible Use of Sick Time

Commonwealth workers who earn sick time can use up to 30 days for the birth or adoption of a child or to care for a seriously ill family member, including a spouse disabled by pregnancy. They also can use up to 10 days to attend to the necessary preparations and legal requirements related to adoption or foster care.²⁶⁷

MICHIGAN

F

PRIVATE SECTOR WORKERS

Michigan law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Michigan has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers who earn sick time can use it to care for an ill or injured family member, including a spouse disabled by pregnancy.²⁶⁸

MINNESOTA

B-

PRIVATE SECTOR WORKERS

Job-Protected Family and Medical Leave

Workers have greater access to family and pregnancy disability leave under Minnesota law than under the federal FMLA. Minnesota's law applies to employers with 21 or more workers;²⁶⁹ employees who have worked for an employer for at least 12 months and worked at least half time in the previous 12 months can take up to 12 weeks of leave for their own prenatal care or incapacity due to pregnancy, childbirth or related conditions, or to care for a newborn or newly adopted child.²⁷⁰

Nursing Mothers' Workplace Rights

All nursing mothers must be provided reasonable break time to express breast milk at work while their children are infants, unless providing such break time would unduly disrupt the employer's operations. Employers must make reasonable efforts to provide a place other than a bathroom or toilet stall for nursing employees to express breast milk.²⁷¹

Flexible Use of Sick Time

Private sector workers at firms with 21 or more employees who earn sick time can use up to 160 hours per year for an illness or injury of a family member, including a spouse disabled by pregnancy.²⁷²

Pregnancy Accommodations

Private sector employers with 21 or more employees must make reasonable accommodations for a worker with a pregnancy- or childbirth-related health condition if the employee requests such an accommodation with the advice of her health care provider, unless the accommodation would impose an undue hardship on the employer. The accommodation may include a transfer to a less strenuous or less hazardous position.²⁷³

STATE WORKERS

Job-Protected Family and Medical Leave

Like private sector workers, state workers have greater access to family and pregnancy disability leave under Minnesota law than under the federal FMLA. Employees who have worked for at least 12 months and at least half time in the previous 12 months for a state employer with 21 or more employees can take up to 12 weeks of leave for their own prenatal care or incapacity due to pregnancy, childbirth or related conditions, or to care for a newborn or newly adopted child.²⁷⁴

Nursing Mothers' Workplace Rights

Like private sector workers, women employed by the state of Minnesota must be provided reasonable break time to express breast milk at work while their children are infants, unless providing such break time would unduly disrupt the employer's operations. The state must make reasonable efforts to provide a place other than a bathroom or toilet stall for nursing employees to express breast milk.²⁷⁵

Flexible Use of Sick Time

Workers for state employers with 21 or more employees who earn sick time can use up to 160 hours per year for an illness or injury of a family member, including a spouse disabled by pregnancy.²⁷⁶

Pregnancy Accommodations

As in the private sector, state employers with 21 or more employees must make reasonable accommodations for a worker with a pregnancy- or childbirth-related health condition if the employee requests such an accommodation with the advice of her health care provider, unless the accommodation would impose an undue hardship on the employer. The accommodation may include transfer to a less strenuous or less hazardous position.²⁷⁷

MISSISSIPPI

F

PRIVATE SECTOR WORKERS

Mississippi law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Mississippi has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers who earn sick time can use it to care for an ill or injured family member, including a spouse disabled by pregnancy.²⁷⁸

MISSOURI

F

PRIVATE SECTOR WORKERS

Missouri law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Missouri has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers who earn sick time can use it for the care of an ill family member, including a spouse or household member disabled by pregnancy, or upon the adoption or foster placement of a child.²⁷⁹

MONTANA

C-

PRIVATE SECTOR WORKERS

Job-Protected Medical or “Maternity” Leave

Women in the private sector have greater access to “maternity” leave rights under state law than under federal law. Workers must be granted “a reasonable leave of absence” for pregnancy with job protection. Workers cannot be required to take a “mandatory maternity leave for an unreasonable length of time.”²⁸⁰ The law applies to employers of any size and protects employees regardless of tenure and number of hours worked.²⁸¹

STATE WORKERS

Job-Protected Medical or “Maternity” Leave

Like private sector workers, women who work for the state have greater access to “maternity” leave rights under state law than under federal law. Workers must be granted a reasonable leave of absence for pregnancy with job protection. Workers cannot be required to take a “mandatory maternity leave for an unreasonable length of time.”²⁸² The state government has adopted rules providing that a minimum of six weeks is “reasonable” leave after the birth of a child.²⁸³ The law protects employees regardless of tenure and number of hours worked.²⁸⁴

Job-Protected Parental Leave

Birth fathers and adoptive parents employed by the state’s executive branch must be granted a “reasonable leave of absence” of up to 15 days immediately following the birth or adoption of a child without having to meet tenure or hours worked requirements.²⁸⁵

Flexible Use of Sick Time

State workers who earn sick time can use it to care for an ill family member; the law is silent as to which family relationships are covered. Birth fathers and adoptive parents can use up to 15 days of accrued sick time for the birth or adoption of a child.²⁸⁶

Nursing Mothers’ Workplace Rights

Women employed by the state must be provided reasonable break time to express breast milk at work for an unspecified period of time after giving birth, unless providing such time would unduly disrupt the employer’s operations. The state must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.²⁸⁷ All public employers must have a written policy supporting women who want to continue breastfeeding after returning from maternity leave.²⁸⁸

NEBRASKA

C-

PRIVATE SECTOR WORKERS

Nebraska has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

Nursing Mothers' Workplace Rights

Under Nebraska's pregnancy accommodations law, break time and appropriate facilities for employees to breastfeed or express breast milk are included as reasonable accommodations that employers with 15 or more employees must provide unless doing so would cause an undue hardship.²⁸⁹

Pregnancy Accommodations

Private sector employers with 15 or more employees must provide reasonable accommodations to the known physical limitations of an individual who is pregnant, has given birth or has a related medical condition, unless doing so would impose an undue hardship on the employer.²⁹⁰

STATE WORKERS

Nebraska has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Nursing Mothers' Workplace Rights

As in the private sector, under Nebraska's pregnancy accommodations law, break time and appropriate facilities for employees to breastfeed or express breast milk are included as reasonable accommodations that the state must provide unless doing so would cause an undue hardship.²⁹¹

Pregnancy Accommodations

As in the private sector, the state must provide reasonable accommodations to the known physical limitations of an individual who is pregnant, has given birth or has a related medical condition, unless doing so would impose an undue hardship on the employer.²⁹²

NEVADA

F

PRIVATE SECTOR WORKERS

Nevada law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Nevada has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers can use up to 120 hours of their accrued sick time in any calendar year to care for a family member with an illness or other authorized medical need, including a spouse disabled by pregnancy.²⁹³

NEW HAMPSHIRE

D

PRIVATE SECTOR WORKERS

Job-Protected Medical Leave for Pregnancy Disability

Women in the private sector have greater access to pregnancy disability leave under state anti-discrimination law than under federal law. The New Hampshire law applies to employers with six or more employees and covers all workers regardless of tenure and number of hours worked.²⁹⁴ The law provides workers the right to a leave of absence of an unspecified length for the period of temporary physical disability due to pregnancy, childbirth or related medical conditions.²⁹⁵

STATE WORKERS

Job-Protected Medical Leave for Pregnancy Disability

Like private sector workers, state workers have greater access to pregnancy disability leave under state anti-discrimination law than under federal law. The New Hampshire law applies to workers regardless of tenure and number of hours worked.²⁹⁶ The law provides workers with a leave of absence of an unspecified length for the period of temporary physical disability due to pregnancy, childbirth or related medical conditions.²⁹⁷

Flexible Use of Sick Time

State workers can use up to five days of sick time to care for an ill or injured family member who is incapable of self-care or to accompany the family member to health care provider visits. The law is silent as to which family relationships are covered.²⁹⁸

NEW JERSEY

B+

PRIVATE SECTOR WORKERS

Paid Family and Medical Leave

Private sector workers can take up to six weeks of paid family leave that can be used by either parent to care for a new child, including the child of a domestic partner or civil union partner, or for a spouse, domestic partner or civil union partner with a serious health condition, including pregnancy-related serious health conditions.²⁹⁹ New Jersey's paid family leave law is an expansion of the state's Temporary Disability Insurance (TDI) program. The paid family leave program provides partial wage replacement for new parents and for family caregivers of a seriously ill family member. The program is funded through employee payroll contributions.³⁰⁰ The paid family leave law provides wage replacement only; it does not provide job protection for workers while they are on family leave.

In addition, New Jersey's TDI program provides partial wage replacement to workers with a non-work-related illness, injury or a medically disabling condition resulting from pregnancy or childbirth. In essence, TDI functions as paid pregnancy disability leave for women preparing for or recovering from childbirth.³⁰¹ The TDI program is funded jointly through employer and employee payroll contributions.³⁰² Women who take TDI leave for a pregnancy-related disability are also eligible to take paid family leave; TDI leave and family leave must be taken sequentially rather than concurrently.³⁰³ Although workers are eligible for up to 26 weeks of TDI leave, the typical duration of paid pregnancy disability leave is four weeks prior to a woman's expected due date and six weeks after delivery (eight weeks after delivery by cesarean section).³⁰⁴ The law does not provide job protection for workers while they are on TDI leave.

Job-Protected Family Leave

Private sector workers have greater access to family leave under state law than under the federal FMLA. The New Jersey family leave law applies to employers with 50 or more employees nationwide;³⁰⁵ employees who have worked for an employer for at least 12 months and at least 1,000 hours over the preceding year are eligible for leave to care for a new child or a family member with a serious health condition, including a spouse or civil union partner disabled by pregnancy or childbirth.³⁰⁶ However, the duration of family and medical leave under New Jersey law — 12 weeks in a 24-month period — is less than under the federal FMLA.³⁰⁷ The New Jersey law defines family more broadly than the federal FMLA to include civil union partners.³⁰⁸

However, unlike most other state laws and the federal FMLA, the New Jersey Family Leave Act does not include leave for a worker's own illness; therefore, a birth mother does not have job-protected leave to recover from pregnancy, childbirth or related medical conditions.³⁰⁹

Pregnancy Accommodations

Private sector employers of all sizes must make reasonable accommodations for a worker affected by pregnancy, childbirth or medical conditions related to pregnancy or childbirth (including recovery from childbirth) if the employee requests such an accommodation based on the advice of her physician, unless the accommodation would impose an undue hardship on the employer.³¹⁰ The law applies to all employers of any size in the state.³¹¹

STATE WORKERS

Paid Family and Medical Leave

Like private sector workers, state workers can take six weeks of paid family leave that can be used by either parent.³¹² As in the private sector, the leave is not job-protected.

However, female state workers do not necessarily have access to paid pregnancy disability leave through New Jersey's TDI program; state workers are only covered by TDI if the government entity they work for has elected to be a "covered employer" and the worker has exhausted all accumulated sick time.³¹³ For workers who are covered, as in the private sector, the leave is not job-protected.

Job-Protected Family Leave

Like private sector workers, state workers have greater access to family leave under state law than under the federal FMLA because New Jersey's family leave law applies to employees who have worked at least 1,000 hours over the preceding year.³¹⁴

Flexible Use of Sick Time

State workers who earn sick time can use a reasonable period of their sick time for the care of a seriously ill family member, including a spouse or domestic partner disabled by pregnancy.³¹⁵

Pregnancy Accommodations

As in the private sector, the state must make reasonable accommodations for a worker affected by pregnancy, childbirth or medical conditions related to pregnancy or childbirth (including recovery from childbirth) if the employee requests such an accommodation based on the advice of her physician, unless the accommodation would impose an undue hardship on the employer.³¹⁶

NEW MEXICO

D-

PRIVATE SECTOR WORKERS

New Mexico has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

Nursing Mothers' Workplace Rights

All nursing mothers who work for employers with four or more workers must be provided flexible break times and a place other than a bathroom to express breast milk at work for an unspecified period of time after childbirth.³¹⁷

STATE WORKERS

New Mexico has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Nursing Mothers' Workplace Rights

Like private sector workers, women employed by the state must be provided flexible break times and a place other than a bathroom to express breast milk at work for an unspecified period of time after childbirth.³¹⁸

PRIVATE SECTOR WORKERS**Paid Family and Medical Leave**

Starting in 2018, eligible private sector workers will be able to take up to eight weeks — increasing to 10 weeks in 2019 and to 12 weeks in 2021³¹⁹ — of paid family leave. Leave will be available for use by either parent to care for a new child, including the child of a domestic partner, or to care for a family member with a serious health condition, including a spouse or domestic partner disabled by pregnancy.³²⁰ The paid family leave law is an expansion of the state’s Temporary Disability Insurance (TDI) program. The paid family leave program will provide partial wage replacement for new parents and for family caregivers of a seriously ill family member.³²¹ The program will be funded through employee payroll contributions.³²² The paid family leave law will provide job protection for workers while they are on family leave.³²³

In addition, New York’s TDI law provides partial wage replacement to eligible workers who are temporarily disabled, including women with pregnancy- or childbirth-related disabilities.³²⁴ The TDI program is funded by contributions from employers and workers.³²⁵ Although workers are eligible for up to 26 weeks of TDI, the typical period of pregnancy-related disability is four to six weeks prior to a woman’s due date and four to six weeks after delivery.³²⁶ The law does not provide job protection for workers while they are on TDI leave.

Nursing Mothers’ Workplace Rights

All nursing mothers must be provided reasonable break time to express breast milk at work for up to three years after childbirth. Employers must make reasonable efforts to provide a place for nursing employees to express breast milk.³²⁷

Pregnancy Accommodations

Private sector employers with four or more employees must provide reasonable accommodations to the known pregnancy-related conditions of employees, unless doing so would impose an undue hardship.³²⁸

STATE WORKERS**Paid Family Leave**

State workers will be eligible for paid family leave if their employer or collective bargaining unit has elected to provide coverage.³²⁹ The maximum length of leave and wage replacement level will be the same for covered state workers as they are for private sector workers.³³⁰ Similarly, the paid family leave law will provide job protection for state workers while they are on family leave.³³¹

Job-Protected Family and Medical Leave

State workers have greater access to parental leave under state law than under the federal FMLA.

New York’s public sector family leave regulations apply to all workers regardless of tenure and number of hours worked and grant workers up to seven months of leave after a child is born.³³²

Female state workers have greater access to pregnancy disability leave under state law than under the federal FMLA. New York’s public sector pregnancy disability regulations apply to all workers regardless of tenure and number of hours worked. The typical period of pregnancy disability is four weeks prior to a woman’s due date and six weeks after her delivery date.³³³

Nursing Mothers’ Workplace Rights

Like private sector workers, women employed by the state must be provided reasonable break time to express breast milk at work for up to three years after childbirth. The state must make reasonable efforts to provide a place for nursing employees to express breast milk.³³⁴

Flexible Use of Sick Time

State workers who earn sick time can use up to 15 days to care for an ill family member, including a spouse disabled by pregnancy, or to accompany a family member to a medical appointment. If the absence involves the employee's spouse (or other person with whom the employee has been sharing a home) giving birth, the employee may be granted leave for the day of delivery and approximately a week following, under normal circumstances.³³⁵

Pregnancy Accommodations

As in the private sector, the state must provide reasonable accommodations for a worker's known pregnancy-related conditions, unless the accommodation would impose an undue hardship on the employer.³³⁶

NORTH CAROLINA

D

PRIVATE SECTOR WORKERS

North Carolina law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Job-Protected Family and Medical Leave

State workers have greater access to family and pregnancy disability leave under state law than under the federal FMLA. Employees who have been employed by the state for at least 12 months and worked at least 1,040 hours over the past year are eligible for up to 12 weeks of job-protected leave for pregnancy disability or care of a new child.³³⁷

In addition to the 12 weeks, state employees who have been employed by the state for at least 12 months and worked at least 1,040 hours over the past year are eligible for up to 52 weeks over five years of job-protected leave to care for a family member with a serious health condition, including a spouse disabled by pregnancy.³³⁸

Flexible Use of Sick Time

North Carolina state workers who earn sick time can use it for the medical appointments or illness of a family member, including a spouse disabled by pregnancy or childbirth, and can use up to 30 workdays for the adoption of a child.³³⁹

NORTH DAKOTA

D-

PRIVATE SECTOR WORKERS

North Dakota has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

Pregnancy Accommodations

Private sector employers of all sizes must provide reasonable accommodations to pregnant employees, unless doing so would unduly disrupt or interfere with the employer's normal operations, threaten an individual's health or safety, contradict a business necessity or impose an undue hardship on the employer.³⁴⁰

STATE WORKERS

North Dakota has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

North Dakota state workers can use up to 480 hours of their available paid sick time in any 12-month period to care for a family member with a serious health condition, including a spouse with a pregnancy-

related disability. In addition, state workers may take up to six weeks of their available paid sick time to care for a newborn or newly-adopted child during the first six months following birth or placement.³⁴¹

Pregnancy Accommodations

As in the private sector, the state must provide reasonable accommodations to pregnant employees, unless doing so would unduly disrupt or interfere with normal operations, threaten an individual's health or safety, contradict a business necessity or impose an undue hardship on the employer.³⁴²

OHIO

D

PRIVATE SECTOR WORKERS

Ohio law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Paid Family Leave

State workers who work at least 30 hours per week, regardless of tenure, can take up to six continuous weeks of parental leave after the birth or adoption of a child. Leave can be used by either parent. After satisfying an unpaid two-week waiting period, the worker receives the remaining four weeks at 70 percent of their current salary. Workers can use accrued paid sick or vacation time during the two-week waiting period and to top off the wage replacement amount, so that they can receive 100 percent of their usual pay during parental leave. Paid parental leave must be taken concurrently with federal FMLA leave.³⁴³

Paid Medical Leave for Pregnancy Disability

Full-time state employees who have worked continuously for the state for at least one year and are disabled for more than 14 consecutive days can take up to 12 months of paid disability leave over the course of their employment, including for a pregnancy-related disability.³⁴⁴ Workers are paid 67 percent of their usual salary while on disability leave.³⁴⁵

Flexible Use of Sick Time

State workers who earn sick time can use it to care for an ill family member, including a spouse or live-in significant other disabled by pregnancy, or to attend the family member's medical or other examination.³⁴⁶

OKLAHOMA

F

PRIVATE SECTOR WORKERS

Oklahoma law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Oklahoma law does not expand upon federal rights or protections for new and expecting parents who work for the state.

OREGON

B+

PRIVATE SECTOR WORKERS

Job-Protected Family and Medical Leave

Private sector workers have greater access to family and pregnancy disability leave under state law than under the federal FMLA. The Oregon family leave law applies to employers with 25 or more employees.³⁴⁷ Workers who have been employed by their employer for at least 180 days and (for care of

a seriously ill family member only) have worked at least 25 hours per week for the past 180 days are eligible for up to 12 weeks of job-protected leave to care for a new child or to care for a family member with a serious health condition, including a spouse or domestic partner disabled by pregnancy.³⁴⁸ The law defines family more broadly than the federal FMLA to include domestic partners.³⁴⁹

An employee who takes leave to care for a new child may take an additional 12 weeks to care for a child who is suffering from an illness, injury or condition that requires home care. Birth mothers are eligible for an additional 12 weeks of job-protected pregnancy disability leave.³⁵⁰

Job-Protected Paid Sick Days

Many private sector workers in Oregon who work in businesses with 10 or more employees (or six or more employees if the employer is in Portland) have the right to earn paid sick time that may be used for their own medical care or the medical care of a family member. Workers who work for businesses with fewer than 10 employees (fewer than six if the employer is in Portland) receive an equivalent amount of unpaid time.³⁵¹ The law allows pregnant workers to use paid sick time to seek prenatal or postnatal care. It also enables workers to use paid sick time for an ill family member, including a spouse or domestic partner with a pregnancy-related health condition. Workers may also use paid sick time to care for their infant or newly adopted or placed child.³⁵² Workers may earn up to 40 hours per year.³⁵³

Flexible Use of Sick Time

Private sector workers who are covered by the Oregon family leave law and earn paid sick time or other forms of paid leave can use it during any period of family leave, including for the care of a new child or a spouse or domestic partner disabled by pregnancy.³⁵⁴

Nursing Mothers' Workplace Rights

All nursing mothers who work for employers with 25 or more workers must be provided reasonable break time to express breast milk at work for up to 18 months after childbirth, unless providing such time would impose an undue hardship on the employer's operations. Employers must make reasonable efforts to provide a place other than a bathroom for nursing employees to express breast milk.³⁵⁵

STATE WORKERS

Job-Protected Family and Medical Leave

Like private sector workers, state workers have greater access to family and pregnancy disability leave under state law than under the federal FMLA. Workers who have worked for the state for at least 180 days and (for care of a seriously ill family member only) have worked at least 25 hours per week for the past 180 days are eligible for up to 12 weeks of job-protected leave to care for a new child or to care for a family member with a serious health condition, including a spouse or domestic partner disabled by pregnancy.³⁵⁶ The law defines family more broadly than the federal FMLA to include domestic partners.³⁵⁷

An employee who takes leave to care for a new child may take an additional 12 weeks to care for a child who is suffering from an illness, injury or condition that requires home care. In addition, as in the private sector, birth mothers are eligible for an additional 12 weeks of job-protected pregnancy disability leave.³⁵⁸

Flexible Use of Sick Time

State workers who are covered by the Oregon family leave law and earn paid sick time or other forms of paid leave can use it during any period of family leave, including for the care of a new child or a spouse or domestic partner disabled by pregnancy.³⁵⁹

Nursing Mothers' Workplace Rights

As in the private sector, women employed by the state must be provided reasonable break time to express breast milk at work for up to 18 months after childbirth, unless providing such time would

impose an undue hardship on the state's operations. The state must make reasonable efforts to provide a place other than a bathroom for nursing employees to express breast milk.³⁶⁰

PENNSYLVANIA

D-

PRIVATE SECTOR WORKERS

Pennsylvania law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

COMMONWEALTH WORKERS

Job-Protected Family and Medical Leave

Commonwealth workers have access to longer family and pregnancy disability leave under public sector regulations than under the federal FMLA. Permanent workers can take up to six months of leave for family or medical reasons within a rolling one-year period, including pregnancy disability; caring for a family member with a serious health condition, including a spouse disabled by pregnancy; or to care for a new child, provided they meet the federal FMLA eligibility requirements.³⁶¹

Flexible Use of Sick Time

Commonwealth workers who earn sick time can use it to accompany a family member to a medical appointment and up to five days to care for an ill family member, including a spouse or domestic partner disabled by pregnancy.³⁶²

RHODE ISLAND

B+

PRIVATE SECTOR WORKERS

Paid Family and Medical Leave

Private sector workers can take up to four weeks of paid, job-protected family leave that can be used to bond with a new child or to care for a seriously ill family member, including a spouse or domestic partner disabled by pregnancy.³⁶³ Rhode Island's Temporary Caregiver Insurance (TCI) program is an expansion of the state's Temporary Disability Insurance (TDI) program and provides partial wage replacement, continuation of benefits and job protection for new parents and family caregivers of a seriously ill family member. The program is funded through employee payroll contributions.³⁶⁴

In addition, Rhode Island's TDI program provides partial wage replacement to eligible workers who are temporarily disabled, including to women with pregnancy- or childbirth-related disabilities or other related medical conditions.³⁶⁵ The TDI program is funded through employee payroll contributions.³⁶⁶ Workers are eligible for up to 30 weeks of TDI or combined TDI/TCI payments up to a maximum payment cap.³⁶⁷ The law does not provide job protection for workers while they are on TDI leave.

Job-Protected Family Leave

Private sector workers have access to a slightly longer family leave under state law than under the federal FMLA. Under the Rhode Island family and medical leave law, workers who have worked 12 consecutive months, an average of 30 hours or more per week, and who work for an employer with 50 or more employees are eligible for up to 13 consecutive weeks of leave in a two-year period to care for a new child or a seriously ill family member, including a spouse disabled by pregnancy.³⁶⁸

Nursing Mothers' Workplace Rights

Employers of all sizes must make reasonable efforts to provide a place other than a bathroom for nursing employees to breastfeed or express breast milk at work.³⁶⁹ Unlike other state laws, the Rhode Island law permits, but does not require, employers to provide reasonable break time.³⁷⁰

Pregnancy Accommodations

Private sector employers with four or more employees must provide reasonable accommodations to employees upon request for conditions related to pregnancy, childbirth or related medical conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer.³⁷¹

STATE WORKERS

Paid Family and Medical Leave

Rhode Island's TDI and family leave insurance programs cover only some state workers. Certain governmental entities can elect to participate in the program, or unionized state workers can choose to become subject to it through the collective bargaining process.³⁷² The law covers participating state workers in the same way it covers private sector workers, including by providing job protection for family leave.

Job-Protected Family Leave

As in the private sector, state workers have access to a slightly longer family leave under state law than under the federal FMLA. Under the Rhode Island family leave law, workers who have worked 12 consecutive months, an average of 30 hours or more per week, are eligible for up to 13 consecutive weeks of leave in a two-year period to care for a new child or a seriously ill family member, including a spouse disabled by pregnancy.³⁷³ As applied to state workers, the definition of "family member" includes domestic partners, a definition that is broader than under the federal FMLA.³⁷⁴

Flexible Use of Sick Time

State workers may use up to 10 paid sick days each year for the illness of a family member, including a spouse disabled by pregnancy.³⁷⁵

Nursing Mothers' Workplace Rights

As in the private sector, the state must make reasonable efforts to provide a place other than a bathroom to breastfeed or express breast milk at work.³⁷⁶

Pregnancy Accommodations

As in the private sector, the state must provide reasonable accommodations to employees upon request for conditions related to pregnancy, childbirth or related medical conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer.³⁷⁷

SOUTH CAROLINA

F

PRIVATE SECTOR WORKERS

South Carolina law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

South Carolina has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers who earn sick time can use up to 10 days to care for an ill family member, including a spouse disabled by pregnancy. In addition, adoptive parents may use up to six weeks of their accrued sick time to care for a newly adopted child.³⁷⁸

SOUTH DAKOTA

F

PRIVATE SECTOR WORKERS

South Dakota law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

South Dakota has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers who earn sick time can use up to 40 hours to care for a family member, including a spouse disabled by pregnancy, or for the birth or adoption of a child.³⁷⁹

TENNESSEE

D+

PRIVATE SECTOR WORKERS

Job-Protected Parental Leave

Private sector workers in larger firms have greater parental leave rights under state law than under the federal FMLA. Workers who have been employed for at least 12 consecutive months as full-time employees by a firm with 100 or more employees can take up to four months of leave for adoption, pregnancy, childbirth and nursing an infant.³⁸⁰

Nursing Mothers' Workplace Rights

All nursing mothers must be provided reasonable break time to express breast milk at work while their children are infants, unless providing such time would unduly disrupt the employer's operations. Employers must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.³⁸¹

STATE WORKERS

Job-Protected Parental Leave

Like private sector workers in larger firms, state employees have greater parental leave rights under state law than under the federal FMLA. Tennessee's law provides workers who have been employed at for at least 12 consecutive months as full-time employees with up to four months of leave for adoption, pregnancy, childbirth and nursing an infant.³⁸²

Flexible Use of Sick Time

State workers who earn sick time can use it to care for an ill family member, including a spouse disabled by pregnancy.³⁸³ In addition, state workers can use up to 30 days of their sick time following the birth or adoption of a child.³⁸⁴

Nursing Mothers' Workplace Rights

Like private sector workers, women employed by the state must be provided reasonable break time to express breast milk at work while their children are infants, unless providing such time would unduly disrupt the employer's operations. The state must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.³⁸⁵

TEXAS

D-

PRIVATE SECTOR WORKERS

Texas law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Job-Protected Parental Leave

State workers have greater access to parental leave rights under state law than under the federal FMLA. Texas law provides state workers with up to 12 weeks of leave to care for a new child, regardless of the worker's tenure and hours worked.³⁸⁶

Flexible Use of Sick Time

State workers who earn sick time can use it to care for and assist a family member who is sick, including a spouse disabled by pregnancy.³⁸⁷

Nursing Mothers' Workplace Rights

State employers must provide a reasonable amount of break time and a place other than a multi-user bathroom for an employee to express breast milk.³⁸⁸

UTAH

C-

PRIVATE SECTOR WORKERS

Utah has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

Nursing Mothers' Workplace Rights

Under Utah's pregnancy accommodations law, employers with 15 or more employees must provide reasonable accommodations for employees related to breastfeeding unless doing so would cause an undue hardship.³⁸⁹

Pregnancy Accommodations

Private sector employers with 15 or more employees must provide reasonable accommodations to a worker for pregnancy, childbirth, breastfeeding or related conditions if the worker requests such an accommodation, unless the accommodation would impose an undue hardship on the employer.³⁹⁰

STATE WORKERS

Utah has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers who earn sick time may use it to care for a new child or for an illness, injury or disability of a family member, including a spouse disabled by pregnancy.³⁹¹

Nursing Mothers' Workplace Rights

Nursing mothers working for the state of Utah must be provided reasonable break time to breastfeed or express breast milk at work for at least one year after birth. State employers must provide a place other than a bathroom or toilet stall for this purpose, unless doing so would impose an undue hardship, and they must provide access to storage space for the breast milk.³⁹²

Pregnancy Accommodations

As in the private sector, the state must provide reasonable accommodations to a worker for pregnancy, childbirth, breastfeeding or related conditions if the worker requests such an accommodation, unless the accommodation would impose an undue hardship on the employer.³⁹³

VERMONT

B

PRIVATE SECTOR WORKERS

Job-Protected Family and Medical Leave

Private sector workers have greater access to family and pregnancy disability leave under state law than under the federal FMLA. The Vermont parental leave law applies to employers with 10 or more employees.³⁹⁴ Eligible workers (those who have worked an average of 30 hours per week for one year) can take up to 12 weeks of parental leave during pregnancy and following the birth or adoption of a child.³⁹⁵

Under a separate family leave provision, eligible workers in businesses with 15 or more employees can take up to 12 weeks of leave to care for their own serious illness, including pregnancy-related health issues, or for that of a family member, including a spouse with a pregnancy-related disability.³⁹⁶ Under Vermont's civil union law, a civil union partner has the same rights as a married spouse to take family leave.³⁹⁷

Job-Protected Paid Sick Days

Many private sector workers in Vermont will soon have the right to earn paid sick time to be used for their own medical care or the medical care of a child or other family member.³⁹⁸ The law allows pregnant workers to use paid sick time to seek prenatal or postnatal care. It also enables workers to use paid sick time to care for an ill family member, including a spouse's pregnancy-related health condition or medical care. When the law is fully implemented, workers will be able to earn up to 40 hours per year.³⁹⁹

Nursing Mothers' Workplace Rights

Employers of all sizes must provide nursing mothers with reasonable break time to express breast milk at work for up to three years after childbirth, and must make a reasonable accommodation to provide an appropriate place other than a bathroom stall for nursing employees to express breast milk. However, employers are not required to provide such time or space if doing so would substantially disrupt the employer's operations.⁴⁰⁰

STATE WORKERS

Job-Protected Family Leave

State workers have greater parental leave rights under state law than under the federal FMLA. Vermont's public sector family leave policy provides workers who meet FMLA eligibility requirements with up to four months of unpaid leave following the birth of a child (up to a total of six months including all paid and unpaid leave), and up to six months of leave following the adoption of a child.⁴⁰¹

In addition, under Vermont's civil union law, a civil union partner has the same rights as a married spouse to take family leave.⁴⁰²

Flexible Use of Sick Time

State workers who earn sick time can use it to care for an ill family member, including the pregnancy-related disability of a spouse or other person residing with the employee.⁴⁰³

Nursing Mothers' Workplace Rights

As in the private sector, the state must provide nursing mothers with reasonable break time to express breast milk at work for up to three years after childbirth, and must make a reasonable accommodation to provide an appropriate place other than a bathroom stall for nursing employees to express breast milk. However, the state is not required to provide such time or space if doing so would substantially disrupt the state's operations.⁴⁰⁴

VIRGINIA

D

PRIVATE SECTOR WORKERS

Virginia law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

COMMONWEALTH WORKERS

Paid Family and Medical Leave

Certain female commonwealth workers, including those who participate in the commonwealth's public employee retirement system, are eligible for up to 125 days of full or partial wage replacement for pregnancy disability/maternity leave.⁴⁰⁵

In addition, certain state workers can take a few days per year of paid family or personal leave to address a family member's illness or other need. Workers with up to one year of tenure receive 32 hours per year; workers with longer tenure receive 40 hours per year.⁴⁰⁶

WASHINGTON

B-

PRIVATE SECTOR WORKERS

Job-Protected Family Leave

Washington's family leave law defines family more broadly than the federal FMLA to permit workers to take leave to care for a registered domestic partner.⁴⁰⁷ Like the federal FMLA, workers who meet state family leave eligibility requirements can take up to 12 weeks of leave to care for a new child or a seriously ill family member, including a spouse or partner with a pregnancy-related serious health condition.⁴⁰⁸

Job-Protected Medical Leave for Pregnancy Disability

Women in the private sector have greater access to pregnancy disability leave under state law than under the federal FMLA. Washington's anti-discrimination law applies to employers with eight or more employees⁴⁰⁹ and covers pregnant workers regardless of tenure and the number of hours worked.⁴¹⁰ Women may take job-protected leave for the entire period of a pregnancy- or childbirth-related disability,⁴¹¹ and this period of leave does not count against a worker's parental leave rights under the state family and medical leave law.⁴¹² This means that a woman with an uncomplicated pregnancy who meets FMLA eligibility requirements and works for an employer covered by the FMLA may generally take up to 18 weeks of leave, consisting of six weeks of pregnancy-related disability leave to recover from childbirth and 12 weeks of family leave to care for her child.⁴¹³

Flexible Use of Sick Time

Private sector workers who earn sick time or other paid time off can use it for the care of a family member with a serious health condition, including a spouse disabled by pregnancy.⁴¹⁴

STATE WORKERS

Job-Protected Family and Medical Leave

State workers have greater parental leave rights under state law than under the federal FMLA. Washington's public sector family leave regulations grant workers who meet FMLA eligibility requirements up to six months of leave to care for a newborn child or a minor/dependent child who was placed with the employee for adoption or foster care.⁴¹⁵

Like private sector workers, many women employed by the state (those classified as "permanent" state employees) who have given birth may take disability leave for the entire period of pregnancy- or childbirth-related disability, regardless of tenure or hours worked.⁴¹⁶

The broader definition of "family member" under the state family leave law permits state workers to take family leave to care for a domestic partner with a serious health condition, which includes pregnancy-related periods of incapacity.⁴¹⁷

Flexible Use of Sick Time

Like private sector workers, state workers who earn sick time or other paid time off can use it for the care of a family member with a serious health condition, including a spouse disabled by pregnancy.⁴¹⁸

PRIVATE SECTOR WORKERS

West Virginia has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

Pregnancy Accommodations

Private sector employers with 12 or more employees must make reasonable accommodations for a worker's documented limitations related to pregnancy, childbirth or related medical conditions, unless the accommodation would impose an undue hardship on the employer.⁴¹⁹

STATE WORKERS

Job-Protected Family Leave

State workers have greater access to family leave under state law than under the federal FMLA. Workers who have worked for the state for at least 12 consecutive weeks are eligible for up to 12 weeks of job-protected leave upon the birth or adoption of a child and to care for a family member with a serious health condition, including a spouse with a pregnancy-related serious health condition.⁴²⁰

Flexible Use of Sick Time

State workers who earn sick time can use up to 40 hours to care for a family member who is incapacitated due to illness or injury, including a spouse disabled by pregnancy, or to accompany a family member to a medical appointment.⁴²¹

Pregnancy Accommodations

As in the private sector, the state must make reasonable accommodations for a worker's documented limitations related to pregnancy, childbirth or related medical conditions, unless the accommodation would impose an undue hardship on the employer.⁴²²

WISCONSIN

PRIVATE SECTOR WORKERS

Job-Protected Family and Medical Leave

Private sector workers have greater access to family and pregnancy disability leave under state law than under the federal FMLA. The Wisconsin law applies to workers who have worked for an employer with 50 or more employees for more than 52 consecutive weeks and at least 1,000 hours over the preceding 52-week period⁴²³ and defines family more broadly than the federal FMLA to include domestic partners.⁴²⁴ However, state law provides less time off than the federal FMLA. Workers can take a maximum of six weeks of leave to care for a new child, up to two weeks of leave to care for a spouse or domestic partner with a pregnancy-related serious health condition, and up to two weeks of leave for the employee's own pregnancy-related serious health condition in any 12-month period.⁴²⁵

Flexible Use of Sick Time

Under the state family and medical leave law, private sector workers at firms with 50 or more employees who earn paid leave can use it for the birth or adoption of a child or to care for an ill family member, including a spouse or domestic partner disabled by pregnancy.⁴²⁶

STATE WORKERS

Job-Protected Family and Medical Leave

By regulation, permanent classified employees of the state can take up to six months of unpaid maternity, paternity, adoption and pre-adoptive foster-care leave.⁴²⁷ Other state employees have

the same leave rights as private sector workers.⁴²⁸ Workers for the state for more than 52 consecutive weeks and at least 1,000 hours in the preceding 52-week period may take job-protected unpaid leave to care for a new child (up to six weeks) or a family member with a serious health condition,⁴²⁹ including a spouse or domestic partner with a pregnancy-related serious health condition (up to two weeks).⁴³⁰ Female state workers with at least 1,000 hours of service in the preceding year may take up to two weeks of job-protected pregnancy-related medical leave.⁴³¹

Flexible Use of Sick Time

State workers who earn sick time can use it for family medical or dental appointments or for the emergency care of an ill or injured family member, including a spouse disabled by pregnancy (for up to five days per illness or injury).⁴³²

WYOMING

F

PRIVATE SECTOR WORKERS

Wyoming law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

STATE WORKERS

Wyoming has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

Flexible Use of Sick Time

State workers who earn sick time can use it to care for the illness of a family member, including a spouse disabled by pregnancy.⁴³³

FEDERAL GOVERNMENT

Federal civilian workers do not have parental or pregnancy disability leave rights or protections beyond those provided by the federal FMLA.

Paid Maternity Leave for Military Members

Birth mothers who serve in the military are eligible for up to 12 weeks of fully-paid maternity leave after giving birth. The policy applies to all service members in the active duty component and to certain reserve-component members.⁴³⁴

Nursing Mothers' Workplace Rights

All women employed by the executive branch must be provided reasonable break time to express breast milk for one year after the child's birth and a place other than a bathroom to express breast milk.⁴³⁵

Flexible Use of Sick Time

Federal workers earn paid sick time that may be used to accompany a family member to medical appointments or to care for an ill family member, including a spouse or domestic partner disabled by pregnancy.⁴³⁶ Agencies must advance up to 240 hours (the equivalent of six weeks for a full-time worker) of sick time to a worker for a serious health condition, including a condition related to pregnancy or childbirth, or for purposes related to the adoption of a child, and up to 104 hours (the equivalent of 13 days for a full-time worker) of sick time to a worker to accompany a family member to medical appointments.⁴³⁷ Agencies may also advance up to 240 hours of sick time to care for a family member with a serious health condition, including a spouse or domestic partner with a pregnancy- or childbirth-related serious health condition.⁴³⁸

Conclusion

If the United States is serious about reducing economic and gender inequalities and increasing its economic strength, new standards that better address the challenges working families face are needed — and needed now. Paid leave policies, more substantial access to unpaid, job-protected family and medical leave, paid sick days, pregnancy accommodation laws and other policies that support families yield benefits for workers, families, employers, communities and the economy.

States have made some encouraging progress over the past 11 years. Between the first *Expecting Better* report in 2005 and this 2016 report:

- ▶ New Jersey, Rhode Island and New York have enacted paid family leave programs, joining California as trailblazers and leaders for the nation.
- ▶ California has amended its paid family leave law to expand the definition of family members for whom leave can be taken and to better meet the needs of lower- and middle-wage workers.
- ▶ Five states and the District of Columbia have enacted laws to guarantee workers the right to earn paid sick days, and two of those laws have already been expanded to include workers who were initially excluded.
- ▶ Policy advances have expanded workers' access to unpaid, job-protected family and medical leave in Colorado, Maine, Maryland, Massachusetts, Minnesota, Oregon, Washington and Wisconsin.
- ▶ Policy advances have expanded workers' access to flexible use of sick time in Maine, Maryland and Minnesota.
- ▶ A number of states, including Arkansas, Colorado, Hawaii, Illinois, Indiana, Maine, New Mexico, New York, Oregon and Vermont, as well as the District of Columbia, have enacted laws to protect the rights of nursing mothers in the workplace.
- ▶ Colorado, Delaware, Illinois, Maryland, Minnesota, Nebraska, New Jersey, New York, North Dakota, Rhode Island, Utah, West Virginia and the District of Columbia have passed laws requiring employers to provide reasonable accommodations to pregnant workers. Most of these laws passed with substantial bipartisan and, in some places, unanimous support. Some explicitly protect nursing mothers as well.

Without question, state policies are moving the nation in the right direction. In the first and second editions of *Expecting Better*, just six states and the District of Columbia received grades of “A-,” “B+” or “B,” and only eight states and the District of Columbia did so in the third edition. In this fourth edition, 10 states and the District of Columbia received grades of “B” or higher.

However, despite this progress, too many states are doing little or nothing to support expecting and new parents. Nineteen states in 2005, 18 states in 2012 and 17 states in 2014 received a grade of “F”; in this most recent report, 12 states received a grade of “F.” But still, today, 27 states received a grade of “D+” or lower. The unfortunate reality is that, despite real progress, too many working families continue to struggle at the very time they should be focused on giving children their best possible starts in life.

While some states are passing the policies expecting and new parents need, all of America's workers and families need and deserve greater, faster progress. If policymakers are responsive to the needs of working families, if they pay attention to the growing body of research on the impact of policies that support working families, and if they understand the breadth and depth of public support for national standards, we will continue to move in the right direction and a report like this will look very different two or three years from now.

Working people in this country simply cannot wait any longer for public policies that support expecting and new parents and their children. Demographics, economics and public demand are all converging to make it imperative that new public policies be adopted. At the National Partnership, we hope our next report will reflect further progress and paint a picture of a nation that is truly family friendly. America's families cannot afford to wait.

State-by-State Comparison of Select Policies

State	PRIVATE SECTOR WORKERS										STATE WORKERS*			
	Paid Family Leave	Pregnancy Leave Through State TDI	Paid Sick Time	Job-Protected Leave With Expanded Access for Workers in Smaller Businesses	Job-Protected Leave Longer Than Federal FMLA	Job-Protected Leave With Expanded Access for Workers With Less Time on the Job	Job-Protected Leave to Care for More Than a Spouse	Flexible Use of Sick Time	Right to Pump That Exceeds Federal Law	Pregnancy Accommodations	Paid Family and/or Medical Leave	Job-Protected Leave Longer Than Federal FMLA	Job-Protected Leave With Expanded Access for Workers With Less Time on the Job	Pregnancy Accommodations
Alabama														
Alaska												YES	YES	YES
Arizona														
Arkansas									YES			P only	P only	
California	YES	YES	YES	P only	P only	P only	YES	YES	YES	YES	YES**	P only	P only	YES
Colorado							YES		YES	YES		YES		YES
Connecticut			YES	P only	YES	YES		YES	YES	YES		YES	YES	YES
Delaware									YES	YES				YES
District of Columbia			YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
Florida												YES	YES	
Georgia														
Hawaii		YES		P only		YES	YES	YES	YES	YES	P only		YES	YES
Idaho														
Illinois									YES	YES	YES	YES	YES	YES
Indiana									YES					
Iowa				P only		P only							P only	
Kansas												YES	YES	
Kentucky													YES	
Louisiana				P only	P only	P only				YES		P only	P only	YES
Maine				YES		YES	YES	YES	YES				YES	
Maryland				YES				YES		YES				YES
Massachusetts			YES	YES		YES		YES				YES	YES	
Michigan														
Minnesota				YES		YES		YES	YES	YES			YES	YES
Mississippi														
Missouri														
Montana				P only		P only							YES	
Nebraska										YES	YES			YES
Nevada														
New Hampshire				P only		P only							P only	
New Jersey	YES	YES		YES		YES	YES			YES	YES**		YES	YES
New Mexico									YES					
New York	YES	YES		YES		YES	YES		YES	YES	YES**	YES	YES	YES
North Carolina												YES	YES	
North Dakota										YES				YES
Ohio											YES			
Oklahoma														
Oregon			YES	YES	YES	YES	YES	YES	YES			YES	YES	
Pennsylvania												YES		
Rhode Island	YES	YES		YES	YES	YES	YES		YES	YES	YES**	YES	YES	YES
South Carolina														
South Dakota														
Tennessee					YES				YES			YES		
Texas													YES	
Utah									YES	YES				YES
Vermont			YES	YES			YES	YES	YES			YES		
Virginia											YES			
Washington				P only	P only	P only	YES	YES				YES	P only	
West Virginia							YES	YES		YES			YES	YES
Wisconsin						YES	YES	YES				YES	YES	
Wyoming														
Total	4	5	6	18	8	17	12	12	19	17	9	20	26	18

"P only" indicates that the law applies in cases of pregnancy only.

* Access to policies through same laws as private sector workers or through laws or regulations specific to public sector state employees.

** TDI/PFL policies cover state workers only if their employer or collective bargaining unit has opted to be covered.

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¹¹⁶ See note 114, pp. 9-10.

¹¹⁷ *Ibid.*

¹¹⁸ Includes states with both paid family leave and temporary disability insurance (personal medical leave) programs. See note 83.

¹¹⁹ Some state laws allow workers job-protected family and medical leave for family care and personal medical issues of all kinds; these laws apply to new and expecting parents as well as to other workers who need leave to care for seriously ill family members and/or their own serious medical conditions. Other state laws specifically provide for pregnancy disability leave.

¹²⁰ As discussed elsewhere in this report, the FMLA and the FLSA's protections for nursing mothers each protect only particular segments of the workforce. The FMLA applies only to public employees, and private employers with 50 or more employees within a 75-mile radius and, within those workplaces, only to workers who have been on the job for at least 12 months and have worked 1,250 hours within the prior 12 months. The FLSA right-to-pump provision applies to "non-exempt" workers (those who are paid hourly or are subject to overtime pay protections), but not to salaried workers.

¹²¹ Ala. Admin. Code r. § 670-X-14-.01(1)(b).

¹²² Alaska Stat. § 39.20.500(b).

¹²³ Alaska Stat. § 39.20.520(a).

¹²⁴ Ariz. Admin. Code § R2-5A-B603.

¹²⁵ Ark. Code Ann. § 11-5-116.

¹²⁶ Ark. Code Ann. §§ 21-4-209, 21-4-210, 21-4-203.

¹²⁷ Ark. Code Ann. § 21-4-206.

¹²⁸ See note 125.

¹²⁹ Cal. Unemp. Ins. Code §§ 3300-3306, *amended* by A.B. 908, 2015-2016 Leg., Reg. Sess. (Cal. 2016).

¹³⁰ Cal. Unemp. Ins. Code §§ 2625-2630, *amended* by A.B. 908, 2015-2016 Leg., Reg. Sess. (Cal. 2016).

¹³¹ Cal. Unemp. Ins. Code § 2901.

¹³² State of California Employment Development Department. (n.d.). *FAQ — Paid Family Leave (PFL) Benefits*. Retrieved 20 May 2016, from http://edd.ca.gov/Disability/FAQ_PFL_Benefits.htm

¹³³ Cal. Unemp. Ins. Code § 2653; State of California Employment Development Department. (n.d.). *FAQ — Pregnancy*. Retrieved 20 May 2016, from http://edd.ca.gov/Disability/FAQ_DI_Pregnancy.htm

¹³⁴ Cal. Fam. Code § 297.5; Cal. Gov't Code § 12945.2.

¹³⁵ Cal. Gov't Code § 12945.

¹³⁶ Cal. Gov't Code § 12926(d).

¹³⁷ State of California Department of Fair Employment and Housing. (n.d.). *Pregnancy Disability Leave (PDL) – Frequently Asked Questions*. Retrieved 20 May 2016, from <http://www.dfeh.ca.gov/res/docs/DFEH%20FAQs%20PDL.pdf>

¹³⁸ Cal. Lab. Code §§ 245-249.

¹³⁹ Cal. Lab. Code §§ 246.5(a)(1), 245.5(c).

¹⁴⁰ Cal. Lab. Code § 246.

¹⁴¹ 2016 Cal. Legis. Serv. Ch. 4 (amending Cal. Lab.

Code §§ 245.5, 246).

¹⁴² Cal. Lab. Code §§ 233, 245.5, 246.5.

¹⁴³ Cal. Lab. Code §§ 1030-1031.

¹⁴⁴ Cal. Gov't Code § 12945(a)(3)(C); see also note 136.

¹⁴⁵ State of California Employment Development Department. (2011, September). *State Disability Insurance Program*. Retrieved 23 May 2016, from http://www.edd.ca.gov/pdf_pub_ctr/de8714c.pdf; State of California Employment Development Department. (n.d.). *Paid Family Leave Fact Sheet*. Retrieved 23 May 2016, from http://www.edd.ca.gov/pdf_pub_ctr/de8714c.pdf

¹⁴⁶ See note 134.

¹⁴⁷ See notes 135, 136.

¹⁴⁸ See note 137.

¹⁴⁹ See note 142.

¹⁵⁰ See note 143.

¹⁵¹ See note 144.

¹⁵² Colo. Rev. Stat. §§ 8-13.3-203, 14-15-103(5).

¹⁵³ Colo. Rev. Stat. §§ 8-13.5-103(1), 8-13.5-104.

¹⁵⁴ 2016 Colo. Legis. Serv. Ch. 207 (amending Colo. Rev. Stat. §§ 24-34-401, 24-34-402.3); Colo. Rev. Stat. § 24-34-401(3), (8).

¹⁵⁵ See note 152.

¹⁵⁶ 4 Colo. Code Regs. § 801-1:5(5-20), (5-21).

¹⁵⁷ 4 Colo. Code Regs. § 801-1:5(5-5).

¹⁵⁸ See note 153.

¹⁵⁹ See note 154.

¹⁶⁰ Conn. Gen. Stat. § 31-51kk(4); Connecticut employees who work for employers with between 50 and 74 employees would only receive federal FMLA protection.

¹⁶¹ Conn. Gen. Stat. § 31-51kk(1).

¹⁶² Conn. Gen. Stat. § 31-51ll.

¹⁶³ Conn. Gen. Stat. §§ 46a-60(a)(7)(B), 46a-51(9)-(10).

¹⁶⁴ Conn. Gen. Stat. §§ 31-57r to 31-57t.

¹⁶⁵ Conn. Gen. Stat. §§ 31-51kk(4), 31-51pp(c)(1).

¹⁶⁶ Conn. Gen. Stat. § 31-40w.

¹⁶⁷ Conn. Gen. Stat. §§ 46a-60(a)(7)(E), 46a-51(9)-(10).

¹⁶⁸ Conn. Gen. Stat. § 5-196(19). Some employees do not have any tenure requirement.

¹⁶⁹ Conn. Gen. Stat. § 5-248a(a).

¹⁷⁰ See note 163.

¹⁷¹ Conn. Agencies Regs. § 5-247-4.

¹⁷² See note 166.

¹⁷³ See note 167.

¹⁷⁴ Del. Code Ann. tit. 19, §§ 710(7), 711(3).

¹⁷⁵ *Ibid.*; Del. Code Ann. tit. 19, § 710(18).

¹⁷⁶ Del. Code Ann. tit. 14, § 1333; tit. 29, § 5120.

¹⁷⁷ Del. Code Ann. tit. 29, § 5116(b).

¹⁷⁸ See note 174.

¹⁷⁹ See note 175.

¹⁸⁰ D.C. Code § 32-516.

¹⁸¹ D.C. Code § 32-501(4).

¹⁸² D.C. Code §§ 32-501(1), 32-502(a), 32-505.

¹⁸³ D.C. Code § 32-503(a).

¹⁸⁴ D.C. Code § 32-502.

¹⁸⁵ D.C. Code § 32-131.02(b).

¹⁸⁶ D.C. Code § 32-131.01(4).

¹⁸⁷ D.C. Code § 32-131.02(a).

¹⁸⁸ D.C. Code § 32-131.01(2).

¹⁸⁹ D.C. Code §§ 2-1401.02(9)-(10), 2-1402.82(d).

¹⁹⁰ D.C. Code §§ 32-1231.01 to 32-1231.15.

¹⁹¹ D.C. Code § 1-612.03c.

¹⁹² D.C. Code §§ 32-501(1)-(2), 32-502(a).

¹⁹³ See note 183.

¹⁹⁴ See note 184.

¹⁹⁵ See note 181.

¹⁹⁶ D.C. Mun. Regs. tit. 6, §§ 6-B1242, 6-B1299.

¹⁹⁷ See note 189.

¹⁹⁸ See note 190.

¹⁹⁹ Fla. Stat. § 110.221.

²⁰⁰ Fla. Admin. Code r. 60L-34.0042(3)(a)-(c).

²⁰¹ Ga. Comp. R. and Regs. § 478-1-.16(3)(a), (9)(b) (4).

²⁰² Haw. Rev. Stat. §§ 392-3, 392-41.

²⁰³ Haw. Rev. Stat. § 392-43.

²⁰⁴ Haw. Rev. Stat. §§ 398-1, 398-3.

²⁰⁵ Haw. Rev. Stat. § 398-3(a).

²⁰⁶ Haw. Code R. §§ 12-46-108, 12-46-1; Haw. Rev. Stat. § 378-1.

²⁰⁷ Haw. Rev. Stat. §§ 398-2, 398-4(c).

²⁰⁸ Haw. Rev. Stat. §§ 378-91, 378-92.

²⁰⁹ Haw. Code R. §§ 12-46-107, 12-46-1; Haw. Rev. Stat. § 378-1.

²¹⁰ Haw. Rev. Stat. §§ 392-3, 392-21, 392-23, 392-25.

²¹¹ See note 204.

²¹² See note 206.

²¹³ Haw. Rev. Stat. §§ 398-1, 398-2, 398-4(c).

²¹⁴ See note 208.

²¹⁵ See note 209.

²¹⁶ Idaho Department of Human Resources. (2012, May). *Executive Branch Agency Policy – Section 3: Sick Leave* (p. 2). Retrieved 24 June 2016, from <http://dhr.idaho.gov/PDFs/Section3Sick.pdf>

²¹⁷ 820 Ill. Comp. Stat. 260/5, 260/10, 260/15.

²¹⁸ 775 Ill. Comp. Stat. 5/2-101(B), 5/2-102(I).

²¹⁹ Ill. Admin. Code tit. 80, § 303.130.

²²⁰ Ill. Admin. Code tit. 80, § 303.148.

²²¹ See note 217.

²²² See note 218.

²²³ Ill. Admin. Code tit. 80, 303.90.

²²⁴ Ind. Code §§ 22-2-14-1, 22-2-14-2.

²²⁵ Indiana State Personnel Department. (2013). *State of Indiana – Employee Handbook* (p. 29). Retrieved 24 June 2016, from <http://www.in.gov/spd/files/eehandbook.pdf>

²²⁶ Ind. Code § 5-10-6-2.

²²⁷ Iowa Code § 216.6(2)(e), (6)(a).

²²⁸ *Ibid.*; Iowa Code § 216.2(6)-(7).

²²⁹ Iowa Admin. Code r. §§ 11-63.3(8A)(11)(b).

²³⁰ Kan. Admin. Regs. §§ 1-9-6(b), (d), (h).

²³¹ Kan. Admin. Regs. §§ 1-9-5(e).

²³² Ky. Rev. Stat. Ann. §§ 337.010(1)(d)-(e), 337.015.

²³³ 101 Ky. Admin. Regs. 2:102 § 2(3), 3:015 § 2(3).

²³⁴ Kentucky Department of Human Resources Administration, Personnel Cabinet. (2016, June 7). *Employee Handbook* (p. 51). Retrieved 24 June 2016, from <https://hr.personnel.ky.gov/Documents%20Anonymous/Employee%20Handbook.pdf#page=51>

²³⁵ La. Stat. Ann. § 23:341(A).

²³⁶ La. Stat. Ann. § 23:342(2)(b).

²³⁷ La. Stat. Ann. § 23:341(B)(1).

²³⁸ La. Stat. Ann. § 23:342(4); see also note 235.

²³⁹ See note 236.

²⁴⁰ La. Stat. Ann. § 23:302(2); see also note 235.

²⁴¹ See note 237.

²⁴² La. Stat. Ann. §§ 23:342(4), 23:302(2); see also note 235.

²⁴³ La. Stat. Ann. § 49:148.4.1(A)-(B).

²⁴⁴ Me. Stat. tit. 26, §§ 844(1), 843(3)(A).

²⁴⁵ Me. Stat. tit. 26, § 843(4), (8).

- ²⁴⁶ Me. Stat. tit. 26, § 844(1).
- ²⁴⁷ Me. Stat. tit. 26, § 636.
- ²⁴⁸ Me. Stat. tit. 26, §§ 603(1)(A), 604.
- ²⁴⁹ Me. Stat. tit. 26, § 843(3)(B); see also note 246.
- ²⁵⁰ See note 245.
- ²⁵¹ See note 246.
- ²⁵² See note 247.
- ²⁵³ See note 248.
- ²⁵⁴ Md. Code Ann., Lab. & Empl. §§ 3-1201, 3-1202, 3-1204.
- ²⁵⁵ Md. Code Ann., Lab. & Empl. § 3-802.
- ²⁵⁶ Md. Code Ann., State Gov't §§ 20-609, 20-601.
- ²⁵⁷ Md. Code Ann., State Pers. & Pens. §§ 9-501, 9-505.
- ²⁵⁸ See note 256.
- ²⁵⁹ Mass. Gen. Laws ch. 149, § 105D; ch. 151B, § 1(5).
- ²⁶⁰ Mass. Gen. Laws ch. 149, § 105D.
- ²⁶¹ S.B. 865, 188th Leg., Reg. Sess. (Mass. 2014).
- ²⁶² Mass. Gen. Laws ch. 149, § 148C.
- ²⁶³ *Ibid.*
- ²⁶⁴ See note 259.
- ²⁶⁵ See note 260.
- ²⁶⁶ The Commonwealth of Massachusetts Human Resources Division. (2009, January). *Enhanced Family and Medical Leave Guide for Massachusetts Executive Branch Employees* (pp. 5, 8). Retrieved 24 May 2016, from <http://www.mass.gov/anf/docs/hrd/policies/fmla/guide-employees.doc>
- ²⁶⁷ The Commonwealth of Massachusetts Human Resources Division. (2015, November 1). *Rules Governing Paid Leave and Other Benefits for Managers and Confidential Employees* (pp. 14-15). Retrieved 24 June 2016, from <http://www.mass.gov/anf/employment-equal-access-disability/hr-policies/leave-program/red-book/>
- ²⁶⁸ Mich. Civ. Serv. Commission Rule 5-10; Mich. Civ. Serv. Commission Regulation 5.10.
- ²⁶⁹ Minn. Stat. § 181.940(Subd. 3).
- ²⁷⁰ Minn. Stat. § 181.940(Subd. 2), 181.941.
- ²⁷¹ Minn. Stat. § 181.939.
- ²⁷² Minn. Stat. §§ 181.9413, 181.940.
- ²⁷³ Minn. Stat. §§ 181.9414, 181.940.
- ²⁷⁴ Minn. Stat. §§ 181.940(Subd. 2)-(Subd. 3), 181.941.
- ²⁷⁵ See note 271.
- ²⁷⁶ See note 272.
- ²⁷⁷ See note 273.
- ²⁷⁸ Miss. Code Ann. §§ 25-3-93, 25-3-95.
- ²⁷⁹ Mo. Rev. Stat. § 105.271; Mo. Code Regs. Ann. tit. 1, § 20-5.020(2)(K).
- ²⁸⁰ Mont. Code Ann. §§ 49-2-310(2), (4), 49-2-311.
- ²⁸¹ Mont. Code Ann. §§ 49-2-101(10)-(11), 49-2-310, 49-2-311.
- ²⁸² See note 280.
- ²⁸³ Montana Department of Administration, State Human Resources Division. (2012, September 21). *Maternity and Parental Leave Policy*. Retrieved 23 May 2016, from <https://montana.policytech.com/dotNet/documents/?docid=169&LinkedFromInsert&Link=true&public=true>
- ²⁸⁴ See note 281.
- ²⁸⁵ Mont. Code Ann. §§ 2-18-601(6), 2-18-606; see also note 283.
- ²⁸⁶ Mont. Code Ann. §§ 2-18-601(6), (15), 2-18-606, 2-18-618.
- ²⁸⁷ Mont. Code Ann. § 39-2-216 to 39-2-217.
- ²⁸⁸ Mont. Code Ann. § 39-2-215.
- ²⁸⁹ Neb. Rev. Stat. Ann. §§ 48-1102(2), (5), (7), (11), (18), 48-1107.01(2), 48-1107.02(2)(d).
- ²⁹⁰ *Ibid.*
- ²⁹¹ *Ibid.*
- ²⁹² *Ibid.*
- ²⁹³ Nev. Admin. Code §§ 284.558, 284.5235, 284.52315.
- ²⁹⁴ N.H. Rev. Stat. Ann. §§ 354-A:2(VI)-(VII), 354-A:7.
- ²⁹⁵ N.H. Rev. Stat. Ann. § 354-A:7(VI)(b).
- ²⁹⁶ See note 294.
- ²⁹⁷ See note 295.
- ²⁹⁸ N.H. Code R. Pers. 1204.05(c).
- ²⁹⁹ N.J. Stat. Ann. §§ 43:21-27(k), (o)-(n), 43:21-38.
- ³⁰⁰ State of New Jersey Department of Labor and Workforce Development. (n.d.). *Cost to the Worker*. Retrieved 24 May 2016, from <http://lwd.dol.state.nj.us/labor/fli/content/cost.html>
- ³⁰¹ N.J. Stat. Ann. §§ 43:21-25 to 43:21-31; State of New Jersey Department of Labor and Workforce Development. (n.d.). *Pregnancy — Temporary Disability Benefits for Pregnancy Related Disabilities*. Retrieved 22 July 2016, from http://lwd.dol.state.nj.us/labor/tli/worker/state/sp_pregnancy.html
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- ³⁰³ State of New Jersey Department of Labor and Workforce Development. (n.d.). *Family Leave Insurance — Frequently Asked Questions (#41)*. Retrieved 22 July 2016, from http://lwd.dol.state.nj.us/labor/fli/content/fli_faq.html#40
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- ³⁰⁵ N.J. Stat. Ann. § 34:11B-3(f)(3); New Jersey Office of the Attorney General. (2011, April). *Civil Rights Fact Sheet: The New Jersey Family Leave Act*. Retrieved 22 July 2016, from <http://www.state.nj.us/lps/dcr/downloads/flafactsheet.pdf>
- ³⁰⁶ N.J. Stat. Ann. § 34:11B-3(e), (i); N.J. Admin. Code § 13-14-1.2.
- ³⁰⁷ N.J. Stat. Ann. § 34:11B-4.
- ³⁰⁸ N.J. Stat. Ann. § 34:11B-3(j).
- ³⁰⁹ N.J. Stat. Ann. § 34:11B-3(i); New Jersey Office of the Attorney General. (2011, April). *Civil Rights Fact Sheet: The New Jersey Family Leave Act*. Retrieved 22 July 2016, from <http://www.state.nj.us/lps/dcr/downloads/flafactsheet.pdf>
- ³¹⁰ N.J. Stat. Ann. § 10:5-12(s).
- ³¹¹ N.J. Stat. Ann. § 10:5-5(e).
- ³¹² N.J. Stat. Ann. §§ 43:21-27(a)(1), (k), (o), 43:21-38.
- ³¹³ N.J. Stat. Ann. § 43:21-27(a). Governmental entity may elect to become a “covered employer” for TDI purposes but is automatically a “covered employer” for paid family leave insurance purposes N.J. Stat. Ann. § 43:21-27(b).
- ³¹⁴ N.J. Stat. Ann. §§ 34:11B-3(f), (e).
- ³¹⁵ N.J. Admin. Code §§ 4A:6-1.3(g)(3), 4A:1-1.3.
- ³¹⁶ N.J. Stat. Ann. § 10:5-5; see also note 310.
- ³¹⁷ N.M. Stat. Ann. §§ 28-1-2(B), 28-20-2.
- ³¹⁸ *Ibid.*; N.M. Stat. Ann. § 28-1-2(A).
- ³¹⁹ The increase is subject to delay if the Superintendent of Financial Services believes such a delay is necessary. N.Y. Workers’ Comp. Law §§ 201-205, amended by S. 6406C, Part SS, 239th Leg., Reg. Sess. (N.Y. 2016).
- ³²⁰ N.Y. Workers’ Comp. Law §§ 201-205, amended by S. 6406C, Part SS, 239th Leg., Reg. Sess. (N.Y. 2016).
- ³²¹ N.Y. Workers’ Comp. Law §§ 201(15), 208, amended by S. 6406C, Part SS, 239th Leg., Reg. Sess. (N.Y. 2016).
- ³²² N.Y. Workers’ Comp. Law § 209(3)(b).
- ³²³ N.Y. Workers’ Comp. Law § 203-b.
- ³²⁴ See note 320.
- ³²⁵ N.Y. Workers’ Comp. Law §§ 201, 204, 209(3)(a), 210.
- ³²⁶ New York State Workers’ Compensation Board. (n.d.). *Disability Benefits (Off-the-Job Injury or Illness) Frequently Asked Questions*. Retrieved 22 July 2016, from http://www.wcb.ny.gov/content/main/offthejob/CommonQuestions_DB.jsp
- ³²⁷ N.Y. Lab. Law §§ 206-c, 2(5)-(6).
- ³²⁸ N.Y. Exec. Law §§ 292(5)-(6), 296(3)(a).
- ³²⁹ N.Y. Workers’ Comp. Law §§ 212(2), 212-a, 212-b.
- ³³⁰ *Ibid.*
- ³³¹ *Ibid.*; see also note 323.
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- ³³³ *Ibid.*
- ³³⁴ N.Y. Lab. Law § 206-c; New York State Department of Labor, Division of Labor Standards. (n.d.). *Guidelines Regarding the Rights of Nursing Mothers to Express Breast Milk in the Work Place*. Retrieved 25 May 2016, from <http://www.labor.ny.gov/formsdocs/wp/lis702.pdf>
- ³³⁵ N.Y. Civ. Serv. Law app. § 21.3(f); New York State Department of Civil Services. (n.d.). *Attendance and Leave Manual, § 21.3 – Absence With Pay – Sick Leave*. Retrieved 24 June 2016, from https://www.cs.ny.gov/attendance_leave/pdf/21-3SickLeave.pdf
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- ³³⁷ 25 N.C. Admin. Code 1E.1402; North Carolina Office of State Human Resources. (2015, March). *State Personnel Manual, Family and Medical Leave* (pp. 35, 50). Retrieved 25 May 2016, from <http://oshr.nc.gov/policies-forms/leave/family-and-medical-leave>
- ³³⁸ 25 N.C. Admin. Code 1E.1412; North Carolina Office of State Human Resources. (2012, January). *State Personnel Manual, Family Illness Leave* (pp. 67, 69). Retrieved 25 May 2016, from <http://oshr.nc.gov/policies-forms/leave/family-illness-leave>
- ³³⁹ 25 N.C. Admin. Code 1E.0305; North Carolina Office of State Human Resources. (2011, January). *State Personnel Manual, Sick Leave* (p. 108). Retrieved 25 May 2016, from <http://oshr.nc.gov/policies-forms/leave/sick-leave>
- ³⁴⁰ N.D. Cent. Code §§ 14-02.4-02(7)-(8), 14-02.4-03(2).
- ³⁴¹ N.D. Cent. Code § 54-06-14.5.
- ³⁴² See note 340.
- ³⁴³ Ohio Rev. Code Ann. § 124.136.
- ³⁴⁴ Ohio Admin. Code §§ 123:1-33-01, 123:1-33-05, 123:1-33-06.
- ³⁴⁵ Ohio Admin. Code § 123:1-33-05(B).
- ³⁴⁶ Ohio Admin. Code §§ 123:1-32-05(A)(5), 123:1-47-01(A)(39).
- ³⁴⁷ Or. Rev. Stat. § 659A.153(1).
- ³⁴⁸ Or. Rev. Stat. §§ 659A.156, 659A.162(1), 659A.159(1).
- ³⁴⁹ Or. Rev. Stat. §§ 106.340(1), 659A.150(4).
- ³⁵⁰ Or. Rev. Stat. § 659A.162(3).
- ³⁵¹ Or. Rev. Stat. §§ 653.601, 653.606, 653.616.
- ³⁵² Or. Rev. Stat. §§ 653.616(3), 659A.159(1)(a).
- ³⁵³ Or. Rev. Stat. § 653.606.
- ³⁵⁴ Or. Rev. Stat. §§ 659A.159(1)(d), 659A.174(2).

- ³⁵⁵ Or. Rev. Stat. § 653.077.
- ³⁵⁶ See note 348; Oregon Department of Administrative Services. (2016, January 1). *Family and Medical Leave*. Retrieved 11 July 2016, from <https://www.oregon.gov/das/Policies/60-000-15.pdf>
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- ³⁶¹ Commonwealth of Pennsylvania, Governor's Office. (2013, December 11). *Management Directive 530.30 Amended* (§§ 4(e), (x)-(z), 5(f)-(g)). Retrieved 22 July 2016, from http://www.oa.pa.gov/Policies/md/Documents/530_30.pdf
- ³⁶² Commonwealth of Pennsylvania, Governor's Office (2001, November 9). *Management Directive – Personnel Rules – 505.7 Amended* (pp. 67-68). Retrieved 24 June 2016, from http://www.oa.pa.gov/Policies/md/Documents/505_7.pdf
- ³⁶³ 28 R.I. Gen. Laws § 28-41-35.
- ³⁶⁴ 28 R.I. Gen. Laws §§ 28-40-1, 28-40-3.
- ³⁶⁵ 28 R.I. Gen. Laws § 28-41-8.
- ³⁶⁶ See note 364.
- ³⁶⁷ 28 R.I. Gen. Laws §§ 28-41-7, 28-41-35; Rhode Island Department of Labor and Training. (n.d.). *Temporary Disability Insurance Frequently Asked Questions*. Retrieved 22 July 2016, from <http://www.dlt.ri.gov/tldi/tldifaqs.htm>
- ³⁶⁸ 28 R.I. Gen. Laws §§ 28-48-1, 28-48-2(a). Workers are entitled to a maximum of 13 weeks in any two calendar years, compared to 12 weeks in a 12-month period under the federal FMLA.
- ³⁶⁹ 23 R.I. Gen. Laws § 23-13.2-1.
- ³⁷⁰ Ibid.
- ³⁷¹ 28 R.I. Gen. Laws §§ 28-5-6(8), 28-5-7.4.
- ³⁷² 28 R.I. Gen. Laws § 28-39-3.
- ³⁷³ 28 R.I. Gen. Laws §§ 28-48-1, 28-48-2(a).
- ³⁷⁴ 28 R.I. Gen. Laws § 28-48-1(5).
- ³⁷⁵ Rhode Island Department of Administration, Division of Human Resources. (2010, September 22). *Employee Handbook: Sick Leave with Pay* (Exception Code S). Retrieved 22 July 2016, from http://www.hr.ri.gov/documents/Handbook/leave/1200_Sick%20Leave%20with%20Pay_9-22-2010.pdf; Rhode Island Office of Personnel Administration. (1988, May). *Personnel Rules & Regulations* (pp. 50-51). Retrieved 12 July 2016, from <http://www.hr.ri.gov/documents/Policies%20&%20Communications/Personnel%20Rules.pdf>
- ³⁷⁶ See note 369.
- ³⁷⁷ See note 371.
- ³⁷⁸ S.C. Code Ann. §§ 8-11-40(C), 8-11-155.
- ³⁷⁹ South Dakota Bureau of Human Resources. (2016, February). *Employee Handbook* (p. 10). Retrieved 24 June 2016, from <https://bhr.sd.gov/forms/policies/Handbook.pdf>; S.D. Codified Laws § 3-6C-7; S.D. Admin. R. 55:09:04:02, 55:09:04:05.
- ³⁸⁰ Tenn. Code Ann. § 4-21-408(a), (d)(2).
- ³⁸¹ Tenn. Code Ann. § 50-1-305.
- ³⁸² Tenn. Code Ann. §§ 4-21-102(5), 4-21-408; Tennessee Department of Human Resources. (2015, November). *Employee Handbook* (p. 21). Retrieved 12 July 2016, from https://www.tn.gov/assets/entities/hr/attachments/Employee_Handbook_2015.pdf
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- ³⁸⁴ Tenn. Comp. R. & Regs. § 1120-06-.20; Tennessee Department of Human Resources. (n.d.). *Attendance and Leave Manual* (pp. 64-65). Retrieved 24 June 2016, from https://www.tn.gov/assets/entities/hr/attachments/Attendance_and_leave_manual.pdf
- ³⁸⁵ See note 381.
- ³⁸⁶ Tex. Gov't Code Ann. § 661.913.
- ³⁸⁷ Tex. Gov't Code Ann. § 661.202(d)-(e).
- ³⁸⁸ Tex. Gov't Code Ann. §§ 619.001 - 619.006.
- ³⁸⁹ Utah Code Ann. §§ 34A-5-106(1)(g), 34A-5-102(i), (h).
- ³⁹⁰ Ibid.
- ³⁹¹ Utah Admin. Code r. 477-7-4(2).
- ³⁹² Utah Code Ann. § 34-49-202.
- ³⁹³ See note 389.
- ³⁹⁴ Vt. Stat. Ann. tit. 21, § 471(1).
- ³⁹⁵ Vt. Stat. Ann. tit. 21, §§ 471(4), 472(a)(1).
- ³⁹⁶ See note 394; Vt. Stat. Ann. tit. 21, §§ 471(3), 472(a)(2).
- ³⁹⁷ Vt. Stat. Ann. tit. 15, § 1204(e)(12).
- ³⁹⁸ Vt. Stat. Ann. tit. 21, §§ 481-486.
- ³⁹⁹ Vt. Stat. Ann. tit. 21, § 482; H. 187, 2015-2016 Legis. Sess. (Vt. 2016). Workers in businesses with six or more employees will be able to earn up to 24 hours in 2017 and 2018 and up to 40 hours in 2019 and following years. Workers in businesses with five or fewer employees will begin to earn hours in 2018. New businesses have a one-year period of exemption before paid sick time requirements apply.
- ⁴⁰⁰ Vt. Stat. Ann. tit. 21, § 302(1), 305.
- ⁴⁰¹ Vermont Department of Human Resources. (1996, March 1). *Personnel Policy & Procedure Manual, Number 14.2 – Family and Parental Leave*. Retrieved 22 July 2016, from <http://humanresources.vermont.gov/sites/dhr/files/Documents/Policy%20Manual/Number%2014.2%20-%20FAMILY%20AND%20PARENTAL%20LEAVE.pdf>
- ⁴⁰² See note 397; Vt. Stat. Ann. tit. 21, §§ 471(3)(B), 472(a).
- ⁴⁰³ Vermont Department of Human Resources, Agency of Administration. (n.d.). *Leave Plans*. Retrieved 24 June 2016, from <http://humanresources.vermont.gov/benefits-wellness/leave/leave-plans>; Vermont Department of Personnel. (1999, July 1). *Number 14.1 – Sick Leave*. Retrieved 24 June 2016, from http://humanresources.vermont.gov/sites/humanresources/files/documents/Labor_Relations_Policy_EEO/Policy_Procedure_Manual/Number_14.1_SICK_LEAVE.pdf
- ⁴⁰⁴ See note 400.
- ⁴⁰⁵ Va. Code Ann. §§ 51.1-1100, 51.1-1110.
- ⁴⁰⁶ Va. Code Ann. §§ 51.1-1107, 51.1-1108.
- ⁴⁰⁷ Wash. Rev. Code § 49.78.020(7), (17).
- ⁴⁰⁸ Wash. Rev. Code §§ 49.78.220(1), .280(1)(a).
- ⁴⁰⁹ Wash. Rev. Code § 49.60.040(11); Wash. Admin. Code § 162-04-010.
- ⁴¹⁰ Wash. Rev. Code § 49.60.040(10); Wash. Admin. Code § 162-30-020(4).
- ⁴¹¹ Wash. Admin. Code § 162-30-020(4)(a), (c).
- ⁴¹² Wash. Rev. Code § 49.78.390; Wash. Admin. Code § 162-30-020(4)(d).
- ⁴¹³ Washington State Department of Labor & Industries. (2010, March). *Washington State Family Leave Act Q&A (#6)*. Retrieved 22 July 2016, from <http://www.lni.wa.gov/WorkplaceRights/files/FamilyLeaveFAQs.pdf>
- ⁴¹⁴ Wash. Rev. Code § 49.12.270.
- ⁴¹⁵ Wash. Admin. Code §§ 357-31-460, 357-31-465, 357-31-475.
- ⁴¹⁶ Wash. Admin. Code § 357-31-500.
- ⁴¹⁷ See note 407; Wash. Rev. Code § 49.78.020(16).
- ⁴¹⁸ See note 414; Wash. Rev. Code § 49.12.005(3)(b).
- ⁴¹⁹ W. Va. Code §§ 5-11B-1 et seq., 5-11-3(d).
- ⁴²⁰ W. Va. Code §§ 21-5D-2(c), 21-5D-4(a), 21-5D-6.
- ⁴²¹ W. Va. Code R. §§ 143-1-3, 143-1-14.f.6.
- ⁴²² See note 419.
- ⁴²³ Wis. Stat. § 103.10(2)(c).
- ⁴²⁴ Wis. Stat. § 103.10(1)(ar).
- ⁴²⁵ Wis. Stat. § 103.10(3), (4).
- ⁴²⁶ Wis. Stat. § 103.10(5)(b).
- ⁴²⁷ Wis. Admin. Code E.R. § 18.14(2)(d), (e); Wisconsin Office of State Employment Relations. (2016, February). *Wisconsin Human Resources Handbook – Chapter 740 – Leave of Absence Without Pay* (pp. 1-2). Retrieved 12 July 2016, from <http://oser.state.wi.us/docview.asp?docid=2835>
- ⁴²⁸ Wis. Stat. § 103.10(1)(c).
- ⁴²⁹ Wis. Stat. § 103.10(3).
- ⁴³⁰ Wis. Stat. § 103.10(3)(b)(3).
- ⁴³¹ Wis. Stat. § 103.10(4).
- ⁴³² Wis. Admin. Code E.R. §§ 18.01(4), 18.03(4).
- ⁴³³ 006-140-010 Wyo. Code R. §§ 2(b), 006-140-000 Wyo. Code R. § 52.
- ⁴³⁴ U.S. Department of Defense. (2016, January 28). *Carter Announces 12 Weeks Paid Military Maternity Leave, Other Benefits*. Retrieved 19 July 2016, from <http://www.defense.gov/News-Article-View/Article/645958/carter-announces-12-weeks-paid-military-maternity-leave-other-benefits>
- ⁴³⁵ U.S. Office of Personnel Management. (2010, December 22). *Nursing Mothers in Federal Employment. Memorandum for Heads of Executive Departments and Agencies*. Retrieved 22 July 2016, from <https://www.dol.gov/whd/nursingmothers/NMothersFederalEmplymnt.pdf>
- ⁴³⁶ 5 C.F.R. § 630.401.
- ⁴³⁷ U.S. Office of Personnel Management. (2015, April). *Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care* (pp. 12, 28). Retrieved 19 July 2016, from <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/handbook-on-leave-and-workplace-flexibilities-for-childbirth-adoption-and-foster-care.pdf>. An employee may use sick leave to bond with a healthy adopted child if ordered or required by the adoption agency or court.
- ⁴³⁸ U.S. Office of Personnel Management. (n.d.). *Fact Sheet: Advanced Sick Leave*. Retrieved 19 July 2016, from <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/advanced-sick-leave/>



Expecting Better for All Working Families

A Special Section of the Fourth Edition of *Expecting Better*

Introduction

Demographic and economic changes – greater longevity, people working later in life to make ends meet, rising incidence of chronic health conditions among young and old alike, stagnant wages, decimated retirement accounts, and more people who are supporting both their children and aging parents – make updating the nation’s workplace policies especially urgent. Workers’ caregiving responsibilities extend well beyond caring for new babies, adopted or foster children, or a spouse or partner preparing for or recovering from childbirth. Frequently, women and men must also manage their job responsibilities while caring for a child with a disability or chronic illness; an ill parent, spouse or domestic partner; or an ill sibling, grandparent, grandchild or in-law. Many also have parent-teacher conferences scheduled during work hours and obligations to accompany parents or partners to medical appointments and to address other family caregiving needs.

The primary focus of *Expecting Better* is workplace supports for expecting and new parents, but this special section recognizes that working families also need public policies that go beyond the federal Family and Medical Leave Act (FMLA) – policies that help workers meet a diverse range of caregiving responsibilities and care for a broader range of family members. Many of the same state laws discussed in *Expecting Better* also appear below, but the focus of this special section is on the rights and protections that these laws offer workers to help them meet broader family caregiving needs.

Expecting Better for All Working Families summarizes state policies that improve on the FMLA by:

- ▶ providing private sector workers with *paid* leave for family caregiving;
- ▶ providing workers with *unpaid*, job-protected leave to care for family members other than those covered by the FMLA;
- ▶ providing workers with leave for uses beyond those included in the FMLA; and
- ▶ providing workers with leave for “small necessities,” such as attending their children’s school activities or accompanying family members to medical appointments.

This section also summarizes two state laws that enable workers to request flexible work schedules. It catalogues improvements that 21 states and the District of Columbia have made to their unemployment insurance laws to recognize that family caregiving responsibilities often compel workers to leave their jobs. These states provide unemployment insurance benefits to workers who left the workforce to care for family members who were ill or had a disability but are once again looking and available for work.

Millions of Working People Provide Unpaid Family Care – and Demand is Growing

There is a growing need for laws and policies that recognize the needs of employed family caregivers. Approximately 43.5 million adults in the United States are unpaid family caregivers.¹ The majority of family caregivers also work outside the home, and six in 10 have been employed at some point while providing care.² Most family caregivers assist parents or older relatives,³ and 18 percent provide care for more than one adult.⁴

Improving policies to better support caregivers is a 21st century imperative. The population is aging: By 2060, there will be 98.2 million older adults – accounting for nearly one quarter of the U.S. population.⁵ This means that even more workers will need time away from their paying jobs to care for aging family members. Additionally, half of adults in their 40s and 50s belong to the sandwich generation, which means they have a parent age 65 or older and are either raising a young child or financially supporting a grown child.⁶

Public Policies That Better Reflect Caregivers’ Needs Would Benefit Caregivers and Care Recipients

Working families need public policies that recognize their family responsibilities because employers’ policies often fail to meet the needs of employed caregivers. For example, 15 percent of family caregivers report having had to take a leave of absence from work at some point while caregiving.⁷ Yet, according to government data, nearly nine in 10 workers do not have paid family leave that can be used for such purposes.⁸

Family caregiving shifts the costs of providing care onto families themselves – at a high price. The care provided by unpaid family caregivers of adults is valued at an estimated \$470 billion per year⁹ – a cost that would otherwise be shouldered by the health care system and taxpayers.

Instead, family caregivers provide care at a steep cost to themselves and their families. Approximately one-third of caregivers providing elder care end up leaving the workforce or reducing the number of hours they work, which takes a financial toll on both their current economic stability and their long-term retirement security.¹⁰ Of caregivers who leave the workforce, half (52 percent) say they did so because their jobs did not allow for the flexibility they needed to work and provide elder care.¹¹ Workers 50 years of age or older who leave the workforce to care for a parent lose an average of more than \$300,000 in wages and retirement income.¹²

Access to paid family leave as well as other supports would provide more than just economic security for caregivers. Paid leave also benefits care recipients. When children are critically ill – whether at birth or later – the presence of a parent shortens a child’s hospital stay by 31 percent.¹³ Active parental involvement in a child’s hospital care may head off future health care problems and reduce health care costs.¹⁴ Family caregivers with paid leave who care for an older loved one are better able to help them recover from illness, fulfill treatment plans and avoid complications and hospital readmissions, which can help lower health care costs and improve health outcomes.¹⁵ In addition, the stress of caregiving takes a toll on a caregiver’s own health and well-being. Family caregivers are better able to care for themselves when workplace policies anticipate and address their needs.¹⁶

Employed family caregivers also need expanded access to unpaid, job-protected leave – through reduced eligibility requirements that allow them to qualify sooner, with less tenure on the job – as well as the ability to use such leave to care for a broader range of family members than permitted under the FMLA. Forty-five percent of working adults are eligible for leave under the FMLA, and only 38 percent of working adults are both eligible for and can afford to take FMLA leave.¹⁷

On average, a worker 50 years of age or older who leaves the workforce to take care of a parent will lose more than \$300,000 in wages and retirement income. Losses for women are even greater – an average of \$324,000.

MetLife Mature Market Institute. (2011, June). *The MetLife Study of Caregiving Costs to Working Caregivers: Double Jeopardy for Baby Boomers Caring for Their Parents.*

Caregivers also need flexibility in scheduling: Nearly half of caregivers report that they have had to go to work late, leave early or take time off during the day to handle caregiving responsibilities.¹⁸ Unfortunately, day-to-day flexibility in scheduling is not the norm for most workers. Even though many businesses allow some workers control over their schedules, only 27 percent of employers allow most or all workers to change their start or end times within some range of hours.¹⁹

At the same time, many workers – particularly those in low-wage jobs – need predictable schedules rather than on-demand scheduling, which has become the norm in certain industries. The unfair and unpredictable scheduling practices of too many employers are causing millions of workers to struggle to meet their responsibilities at home and on the job. When workers do not know when they are scheduled to work or for how many hours, it can be impossible to arrange for child care, attend classes that allow them to continue their education, hold a second job or pursue job training.

The mismatch between employed caregivers’ needs and the nation’s workplace policies puts families’ economic security at risk, and that, in turn, weakens our economy. Too often, caregivers jeopardize their financial and job security to care for a loved one, or they report for work worried that a child, parent, spouse, sibling or grandparent is going without needed care.

Federal Family and Medical Leave Protections

Federal law provides some protections for employed family caregivers, and laws in more than a dozen states expand on those protections. But much more is needed to bring public policies in line with the needs of the workforce.

Workers need paid, job-protected leave to attend medical appointments and to provide more comprehensive health-related and personal care to their loved ones. They also need time to care for their children and deepen their involvement in their children's school activities.

And although the focus of this section is on laws that provide leave, family caregivers who have paying jobs also need public policies that will provide them more control over their schedules, more flexibility in work hours and start and end times, and the ability to refuse overtime so that they can meet child care, elder care and other family responsibilities.

THE FAMILY AND MEDICAL LEAVE ACT

The FMLA addresses some of the key challenges employed family caregivers face when they have to take time away from work. The FMLA provides eligible workers with up to 12 weeks of unpaid, job-protected leave to care for a spouse, parent or child when that family member has a serious health condition.²⁰

A worker is eligible for leave to care for a family member when the family member is unable to care for his or her own basic medical, hygienic or nutritional needs; needs assistance with transportation to medical appointments; or is in inpatient or in-home care and would benefit from psychological comfort or reassurance. Workers may also take leave to substitute for regular caregivers when the family member's regular caregivers are unavailable, or to make arrangements for ongoing care. Leave may be taken intermittently to accommodate the nature of a family member's serious health condition or to share caregiving responsibilities with another caregiver.²¹

U.S. Department of Labor survey research shows that the FMLA has been a tremendous help to workers without placing significant burdens on employers. Ninety-one percent of worksites report that complying with the FMLA has had a positive effect or no noticeable effect on employees and their businesses. In fact, 37 percent of worksites covered by the FMLA report that compliance has had a "positive effect" on "employee productivity, absenteeism, turnover, career advancement and morale, as well as the business' profitability," while only 8 percent report a negative effect.²² Even the law's intermittent leave provision, which some employers warned would cause significant challenges, does not pose difficulties for most employers. Most covered worksites report that, to the extent intermittent leave has had an impact on their workplace, the impact has been more positive than negative for both profitability (nearly 15 percent positive; 3 percent negative) and productivity (15.5 percent positive; 6 percent negative).²³

SPECIAL PROVISIONS FOR MILITARY FAMILY MEMBERS

The FMLA includes protections that address the special needs of military family members. Under these provisions, added to the law in 2008 and 2009, the spouse, child, parent or next of kin of a seriously injured military member can take up to 26 weeks of unpaid, job-protected leave. Furthermore, family members of a deployed service member may use FMLA leave to respond to "qualifying exigencies" arising out of deployment.²⁴ Unfortunately, awareness of these provisions, even among military families, is very low. Given that there are an estimated 5.5 million military caregivers in the United States, more must be done to ensure that workers know about and can exercise these rights when the need arises.²⁵

HOW THE FMLA FALLS SHORT

As discussed in *Expecting Better*, only about six in 10 workers in the United States are covered by the FMLA.²⁶ Workers employed by firms with fewer than 50 employees, those who have not worked at least 1,250 hours for their current employer in the past year, and those who have not been with the same employer for at least a year are not eligible for leave under the law. These requirements mean that about 44 percent of the private sector workforce – or about 49 million private sector workers – are not covered by the FMLA.²⁷ A recent analysis found that eliminating the employer-size threshold would make about 34 million more private sector workers eligible for FMLA protections.²⁸

In addition, workers have many urgent caregiving needs that are not covered by the FMLA. More than one-third of family caregivers provide care for a family member for whom they cannot take leave under the FMLA, including parents-in-law (7 percent), grandparents or grandparents-in-law (7 percent), siblings or siblings-in-law (5 percent) and other relatives (7 percent).²⁹ Although the law covers caregiving for spouses, it does not cover care for domestic partners. Finally, although the FMLA gives workers leave to care for family members with serious health conditions, it does not help them fulfill more run-of-the-mill caregiving responsibilities, such as attending parent-teacher conferences or taking relatives to medical appointments.

Progress Toward a Broader Concept of ‘Family’

Progress has been made toward a broader and more inclusive definition of “family.” Since 2010, the U.S. Department of Labor’s (DOL’s) interpretation of the FMLA has allowed a worker to take FMLA leave to care for a child if she or he stands *in loco parentis* (in the place of a parent) to that child, regardless of whether she or he is the child’s biological or adoptive parent.³⁰ This clarification helped to ensure that same-sex partners, grandparents and others who provide daily care or financial support to a child are able to use FMLA leave to care for that child.

Additionally, following the U.S. Supreme Court’s 2013 decision in *United States v. Windsor*, DOL’s Wage and Hour Division issued a memorandum stating that same-sex couples who are married under the laws of the state in which they were married are entitled to the same FMLA protections as opposite-sex married couples with respect to taking leave to care for a seriously ill spouse.³¹ Then, in 2015, the landmark U.S. Supreme Court decision in *Obergefell v. Hodges* legalized same-sex marriage, and same-sex spouses now have the same protections under the FMLA as opposite-sex spouses.

While progress has been made, work continues toward broader, more inclusive definitions of “family” in laws providing paid leave and paid sick days. The executive order and DOL proposed rule to enable federal contractor employees to earn paid sick days defines “family member” to include “any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.”³² A few of the local paid sick days laws contain a similar definition.³³ Advocates continue to work for inclusion of more inclusive definitions of “family” in federal, state and local laws.

State Family and Medical Leave Expansions

Some states recognize a broader range of family care responsibilities than those covered by the FMLA by allowing workers to use unpaid, job-protected leave to care for family members other than new children, by providing paid family leave and by requiring employers to allow workers to use paid sick time to care for family members other than children.

As detailed below, states such as Hawaii, Oregon and Vermont allow workers to use unpaid, job-protected leave to care for additional family members beyond what the federal FMLA guarantees.

Additionally, paid family leave insurance programs in California and New Jersey each provide working family caregivers with a portion of their wages for up to six weeks per year to care for certain ill family members. Rhode Island offers four weeks of paid family leave for employed family caregivers, with job protection. When fully implemented in 2021, the recently passed New York paid family leave insurance law will allow workers to take up to 12 weeks of job-protected paid leave for family caregiving. California, Rhode Island and New York make this leave available to care for a broad range of family members: California expanded its law in 2013 to include grandparents, grandchildren, siblings and parents-in-law; Rhode Island’s law includes grandparents; and New York’s law includes grandparents and grandchildren.

Connecticut, the District of Columbia, California, Massachusetts, Oregon and Vermont (beginning in 2017) require many employers to provide paid sick time to care for ill family members or family members in need of medical care. Minnesota and several other states require that employers who provide paid sick time must allow workers to use that time to care for family members like grandchildren.

Eleven states and the District of Columbia have FMLA laws that cover more family caregiving relationships than the FMLA, and two of these states provide leave for more caregiving purposes than the FMLA.

Eight states and the District of Columbia offer leave for employees to participate in their children’s school activities. Two of those states also permit leave to be used to attend to the routine health needs of family members.

Two states enable employees to request more flexible or predictable work arrangements without fear of retaliation.

PAID FAMILY LEAVE OR PAID SICK DAYS

STATE	PAID FAMILY LEAVE OR PAID SICK DAYS POLICY
California	Paid leave law provides up to six weeks of caregiving leave at 55 percent wage replacement (set to increase in 2018 to 60 or 70 percent, depending on the worker’s wage level), up to a maximum cap, to workers caring for a child, parent, spouse, domestic partner, grandparent, grandchild or sibling with a serious health condition. ³⁴ Paid sick days law requires employers to provide workers with up to 48 hours of earned paid sick time each year, 24 of which employees can use each year to care for a spouse, child, parent, domestic partner, sibling, grandparent, grandchild, parent-in-law, or a person with whom the employee is or was in a relationship of in <i>loco parentis</i> ; or to address the effects of domestic violence, sexual assault or stalking. ³⁵
New Jersey	Provides up to six weeks of caregiving leave at 66 percent wage replacement, up to a maximum cap, to workers caring for a child, parent, spouse, domestic partner or civil union partner with a serious health condition. ³⁶
New York	Starting in 2018, provides up to eight weeks of job-protected caregiving leave at 50 percent wage replacement (increasing incrementally to 12 weeks and 67 percent wage replacement by 2021), up to a maximum cap, to workers caring for a child, parent, grandparent, grandchild, spouse or domestic partner. ³⁷
Rhode Island	Provides up to four weeks of job-protected caregiving leave at approximately 60 percent wage replacement, up to a maximum cap, to workers caring for a child, parent, parent-in-law, grandparent, spouse or domestic partner with a serious health condition. ³⁸
Connecticut	Requires most employers with 50 or more employees to provide certain categories of workers with up to 40 hours of earned paid sick time per year to care for a spouse, minor child or adult child incapable of self-care because of a mental or physical disability, to take these family members to a medical appointment, or to address the effects of domestic violence or sexual assault. ³⁹

Massachusetts	Requires employers with 11 or more employees to provide workers with up to 40 hours of earned paid sick time per year, and smaller employers to provide workers with an equivalent amount of unpaid sick time. Leave can be taken to care for a spouse, child, parent, parent-in-law, person who assumed the responsibilities of parenthood for the employee, or child for whom the employee has assumed the responsibilities of parenthood; or to address the effects of domestic violence. ⁴⁰
Oregon	Requires employers with 10 or more employees (six or more employees in Portland) to provide workers with up to 40 hours of earned paid sick time per year, and smaller employers to provide workers with an equivalent amount of unpaid sick time. Leave can be taken to care for a spouse, child, parent, grandparent, grandchild, parent-in-law or a person with whom the employee is or was in a relationship of in <i>loco parentis</i> , for reasons related to a public health emergency; to address the effects of domestic violence, sexual harassment, sexual assault or stalking; or for purposes covered under the Oregon Family Leave Act. ⁴¹
Vermont	Starting in 2017, requires employers to provide workers with up to 24 hours of earned paid sick time per year (increasing to 40 hours in 2019) to care for a spouse, child, parent, grandparent, grandchild, sibling or parent-in-law; to address the effects of domestic violence, sexual assault or stalking; or for reasons related to public health or safety emergencies. ⁴²
District of Columbia	Requires employers to provide most workers with a limited number of paid sick days each year that, among other uses, can be used to care for a spouse, domestic partner, parent, parent-in-law, child or child's spouse, grandchild or grandchild's spouse, sibling, sibling-in-law, a child who lives with the worker and for whom the worker assumes and discharges parental responsibility, or a person with whom the worker is in a committed relationship; or to address the effects of stalking, domestic violence or sexual abuse. ⁴³

STATE FAMILY LEAVE LAWS THAT INCLUDE ADDITIONAL FAMILY MEMBERS

STATE	DEFINITION OF FAMILY (BEYOND CHILD, SPOUSE AND PARENT)
California	Registered, formerly registered and surviving registered domestic partners and children of such partners; ⁴⁴ stepparent ⁴⁵
Colorado	Civil union partner; ⁴⁶ domestic partner ⁴⁷
Connecticut	Civil union partner and child of civil union partner; ⁴⁸ parent-in-law; ⁴⁹ stepparent ⁵⁰
Hawaii	Non-dependent adult child; ⁵¹ grandparent; ⁵² parent-in-law; ⁵³ grandparent-in-law; ⁵⁴ stepparent; ⁵⁵ reciprocal beneficiary ⁵⁶
Maine	Domestic partner and child of domestic partner; ⁵⁷ non-dependent adult child; ⁵⁸ sibling who lives with employee ⁵⁹
New Jersey	Civil union partner and child of civil union partner; ⁶⁰ parent-in-law; ⁶¹ stepparent ⁶²
Oregon	Domestic partner; ⁶³ non-dependent adult child; ⁶⁴ grandparent; ⁶⁵ grandchild; ⁶⁶ parent-in-law ⁶⁷
Rhode Island	Non-dependent adult child; ⁶⁸ parent-in-law ⁶⁹
Vermont	Civil union partner and child of civil union partner; ⁷⁰ non-dependent adult child; ⁷¹ parent-in-law ⁷²
Washington	Registered domestic partner and child of domestic partner ⁷³
Wisconsin	Registered or unregistered domestic partner; ⁷⁴ parent-in-law; ⁷⁵ stepparent ⁷⁶
District of Columbia	Person related by blood, legal custody or marriage; ⁷⁷ child who lives with employee and for whom employee permanently assumes and discharges parental responsibility; ⁷⁸ person with whom employee lives and maintains a committed relationship ⁷⁹

STATE FAMILY LEAVE LAWS THAT PERMIT ADDITIONAL USES FOR LEAVE RELATED TO CAREGIVING

STATE	ADDITIONAL USES
Maine	Death of employee's family member if that family member is a servicemember killed while on active duty ⁸⁰
Oregon	Care of a child with an illness, injury or condition that is not serious but requires home care; bereavement leave in connection with the death of a family member ⁸¹

'SMALL NECESSITIES' LAWS

STATE	EMPLOYERS COVERED, BY SIZE	AVAILABLE LEAVE	PERMISSIBLE USES
California	25 or more employees ⁸²	40 hours per year ⁸³	To enroll a child in school or child care or participate in a child's school or child care provider activities (no more than eight hours per month), or address a school or child care emergency ⁸⁴
Illinois	Any size ⁸⁵	8 hours per year ⁸⁶	To attend school conferences or a child's classroom activities ⁸⁷
Massachusetts	50 or more employees ⁸⁸	24 hours per year ⁸⁹	To participate in a child's school activities, or to accompany a child or elderly relative to medical or dental appointments ⁹⁰
Minnesota	Any size ⁹¹	16 hours per year ⁹²	To attend a child's school or child care conferences or school or child care-related activities, or to observe and monitor child care ⁹³
Nevada	50 or more employees ⁹⁴	4 hours per year, per child ⁹⁵	To attend parent-teacher conferences, school-related activities or school-sponsored events, or to volunteer at a child's school ⁹⁶
North Carolina	Any size ⁹⁷	4 hours per year ⁹⁸	To attend or otherwise be involved at a child's school ⁹⁹
Rhode Island	50 or more employees ¹⁰⁰	10 hours per year ¹⁰¹	To attend a child's school conferences or other school-related activities ¹⁰²
Vermont	15 or more employees ¹⁰³	24 hours per year ¹⁰⁴	To participate in a child's school activities, to accompany a family member to medical, dental or other professional services appointments, or to respond to a family member's medical emergency ¹⁰⁵
District of Columbia	Any size ¹⁰⁶	24 hours per year ¹⁰⁷	To attend or participate in a child's school-related events ¹⁰⁸

STATES LAWS THAT ENABLE EMPLOYEES TO REQUEST FLEXIBLE WORK SCHEDULES

STATE	EMPLOYEE PROTECTION
New Hampshire	Employer may not retaliate against employee solely because employee requests a flexible work schedule ¹⁰⁹
Vermont	Employer must discuss employee's request for a flexible work schedule with employee in good faith and consider whether it may be granted if not inconsistent with business operations; employer may not retaliate against employee for requesting a flexible work schedule ¹¹⁰

Modernizing Unemployment Insurance Programs to Protect Caregivers

FEDERAL UNEMPLOYMENT INSURANCE FUNDS AND THE RECOVERY ACT

Too often, people lose or need to leave their jobs when serious family caregiving needs arise. Prior to 2009, these workers could not access unemployment insurance benefits when they were ready to return to work after a period of caregiving because state unemployment insurance programs tended to deny benefits to workers who left their jobs for what were perceived as “voluntary” reasons. Leaving work for caregiving purposes did not meet the definition of “good cause” needed to qualify for unemployment insurance.

The American Recovery and Reinvestment Act of 2009 offered states incentive payments in the form of federal unemployment insurance funds to modernize their unemployment insurance systems. One qualifying way to modernize a state's unemployment law was to define “good cause” for leaving

employment to include attending to certain compelling family caregiving needs. These incentives increased the number of states offering unemployment benefits to workers who lost their jobs due to a family member’s illness or disability to 21, plus the District of Columbia. Unemployment insurance funds are not a substitute for paid family leave, but they do provide some economic security for workers who face caregiving challenges.

STATE UNEMPLOYMENT INSURANCE PROGRAMS THAT COVER JOB LOSS DUE TO AN ILLNESS OR DISABILITY IN THE FAMILY

STATE	PERMITS “GOOD CAUSE” FOR SEPARATING FROM WORK TO INCLUDE CARING FOR ILL FAMILY MEMBER
Alaska	Caring for a family member (parent, child, spouse, sibling, grandparent or grandchild) with a disability or illness ¹¹¹
Arizona	The illness of a family member (spouse, parent, child, sibling or any other person with a similar relationship to the worker) or providing care for a family member ¹¹²
Arkansas	The illness, injury, pregnancy or disability of a family member (spouse, child, parent, sibling, grandchild or grandparent) ¹¹³
California	Caring for an elderly family member or a family member with a serious physical or mental illness or disability ¹¹⁴
Colorado	A family member (spouse, civil union partner, parent or minor child) suffering from an illness or disability ¹¹⁵
Connecticut	Caring for a spouse, child or parent with an illness or disability ¹¹⁶
Delaware	Caring for a spouse, minor child or parent with an illness or disability ¹¹⁷
Hawaii	The illness or disability of a family member ¹¹⁸
Illinois	Caring for a spouse, child or parent who is in poor physical or mental health or is mentally or physically disabled ¹¹⁹
Maine	The illness or disability of a family member ¹²⁰
Minnesota	Providing necessary care because of the illness, injury or disability of a family member (spouse, parent, stepparent, grandparent, child, stepchild or grandchild) ¹²¹
Nevada	Providing care for a family member (spouse, parent, domestic partner, grandparent, sibling or child) who is ill or has a disability ¹²²
New Hampshire	The illness or disability of a family member ¹²³
New York	The illness or disability of a family member ¹²⁴
Oklahoma	The illness or disability of a family member (spouse, parent or dependent child) ¹²⁵
Oregon	The illness or disability of a family member (spouse, domestic partner, parent or minor child) ¹²⁶
Rhode Island	Caring for a family member (spouse, parent, parent-in-law or minor child) due to illness or disability ¹²⁷
South Carolina	The illness or disability of a family member (spouse, parent or dependent child) ¹²⁸
Texas	The illness of a minor child or terminal illness of a spouse where reasonable alternative care is not available ¹²⁹
Washington	The illness or disability of a family member ¹³⁰
Wisconsin	The illness or disability of a family member (parent, spouse, child or any other person for whom the employee is and has been the source of care) ¹³¹
District of Columbia	Caring for a family member (spouse, domestic partner, dependent child or any other individual related by blood to the individual, spouse, domestic partner or child) who is ill or has a disability ¹³²

What's Next?

The state laws described in this special section not only help workers in these states, they can also serve as models for other states and for the nation. Employed caregivers and their families have too much at stake to wait any longer for programs and policies that provide the support they need and deserve. The time for action is now.

Endnotes for Special Section

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- ⁴ *Ibid.*, p. 16.
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- ³⁴ Cal. Unemp. Ins. Code §§ 3301(a)(1), 2655(d).
- ³⁵ Cal. Lab. Code §§ 245, 2810.5.
- ³⁶ N.J. Stat. Ann. §§ 43:21-27, 43:21-39, 43:21-40.
- ³⁷ N.Y. Workers' Comp. Law §§ 201-205, amended by S. 6406C, Part SS, 239th Leg., Reg. Sess. (N.Y. 2016).
- ³⁸ 28 R.I. Gen. Laws §§ 28-41-34, 28-41-35, 28-41-5. Eligible workers are entitled to 4.62 percent of wages paid during the highest paid quarter of their base period, which roughly equals 60 percent wage replacement.
- ³⁹ Conn. Gen. Stat. §§ 31-57r to 31-57t.
- ⁴⁰ Mass. Gen. Laws ch. 149, § 148C.
- ⁴¹ Or. Rev. Stat. §§ 653.601, 653.606, 653.616.
- ⁴² Vt. Stat. Ann. tit. 21, §§ 481-486.
- ⁴³ D.C. Code § 32-131.01(4), § 32-131.02(b).
- ⁴⁴ Cal. Fam. Code § 297.5.
- ⁴⁵ Cal. Gov't Code § 12945.2(c)(7).
- ⁴⁶ Colo. Rev. Stat. § 8-13.3-203(1).
- ⁴⁷ *Ibid.*
- ⁴⁸ Conn. Gen. Stat. §§ 31-51kk. Effective October 1, 2010, all couples who entered into civil unions in Connecticut were deemed to be married. Conn. Gen. Stat. § 46b-38r. An employee is thus permitted under the plain meaning of Connecticut's family and medical leave statute to take leave to care for a same-sex civil union partner or the child of a same-sex civil union partner.
- ⁴⁹ Conn. Gen. Stat. § 31-51kk(7).
- ⁵⁰ *Ibid.*
- ⁵¹ Haw. Rev. Stat. § 398-1.
- ⁵² *Ibid.*
- ⁵³ *Ibid.*
- ⁵⁴ *Ibid.*
- ⁵⁵ *Ibid.*
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- ⁵⁷ Me. Stat. tit. 26, § 843(4).
- ⁵⁸ *Ibid.*
- ⁵⁹ *Ibid.*; Me. Stat. tit. 26, § 843(8).
- ⁶⁰ N.J. Stat. Ann. §§ 34:11B-3(a), (j), 37:1-31(e).
- ⁶¹ N.J. Stat. Ann. § 34:11B-3(h), (j).
- ⁶² *Ibid.*
- ⁶³ Or. Rev. Stat. §§ 659A.150(4), 106.340.
- ⁶⁴ Or. Rev. Stat. § 659A.150(4).
- ⁶⁵ *Ibid.*
- ⁶⁶ *Ibid.*

- ⁶⁷ Ibid.
- ⁶⁸ 28 R.I. Gen. Laws § 28-48-1(5).
- ⁶⁹ Ibid. Rhode Island also allows state employees to take family leave to care for seriously ill domestic partners.
- ⁷⁰ Vt. Stat. Ann. tit. 21, § 471(3)(B); tit. 15, § 1204(e) (12).
- ⁷¹ Vt. Stat. Ann. tit. 21, § 471(3)(B).
- ⁷² Ibid.; Vt. Stat. Ann. tit. 21, § 472(a).
- ⁷³ Wash. Rev. Code § 49.78.020(1), (7), (17), 49.78.904.
- ⁷⁴ Wis. Stat. § 103.10(1), (1m).
- ⁷⁵ Ibid.
- ⁷⁶ Ibid.
- ⁷⁷ D.C. Code § 32-501(4)(A).
- ⁷⁸ D.C. Code § 32-501(4)(B).
- ⁷⁹ D.C. Code § 32-501(4)(C).
- ⁸⁰ Me. Stat. tit. 26, § 843(4)(F).
- ⁸¹ Or. Rev. Stat. § 659A.159(1)(d)-(e).
- ⁸² Cal. Lab. Code § 230.8.
- ⁸³ Ibid. Certain state executive branch employees may get an additional 20 hours of leave per year. Cal. Code Regs. tit. 2, § 599.912.
- ⁸⁴ Cal. Lab. Code § 230.8.
- ⁸⁵ 820 Ill. Comp. Stat. 147/10(b), 147/15.
- ⁸⁶ 820 Ill. Comp. Stat. 147/15.
- ⁸⁷ Ibid.
- ⁸⁸ Mass. Gen. Laws ch. 149, § 52D(a), (b).
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- ⁹³ Ibid.
- ⁹⁴ Nev. Rev. Stat. § 394.179.
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- ⁹⁶ Ibid.
- ⁹⁷ N.C. Gen. Stat. § 95-28.3.
- ⁹⁸ Ibid.
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- ¹⁰² Ibid.
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- ¹⁰⁵ Ibid.
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- ¹⁰⁸ Ibid.
- ¹⁰⁹ 2016 N.H. Laws Ch. 182 (to be codified at N.H. Rev. Stat. Ann. § 275:37–b).
- ¹¹⁰ Vt. Stat. Ann. tit. 21, § 309.
- ¹¹¹ Alaska Admin. Code tit. 8, § 85.095.
- ¹¹² Ariz. Admin. Code § R6-3-50155(F).
- ¹¹³ Ark. Code Ann. § 11-10-513(b)(2).
- ¹¹⁴ Cal. Code Regs. tit. 22, § 1256-10.
- ¹¹⁵ Colo. Rev. Stat. § 8-73-108(4)(v).
- ¹¹⁶ Conn. Gen. Stat. § 31-236(a)(2).
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- ¹²⁶ Or. Admin. R. 471-030-0038.
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- ¹²⁹ Tex. Lab. Code Ann. §§ 207.046(a)(3), 207.045(d), (e).
- ¹³⁰ Wash. Rev. Code § 50.20.050(1)(b)(ii).
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