

# Updating the Family and Medical Leave Act

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The Family and Medical Leave Act (FMLA) is the first and only national law that enables workers to care for themselves and their loved ones without jeopardizing their jobs. Since 1993, it has been used **more than 200 million times** by women and men who were able to take time away from their jobs to address serious health conditions, welcome a new child, or care for a seriously ill loved one – without fear of losing their jobs or health insurance coverage.<sup>1</sup> This historic law has had a tremendously positive impact on America's families, and it serves as a reminder of what can be accomplished when lawmakers work together to address the nation's needs. Now, more than 20 years later, it is time to advance the FMLA's promise of a family friendly America.

## What the FMLA Does

The FMLA is available to all workers who are employed by businesses with 50 or more employees (within a 75-mile radius) – or by public agencies, including schools and state, local and federal employers – who have worked for that employer for at least one year and for 1,250 hours within the last 12 months.

### **The FMLA provides eligible workers with up to 12 weeks of unpaid job-protected leave to:**

- ▶ Care for a newborn or newly adopted child (including foster children);
- ▶ Care for a seriously ill family member (defined as a spouse, child or parent);
- ▶ Recover from their own serious illness (including pregnancy or childbirth);
- ▶ Care for a wounded military servicemember (up to 26 weeks); or
- ▶ Address particular circumstances arising from a family member's deployment.

## Why the FMLA Needs Updating

**The FMLA was a first step** in protecting the economic security of working people and their families. In the more than two decades since its passage, the workforce, our economy and family caregiving responsibilities have changed dramatically. Women now make up nearly half of the workforce, and many families need two incomes to make ends meet. Family caregiving needs are on the rise, and both men and women provide critical care.

### **Currently, the FMLA does not cover:**

- ▶ Workers in businesses with fewer than 50 employees;
- ▶ Many part-time workers;

- ▶ Workers who need time to care for adult children, domestic partners, siblings, grandparents, grandchildren and other close family members;
- ▶ Workers who need time to mourn the death of a loved one;
- ▶ Workers who need time to attend a child’s school meetings or other important activities for their children;
- ▶ Workers who need time to address the effects of domestic violence, stalking or sexual assault.

**Several states have expanded access to leave through state FMLA laws,<sup>2</sup>** but national laws have not followed suit.

## Possibilities for Amending the FMLA

### ▶ **Expanding the number of employees covered by the FMLA**

Approximately 40 percent of workers in the United States are currently excluded from the FMLA’s protections because they work for smaller employers, work part time or have not been on the job long enough to qualify.<sup>3</sup>

- ▶ The FMLA’s employer-size threshold should be reduced or eliminated to extend protections to tens of millions more people.<sup>4</sup>
- ▶ The FMLA’s tenure and hours-worked requirements should be reduced to extend protections to part-time and recently-hired workers, which is particularly important at a time when more workers are employed in multiple part-time positions, and newly-hired workers may not have been on the job for long.

### ▶ **Updating the definition of “family” to include more family caregiving relationships**

Families are not one-size-fits-all. More than one-fourth of family caregivers provide care for an adult family member who falls outside of the FMLA’s definition, including parents-in-law (7 percent), grandparents (7 percent), aunts or uncles (4 percent), siblings (3 percent) and other relatives (3 percent).<sup>5</sup>

- ▶ The FMLA should be updated to reflect a broader range of caregiver relationships, ensuring that workers can use leave to care for an adult child, domestic partner, grandparent, grandchild, parent-in-law or sibling.

### ▶ **Providing FMLA protections for grieving parents, spouses and adult children**

Under the current law, a death in the family is not grounds for FMLA coverage unless a grieving worker is suffering from a serious health condition, such as depression, that results from their family member’s death. When a child or family member passes away, no one should be forced to go to work immediately.

- ▶ The FMLA should be amended to allow eligible workers to take time off to grieve the death of a son or daughter, a parent or a spouse.

▶ **Ensuring that leave can be taken to address domestic and sexual violence**

More than 12 million women and men experience sexual violence, rape or stalking by an intimate partner every year.<sup>6</sup> These crimes often affect survivors' ability to work. Survivors may need time off to seek medical attention, obtain a restraining order or relocate to a safe place.

- ▶ The FMLA should be updated to ensure that workers can take leave to address the consequences of violence or to care for a family member – a spouse, parent or child, including an adult child – who is a survivor of these abuses.

▶ **Providing unpaid time off to attend school events or medical meetings**

Currently, the FMLA cannot be used by parents to attend a child's school meetings or events, or by adult children to accompany a parent to medical appointments (often called "small necessities leave" and allowed by several states<sup>7</sup>).

- ▶ The FMLA should be updated to allow eligible workers a limited number of hours per year for these important family purposes.

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1 Calculation is based on the number of covered and eligible workers over a period of 18 months multiplied by the rates of leave-taking (the percentage of the people who were eligible for FMLA leave who actually took it) to determine total leave-takers for each period and then summed to determine total uses. The number of covered and eligible workers in an 18-month period is based on the average civilian noninstitutionalized, employed workforce calculated using 1994-2014 [Current Population Survey monthly workforce statistics](#) multiplied by a percentage of covered and eligible workers reported in the 1995 (pg. xvi), 2000 (Table A2-3.1), and 2012 (Exhibit 2.2.1) DOL surveys. For rates of leave-taking among eligible workers, see note 2, page 62.

2 National Partnership for Women & Families. (2014, June). *Expecting Better: A State by State Analysis of Laws that Help New Parents*. Retrieved 19 May 2016, from <http://www.nationalpartnership.org/research-library/work-family/expecting-better-2014.pdf>

3 Abt Associates. (2012, September). *Family and Medical Leave in 2012: Technical Report*. Retrieved 19 May 2016, from <http://www.dol.gov/asp/evaluation/fmla/fmla2012.htm>

4 U.S. Census Bureau. (2011, November). *Number of Firms, Number of Establishments, Employment, and Annual Payroll by Small Enterprise Employment Sizes for the United States, NAICS Sectors: 2009*. Retrieved 19 May 2016 from, [http://www2.census.gov/econ/subs/data/2009/us\\_naicssector\\_small\\_emplsize\\_2009.xls](http://www2.census.gov/econ/subs/data/2009/us_naicssector_small_emplsize_2009.xls)

5 National Alliance for Caregiving & AARP. (2015, June). *Caregiving in the U.S. 2015*. Retrieved 19 May 2016, from <http://www.aarp.org/content/dam/aarp/ppi/2015/caregiving-in-the-united-states-2015-report-revised.pdf>

6 U.S. Centers for Disease Control and Prevention. *National Data on Intimate Partner Violence, Sexual Violence, and Stalking* [Fact Sheet]. Retrieved 19 May 2016, from <http://www.cdc.gov/violenceprevention/pdf/nisvs-fact-sheet-2014.pdf>

7 See note 2.