

# Understanding **Worker Leave Policies:** An Overview

MARCH 2015

Nearly everyone will need to take time away from work at some point in their lives to deal with illness, care for an ill family member or bond with a new child. The chart below briefly summarizes three types of public policies that address the health and caregiving needs of today’s working families – unpaid leave under the Family and Medical Leave Act (FMLA), paid family and medical leave, and paid sick and safe days.

	<b>FMLA (Family and Medical Leave Act)</b>	<b>“Paid Family and Medical Leave Insurance”</b>	<b>Paid Sick and Safe Days</b>
<b>What is it?</b>	<p>An <b>existing federal law that provides up to 12 weeks of unpaid, job-protected leave per year</b> for serious personal or family health needs, bonding with a new child, or circumstances arising from the deployment of a servicemember.</p> <p>Amendments in 2008 and 2009 provide for extended leave of up to <b>26 weeks for family members caring for a wounded servicemember.</b></p> <p>The FMLA applies to businesses that employ 50 or more employees within a 75-mile radius.</p> <p>Employees within a</p>	<p><b>Policies that provide a portion of usual wages while a person is away from his or her job</b> due to a serious personal health condition or family health needs without facing retaliation on the job.</p>	<p><b>Policies that provide job-protected, paid time off</b> for short-term, routine personal illness, to allow workers to care for a family member with a routine illness, to seek or help a family member obtain medical care, and to allow survivors of domestic violence to seek health, legal or related services.</p>

	covered business must have worked at least 1,250 hours within the past year and been with their employer for at least one year.		
<b>For what can it be used?</b>	<ul style="list-style-type: none"> <li>▶ To address a <b>serious health condition</b> (including pregnancy);</li> <li>▶ To <b>care for a family member with a serious health condition</b>;</li> <li>▶ To bond with a <b>new baby, or newly-adopted or newly-placed foster child</b>;</li> <li>▶ To address <b>qualifying exigencies</b> arising from the deployment of a servicemember; or</li> <li>▶ To <b>care for an injured servicemember</b>.</li> </ul>	<ul style="list-style-type: none"> <li>▶ To address a <b>serious health condition</b> (including pregnancy);</li> <li>▶ To <b>care for a family member with a serious health condition</b>; or</li> <li>▶ To bond with a <b>new baby, or newly-adopted or newly-placed foster child</b>.</li> </ul> <p>A forthcoming federal proposal would also permit leave:</p> <ul style="list-style-type: none"> <li>▶ To address <b>qualifying exigencies</b> arising from the deployment of a servicemember; or</li> <li>▶ To <b>care for an injured servicemember</b>.</li> </ul>	<ul style="list-style-type: none"> <li>▶ For a worker’s own <b>short-term illness</b> (such as a cold);</li> <li>▶ For a worker to attend <b>routine medical appointments</b>;</li> <li>▶ To <b>care for a family member</b> with a short-term common illness;</li> <li>▶ To <b>accompany a family member</b> to a routine medical appointment;</li> <li>▶ To seek health or legal assistance related to <b>domestic violence, sexual assault or stalking</b>; or</li> <li>▶ When workplaces or schools are closed due to a <b>public health emergency</b>.</li> </ul>
<b>How long is the leave?</b>	<b>Up to 12 weeks (or 26 weeks</b> for wounded servicemember leave) – either taken in one block or intermittently.	<b>Four to six weeks</b> of leave to care for a family member or new child in the three states where family leave insurance programs are in place. <b>Up to 52 weeks</b> to allow a worker to address his or her own illness or injury in the most	<b>A limited number of days.</b> Existing state and municipal paid sick days laws provide between three days and nine days.

		<p>generous of the five states that offer temporary disability insurance (TDI) leave, though most provide a period of <b>26 weeks</b> or so.</p> <p>A federal proposal for a national paid leave insurance program would provide a <b>12-week</b> standard.</p>	
<p><b>How is “family member” defined?</b></p>	<p>Under the FMLA statute, “family member” is defined as spouse, parent or child under 18 (unless an adult child has a disability and cannot provide self care). Wounded servicemembers may also be cared for by “next of kin.”</p> <p>In 2010, the U.S. Department of Labor clarified that non-biological or adoptive parent caregivers may take leave to care for or bond with a child if the caregiver has provided or will provide day-to-day care or assumes financial responsibility for the child.</p>	<p>Definitions vary, but all paid family leave laws include parents, spouses or domestic partners, and children. California and Rhode Island include a wider range of family members, including grandparents, grandchildren and parents-in-law. California’s law also includes siblings.</p>	<p>Definitions vary, but most proposals include parents, spouses or domestic partners, children, grandparents, siblings, and/or anyone related to the worker “by blood or affinity” whose close association is equivalent to a family relationship.</p>
<p><b>Is the leave paid?</b></p>	<p><b>No</b>, unless the worker has paid time available through his or her employer that can or must be taken simultaneously with FMLA leave.</p>	<p><b>Partial wage replacement</b> either paid in a flat amount to all workers or paid as a share of the worker’s current weekly earnings, up to a maximum cap.</p>	<p><b>Yes.</b> Paid sick days policies provide full wage replacement and job protection by the employer.</p>

		<p>In Calif., TDI and family leave are both entirely employee paid. Employees are paid 55 percent of their average weekly wages up to a capped amount of \$1,104 per week in 2015.</p> <p>In N.J., TDI is paid by both employers and employees, while family leave is funded solely by employees. Employees are paid 66 percent of their average weekly wages up to a capped amount of \$604per week (in 2014).</p> <p>In R.I., TDI and temporary caregiver insurance (TCI) are funded solely by employees. Employees are paid a weekly benefit equivalent of up to \$770 per week, determined as a percentage of recent wages.</p>	
<p><b>Is this currently law?</b></p>	<p><b>Yes</b>, since 1993, with amendments to provide care for military families added in 2008 and 2009.</p>	<p><b>In some states.</b> Calif., N.J., Hawaii, N.Y., R.I. and Puerto Rico have <b>temporary disability insurance (TDI)</b> programs to provide paid leave for a worker’s non-work related serious health condition, including pregnancy.</p> <p>Calif. (implemented in 2004), N.J.</p>	<p><b>Yes</b>, in Connecticut, California (to take effect July 2015), Massachusetts (to take effect July 2015), two cities in California, Washington, D.C., Seattle, two cities in Oregon, New York City and nine cities in New Jersey. New laws will soon go into effect in Tacoma (Wash.) and Philadelphia (Penn.)</p>

		(implemented in 2009) and R.I. (implemented in 2014) expanded their TDI programs to include leave to care for a family member or to bond with a new child.	
<b>What is the next step?</b>	<p><b>Expanding the scope of the FMLA to cover more workers and workers in smaller businesses, and expanding the definition of “family”.</b></p> <p>Only about 60 percent of all workers are eligible for leave under the FMLA because of the size-of-business threshold and worker tenure/hours requirements.</p> <p>Additionally, the statute does not cover family caregiving for domestic partners, in-laws, siblings, grandparents or grandchildren.</p>	<p><b>A federal standard.</b> The Family And Medical Insurance Leave (FAMILY) Act would build on existing state-based family leave insurance programs to make paid family and medical leave insurance a national standard. It would allow workers to earn a portion of their pay while they take a limited amount of time away from work to care for a new child, a family member with a serious health condition or their own serious health condition.</p> <p>The Federal Employees Paid Parental Leave Act would provide six weeks of paid parental leave to federal workers.</p> <p><b>Support for state paid leave programs.</b> Federal funds for planning and start-up costs could assist states in establishing paid leave programs that meet the needs of working families.</p>	<p><b>A federal standard.</b> The Healthy Families Act would let workers earn up to seven job-protected paid sick days a year.</p> <p><b>More state and local laws.</b> Several states and cities are mobilizing for paid sick days. State and local momentum fuel national progress and establish evidence that demonstrates the importance of paid sick days to workers, families, businesses, communities and the economy. These proposals are often more generous or inclusive than the proposed federal standard.</p>