



# Expecting Better:

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

THIRD EDITION | JUNE 2014

UPDATE: For developments through September 2014, [click here](#).



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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 more than four decades we have fought for every major 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.

## **Acknowledgments**

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The findings and conclusions presented here are those of the authors alone and are current as of June 13, 2014.

# Foreword to the Third Edition of *Expecting Better*

Nine years ago, in 2005, the National Partnership for Women & Families published the first edition of *Expecting Better*, a comprehensive review of federal and state laws that help expecting and new parents take leave during pregnancy and when a child arrives. Two years ago, in 2012, that report was updated to recognize and evaluate policy developments and progress for new and expecting parents and a wider set of employed family caregivers.

In this third edition of *Expecting Better*, there are further signs of progress. Across the United States, 24 million workers now have statutory protections guaranteeing access to paid sick days, paid family leave and paid medical leave through temporary disability insurance programs.

The momentum is encouraging. In just the two years since the second edition of *Expecting Better*:

- ▶ Rhode Island adopted the nation's third paid family leave insurance program and several states, including Connecticut, Vermont and New Hampshire, have convened formal task forces to study options for paid family leave at the state level.
- ▶ California expanded its paid family leave law to give workers the right to care for a wider range of family members, including siblings, parents-in-law, grandparents and grandchildren. The expansion goes into effect on July 1, 2014.
- ▶ Four cities adopted new paid sick days laws, and the District of Columbia expanded its paid sick days law, guaranteeing more workers the right to earn paid sick time. Seven cities and one state now guarantee workers the right to earn paid sick time, with more progress likely in the near future.
- ▶ Colorado expanded workers' ability to take unpaid, job-protected family leave to care for domestic partners.
- ▶ Maryland expanded workers' ability to take unpaid, job-protected family leave upon the birth or adoption of a child, beginning in October 2014.
- ▶ Minnesota expanded the length and purposes of unpaid, job-protected family leave available to workers upon the birth or adoption of a child, and expanded workers' ability to use paid sick time their employers provide to care for a wider range of family members, including parents-in-law and grandchildren. Both provisions take effect on August 1, 2014.
- ▶ Maryland, Minnesota, New Jersey and West Virginia are among the states that adopted new laws guaranteeing women with pregnancy-related physical limitations the right to reasonable workplace accommodations, making it possible for them to stay on the job – rather than being forced to quit, take unpaid leave, or jeopardize the health of their pregnancies. A similar law in Illinois, which would go into effect on January 1, 2015, passed both houses of the legislature and is awaiting the governor's signature.
- ▶ Hawaii adopted a law requiring employers to provide reasonable break time to new mothers who choose to express breast milk, and to make reasonable efforts to provide a place other than a toilet stall for them to do so.

More state progress may be on the horizon. In California, a paid sick days bill passed the Assembly and is awaiting a vote in the Senate. In New York, a paid family leave insurance bill made similar progress in 2014. A bill that would provide paid family leave to District of Columbia public employees passed its first reading in the D.C. Council and is expected to pass a second vote and be signed by the mayor. And in Rhode Island, New

York and Delaware, pregnancy accommodation bills have passed through each state's Senate and are awaiting votes in the lower chamber.

At the federal level, a first-in-a-decade United States Department of Labor (DOL) survey showed the extent to which the 1993 Family and Medical Leave Act (FMLA) has helped millions of workers and their families without negatively affecting the overwhelming majority of employers. In fact, sizable shares of employers reported positive effects. DOL has also done more to maximize the impact of the FMLA. In 2013, the department issued guidance clarifying that the FMLA, read together with the Americans with Disabilities Act Amendments Act, allows parents to take FMLA leave to care for adult children with serious health conditions in a wider variety of circumstances than many previously understood. DOL has also taken a more aggressive role in investigating FMLA violations, helping to educate employers about their FMLA obligations and employees about their FMLA rights, and seeking substantial damages for workers whose FMLA rights have been violated.

Organizations like the National Partnership and hundreds of partners and allies from the women's, children's, racial justice, LGBT, worker justice, faith, public health and other communities have lifted up these successes as evidence that America can — and must — do better for families, communities and the economy. Business leaders from large and small companies have joined the call for change as a matter of sound business strategy and competitiveness. And public opinion research shows strong support for new, common sense policies like paid family and medical leave, paid sick days, pregnancy accommodations and equal pay to help families survive and thrive. At a time when women are key breadwinners in nearly two-thirds of families, the public recognizes that adopting new policies that create fairer and more family friendly workplaces for women and men is a national imperative, a business imperative and a family imperative.

Elected officials are also taking notice and helping to create a drumbeat for change. In his 2014 State of the Union address, President Obama called for an end to workplace policies that belong in a "Mad Men" episode. The message generated near universal and bipartisan public support. In a spring 2014 speech in Florida, the president called on Congress to bring America in line with "virtually every other nation on earth" by guaranteeing paid leave. And for the fifth year in a row, the president's proposed budget included funding to assist states in creating new state paid leave programs. This June, the White House will host a Summit on Working Families to showcase policy solutions that would help working people realize greater economic opportunities.

Members of Congress from across the political spectrum frequently reference the challenges that face employed parents and family caregivers. Although the policy solutions put forward vary, there is growing recognition that something must be done to help working people both provide for and care for their families.

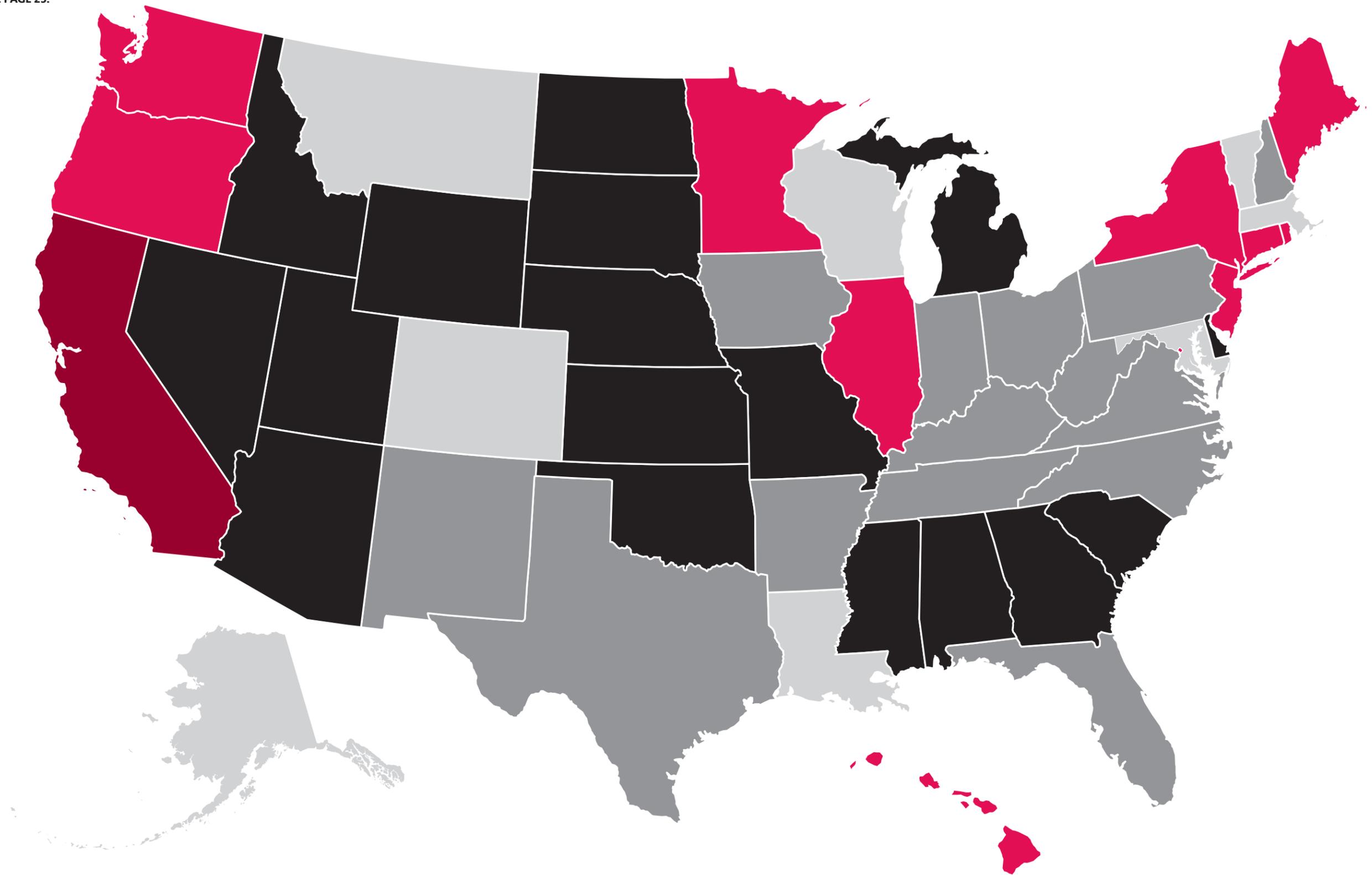
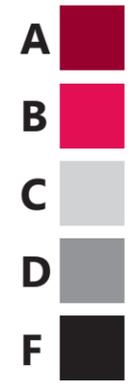
As a result of all of this activity, and in recognition of the growing struggles facing working families, the news media have also increased coverage of work-and-family challenges, as well as the public and private initiatives that would help address them. A content analysis of *New York Times* coverage, recently published in the *Huffington Post*, shows an exponential increase in references to "work-family" and "work-life balance" from 2010 to 2013, compared to the period before 2010. And a scan of print, radio and television coverage shows significant high-profile and positive attention to paid leave, paid sick days, pregnancy discrimination and related policies.

Despite all of this progress in policy and attention, there is much more work to be done. Too many working people are one ill family member or one new baby away from financial insecurity, and the United States remains an outlier among nations by not providing basic paid family and medical leave policies.

State momentum begets additional state action and paves the way for national-level change. This third edition of *Expecting Better* documents workers' rights under current state laws and the progress that states have made in promoting the economic security of expecting and new parents. It also includes an updated special section that provides a snapshot of state policies that more broadly assist family caregivers — both parents and workers overall — in addressing the needs of their children and other family members. The report clearly documents how far the United States has come, and how far it still has to go.

# Grade by State

FOR COMPLETE REPORT CARD SEE PAGE 25.





# Expecting Better:

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

THIRD EDITION | JUNE 2014

## Executive Summary

The arrival of a child should be cause for celebration and a time of pure joy. New parents may be sleep deprived but their struggles should not be made worse by worries that their job security or financial well-being are at risk.

Yet, for millions of parents throughout the country, a child's birth or adoption means stretched finances and unsettling concerns about whether caring for their new baby will cost them their jobs. Our nation's failure to provide key supports to expecting and new parents adds significant pressure and harms millions of families during what should be one of the happiest times in their lives.

Too often, expecting mothers who need but are not provided reasonable accommodations at work are forced to take unpaid leave, quit, or jeopardize the health of their pregnancies. Working parents without paid leave — or even job-protected unpaid leave — face a range of difficult choices, none of

which are acceptable. New parents are frequently forced to return to work before they, their spouses or partners, or their children are ready. Many must take unpaid leave that stretches their families' financial resources and puts their jobs at risk. Others must resign from work altogether. None of these options serves working families or the nation well. They hurt the national economy and local businesses by depressing consumer spending, and they erode the nation's competitiveness and cause significant and often longstanding hardship for families and communities.

Just three national laws help some new and expecting parents upon the birth of a child; they 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 gaps in our nation's chief work-and-family law, the Family and Medical Leave Act (FMLA), leave millions of working parents without even unpaid job-protected leave when a new child arrives. Some states do better by offering more support to working parents and providing good models for changes at the national level. Still, too many parents are left on their own.

The United States distinguishes itself unfavorably from much of the rest of the world by failing to provide adequate supports and protections for parents and children. The absence of national paid leave protections is in striking contrast to the 181 nations that guarantee paid leave for new mothers and the 81 nations that guarantee paid leave for new fathers.<sup>1</sup> The United States guarantees neither.

As a result, when workers need family or medical leave, they generally have to rely on individual employers' policies. Less than 40 percent of workers have access to employer-provided short-term disability insurance, which provides some income during a woman's pregnancy-related disability leave. And only about one-tenth of the workforce has access to employer-provided paid family leave to care for a new child.<sup>2</sup> Workers in low-paying jobs — those with the greatest need for both job protection and wage replacement during leave from work — are much less likely to have access to either of these employer-provided benefits.<sup>3</sup> After returning to work, some nursing mothers have legal protections that help them continue to provide breast milk to their children, but others must rely on their employers' goodwill to be able to pump at work.

As the two prior editions of *Expecting Better* asserted, the United States can and must do better.

The need for change is only becoming more urgent. Dramatic shifts in the U.S. economy, labor markets and workplaces have resulted in working families' growing need for public policies that address the demands they face. Nearly 71 percent of children live in families where all parents work.<sup>4</sup> 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 essential.

Women's wages are becoming ever more important to their families' economic survival. Women with children are primary or co-breadwinners in nearly two-thirds of families,<sup>5</sup> and employed married women bring in, on average, 44 percent of their families' household income,<sup>6</sup> which means that a woman's income loss during pregnancy or parental leave can have significant consequences for her family. The number of single-parent families has also grown;<sup>7</sup> parents (usually mothers) in these families often bear sole responsibility for the family's economic security. The combination of a pervasive gender-based wage gap,<sup>8</sup> inadequate workplace protections for pregnant women and the absence of guaranteed access to paid leave creates a precarious financial situation for too many women and their families.

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Policymakers across the political spectrum are increasingly calling for family friendly policy advances and, across party lines, the public supports them. Yet consensus among lawmakers in support of policy solutions such as paid family and medical leave remains elusive.

Where public policies do exist, research has demonstrated that work-and-family policies offer enormous benefits for families' economic security and health, as well as for businesses and their bottom lines. Yet, despite this positive and compelling evidence, advances in federal and state employment laws that bring public policies in line with the needs of the 21st century workforce have been slow and inadequate. There has been some progress, as noted, but only a small segment of workers have the protections and support they need. New and expecting parents need more — and expect better.

This third edition of *Expecting Better: A State-by-State Analysis of Laws That Help New Parents* surveys the landscape of protections available to workers 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. In a special section, it includes a snapshot of laws that help parents and other family caregivers meet the needs of both older and younger relatives.

Since the publication of the last edition of this report, a form of pregnancy discrimination has gained attention: pregnant women being denied reasonable accommodations that are routinely granted to other workers with physical limitations, such as being able to sit rather than stand, carry a water bottle, or take more frequent bathroom breaks. Several states have passed laws to address this issue and so this third edition includes pregnant worker accommodation laws.

As this report highlights, some states have surpassed the federal government by expanding access to leave and providing other workplace supports to expecting and new parents. Those states provide models worth replicating in other states and at the national level. For example, California, New Jersey and, as of 2014, Rhode Island, have led the way by providing *paid* leave to new parents. California and New Jersey celebrate their laws' 10th and fifth implementation anniversaries this year.

In addition, states from Maine to Oregon have expanded access to unpaid job-protected leave so that people who are ineligible for federal FMLA leave can care for a new child or for a spouse or partner with a pregnancy-related disability, or take a longer period of time to care than federal law allows. Several states now guarantee that pregnant women will receive the same reasonable accommodations on the job as other workers with similar physical limitations. And many states provide all nursing mothers the right to express breast milk at work.

Despite these bright spots, this report concludes that all states show room for improvement. Not a single state earned a grade of "A." 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. Connecticut, Hawaii, New Jersey and the District of Columbia received grades of "B+" in recognition of their advances in providing workers access to paid sick days, paid medical leave for pregnancy, and paid family leave. Illinois, Oregon, Rhode Island and Washington received grades of "B" for the steps they have taken to protect working parents through FMLA expansions, paid family leave and other family friendly policies. Seventeen states received grades of "F" for failing to provide a single benefit or program to help 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. The second edition resulted in the same conclusion, noting progress in some states but cataloging the work there is to do in others.

There is much more progress to be made — and progress must be made if working families are to prosper, communities are to become stronger, and the nation is to sustain and build its competitiveness worldwide. That is why people in the United States want and need stronger family friendly policies, and in particular want family and medical leave that is both job-protected and paid. America's families 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 employers from firing, demoting or otherwise penalizing workers for taking leave, and entitles workers to return to the same or an equivalent position after their 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 provided by law, regulation, contract or agreement that guarantee nursing mothers reasonable break times to express breast milk at work.

## **Paid Family Leave**

A state-administered program or employer-provided benefit that fully or partially replaces the wages of workers who take leave to care for a seriously ill family member or new child.

## **Paid Medical Leave**

A state-administered program or employer-provided benefit that fully or partially replaces the wages of workers 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**

An employer-provided benefit that provides full wage replacement to workers who take sick time for their own illness or medical appointment or for those of a family member.

## **Parental Leave**

A type of family leave taken by mothers or fathers 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 new or expecting birth mothers who are temporarily disabled by their 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 co-workers and 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

Virtually all of the nation’s leaders talk about valuing children and families, growing a strong and competitive economy and modernizing workplaces to better meet people’s needs. Yet change has been slow and the country’s public policies still fail to reflect some fundamental realities: In 21st century America, women are more likely than ever to be family breadwinners. Most children live in families in which all parents work. And too many families are living paycheck to paycheck.

Workers and their families urgently need public policies that give them a fair shot by helping them meet the dual demands of work and family while holding on to and advancing in their jobs, getting paid fairly, and providing for themselves and their loved ones. Yet the United States is failing to adopt the programs and policies that would help them meet these basic needs. For expecting and new parents in particular, the failure to provide adequate workplace policies means that the birth or adoption of a child — which ought to be a glorious event — often marks the beginning of a family’s financial struggles.

The absence of family friendly public policies in the United States leaves pregnant women vulnerable to wage loss or health risks as they strive to work through their pregnancies. The absence of family friendly public policies also leaves many new parents without pay and in danger of losing their jobs when they need or want time away from work to care for a newborn or newly adopted child. Too many parents must manage conflicts between needing to care for a child and needing to return to work to earn income before they or their children are ready. Back at work, many new mothers find it difficult to continue nursing, face discrimination and worse. As their children grow, parents often face significant challenges in meeting their own needs, the needs of their families and the needs of their employers. And they often face these challenges without modernized standards that would help ease these pressures.

If public policies addressed these challenges, the nation would go a long way toward creating a more equitable and productive economy, powered by working people who can better provide for *and* care for themselves and their loved ones. The nation needs a comprehensive set of policies that recognize people’s responsibilities as their children grow, including job-protected paid sick days to care for a sick child or a child needing preventive medical care, fair and flexible work arrangements, affordable child and after-school care, and job-protected time away from work to attend school meetings. Achieving equal pay for women is also critical to creating and maintaining economic security for families.

The focus of this report, however, is the federal and state workplace policies that parents need just before and after the arrival of a child. These policies include paid and unpaid family and medical leave laws that allow parents more than a few days away from work when a new child arrives, pregnancy accommodation laws that allow pregnant women to continue working, pregnancy disability laws that give women time to recover from childbirth, sick days laws that let workers earn paid sick time to care for a recovering spouse or partner and to attend prenatal and postnatal medical appointments, and laws that help nursing mothers continue to provide breast milk to their babies after returning to work. This report focuses on these policies because the economic security, health and well-being of workers and their families is closely linked to being able to tend to family needs around the time of a child’s arrival.

## New Realities, Old Ways

America’s workforce has changed, but the nation’s public policies have not kept pace. Women and mothers are a permanent fixture in the workforce — and odds are slim that a mother will stay home full time after a child’s birth while the child’s father works as the family’s sole breadwinner. Seventy-two percent of women work at some point before giving birth to a first child; among women who worked

during pregnancy, 73 percent return to work within six months of giving birth.<sup>9</sup> Sixty-five percent of mothers with children under the age of six and 75 percent of mothers with elementary- to high-school-age children work outside the home.<sup>10</sup> In fact, nearly 71 percent of children live in households where all parents work.<sup>11</sup>

What's more, women's wages are critical. The wages a woman brings home can increasingly make or break her family's 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.<sup>12</sup> Married women bring home, on average 44 percent of their household's income.<sup>13</sup> In lower-income households, women's earnings are even more important to the family's economic survival.<sup>14</sup> In addition, the number of single-parent households is growing, and the breadwinner moms in these households are more likely to live in poverty.<sup>15</sup>

These demographic and economic changes make updating the nation's public policies imperative. There needs to be a national commitment to promoting families' economic security while giving parents the time to care for themselves and their children after birth or adoption. Without a public policy standard that gives new parents the time and financial support they need, women and men across the country are forced to cobble together individual solutions in order to manage work responsibilities, children's needs and financial obligations.

## Strong Public Support for New Workplace Standards

Americans' financial insecurities and their anxieties about making ends meet are commonplace.<sup>16</sup> In recent survey research, nearly three-quarters of voters reported that they, their friends or their neighbors face hardships when managing work, family and personal responsibilities. A similar share indicated that they or their family would face significant financial hardship if a serious family or medical need arose or a new child joined their family.<sup>17</sup>

Given the nearly universal challenges faced by working families, it is no surprise that Americans are hungry for change. Regardless of political beliefs, people responded with high levels of approval — and tens of thousands of people commented via Twitter — during the 2014 State of the Union Address when President Obama called for equal pay, protections for pregnant workers, paid leave and an end to the era of workplace policies that belong in a “Mad Men” episode.<sup>18</sup>

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**Eighty-six percent of voters say it is important to them that the president and Congress consider new laws to help keep working families economically secure.**

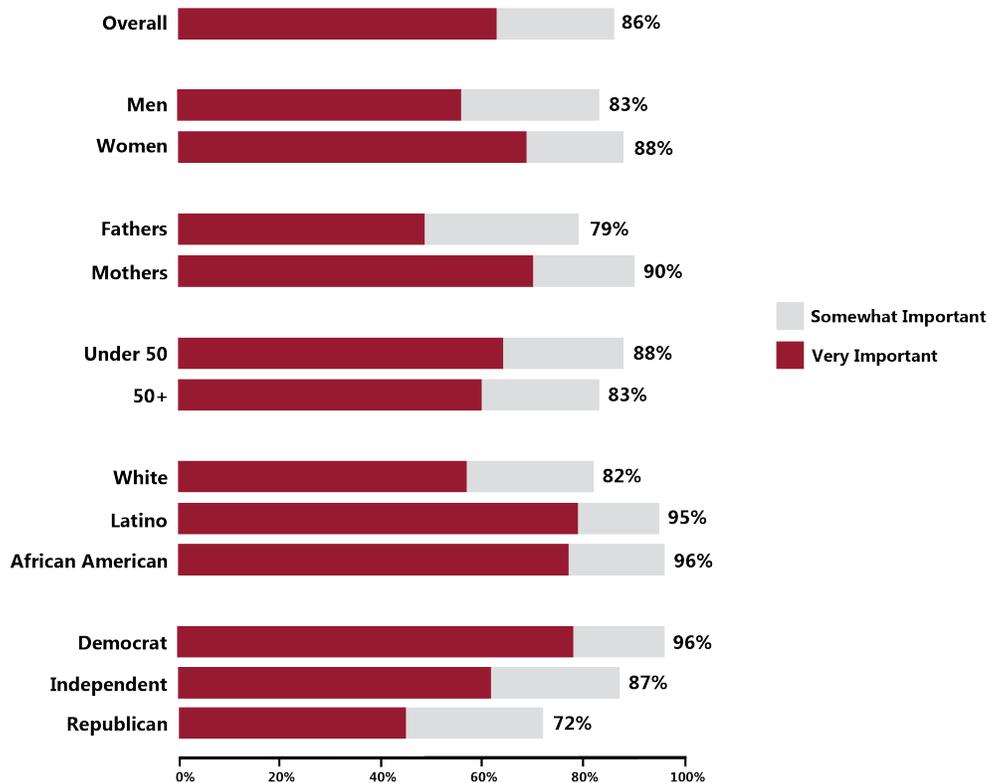
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Americans want elected officials to take action. Eighty-six percent of voters say it is important to them that the president and Congress consider new laws to help keep working families economically secure, like paid sick days and paid family and medical leave. A majority strongly favors consideration of these issues. And support crosses party lines, with 96 percent of Democrats, 87 percent of independents and 73 percent of Republicans indicating support.<sup>19</sup> People also overwhelmingly agree that business and government need to adapt to the needs of modern families and support new parents.<sup>20</sup>

Furthermore, elected officials who address these issues stand to benefit from voter approval. For example, nearly 60 percent of voters say they would be more likely to vote for a leader who supports a national paid family and medical leave law. Latinos, women and younger voters show particular support for paid leave champions.<sup>21</sup>

Despite broad public support for paid leave and other key work and family policies, working families are still waiting.

**FIGURE 1. IMPORTANCE OF CONGRESS AND PRESIDENT CONSIDERING NEW LAWS LIKE PAID SICK DAYS AND PAID FAMILY AND MEDICAL LEAVE**



Source: Lake Research Partners and The Tarrance Group for the National Partnership for Women & Families. (2012, November). *Election Eve/Night Omnibus*.

## Existing U.S. Policies Don't Apply to All Expecting and New Parents – and Don't Address All of Their Needs

Throughout our country's history, lawmakers at the federal level have enacted just three laws that provide protections to new parents who are in the workforce. Millions of expecting and new parents have benefited from the Pregnancy Discrimination Act of 1978 (PDA) and the Family and Medical Leave Act of 1993 (FMLA). These laws have enabled new parents to hold on to their jobs while taking leave to care for a new child or a spouse disabled by pregnancy. Millions of women are also benefiting from a provision of the 2010 health care 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 are only a start and contain significant gaps.

### The Pregnancy Discrimination Act

The PDA was the first law to explicitly protect pregnant women. Before its passage, women were routinely fired as soon as their pregnancies were discovered. The PDA prohibits employers from using pregnancy as a barrier to job opportunities. 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 they are or might become pregnant.<sup>22</sup> 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 from work.

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Although the PDA has helped combat discrimination against millions of pregnant women, it has four primary shortcomings. First, it does not require employers to provide any period of leave. It also does not guarantee that a pregnant woman who takes leave will be able to return to the same or a similar job, unless the employer also provides those protections to other returning workers. The PDA also applies only to employers with 15 or more workers. And finally, 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 and schedules as a result of physical limitations related to their pregnancies – thus, about a quarter-million women annually are denied reasonable accommodations at work, and many more are not asking for the reasonable accommodations they need.<sup>24</sup>

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 men with family leave to care for a spouse disabled by pregnancy or childbirth.<sup>25</sup> Since its 1993 enactment, the FMLA has been used by workers more than 100 million times.<sup>26</sup> More than one in five FMLA users is a new parent.<sup>27</sup> 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, only 59 percent of the workforce benefits from FMLA protections.<sup>28</sup> Within the private sector workforce, eligibility falls to 56 percent.<sup>29</sup> 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 meet eligibility requirements to qualify for leave — they have to have worked for their employer for at least a year and worked at least 1,250 hours during the previous year. As a result of the FMLA's coverage and eligibility limitations, about 49 million private sector workers and some subset of public sector workers are excluded from the FMLA's basic protections.<sup>30</sup> And, even though a recent interpretation concludes that the FMLA permits the domestic partner of a birth or adoptive parent to take leave to care for a new child,<sup>31</sup> the FMLA's definition of "family" does not permit domestic partners to take time to care for each other.

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 named Peggy Young.<sup>23</sup> She needed to avoid 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 to other workers who were temporarily unable to perform their jobs — employees injured on the job and individuals with a qualifying disability under the Americans with Disabilities Act. The court held that UPS did not discriminate against Young in violation of the PDA, because its policy was based on "pregnancy-blind" factors. This decision, and numerous other complaints from pregnant women across the country, has given rise to new momentum to pass pregnancy accommodation laws federally and at the state and local levels.

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Even among workers who are eligible for FMLA leave, many simply cannot afford to take time away from work without pay. The percentage of workers who needed but did not take leave doubled between U.S. Department of Labor (DOL) studies conducted in 1995 and 2000 and the most recent DOL study conducted in 2012. According to the 2012 DOL study, 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. Fifteen percent of workers who did take unpaid or partially paid FMLA leave sought public assistance to make ends meet, 31 percent cut their leaves short, and 37 percent dipped into savings earmarked for another purpose.<sup>32</sup>

The analysis of state laws in this report shows that many states have done better by providing access to leave to workers in smaller businesses, by requiring employers to provide longer leave periods, by extending leave rights to workers who have had less time on the job, by permitting domestic partners to take leave to care for a pregnant partner, and 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 2010 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 worksite.<sup>33</sup> As a result, many nursing mothers who return to work now have the right to take reasonable break times 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.<sup>34</sup>

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 lower-paid women whose jobs are classified as non-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.

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

The workplace protections available to people in the United States pale in comparison to those enjoyed by workers in the rest of the world. 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. In contrast, at least 181 countries guarantee paid leave to women in connection with childbirth, and 81 guarantee paid paternity or parental leave.<sup>35</sup> The United States is the only highly competitive country that fails to provide paid leave to new mothers,<sup>36</sup> a fact that the president, advocates and the media increasingly focus on as an embarrassment in need of correction.

The United States’ failure to guarantee access to paid parental leave means that many new mothers and fathers can only take time away from work when their employers voluntarily offer some form of paid time off for parental leave. Some employers have stepped up, but many have not. Only 22 percent of workers have employers that provide paid maternity leave to all women workers, and just nine percent have employers that provide paid paternity leave to all male workers.<sup>37</sup> In fact, employers have cut back paid maternity leave benefits in recent years, with just nine percent offering fully paid maternity leave in 2014, down from 16 percent in 2008 and 27 percent in 1998.<sup>38</sup>

At some companies, workers may be able to use accrued paid vacation and sick time, but only if their employers provide paid sick or vacation time and allow it to be used when a new child arrives. Notably, however, a significant portion of workers in the United States do not have access to any vacation or sick time — 23 percent of private sector workers do not earn paid vacation time, and 39 percent of private sector workers do not earn paid sick time.<sup>39</sup> Women — who need time to recover from childbirth — are less likely than men to hold jobs that offer paid sick time or paid vacation time.<sup>40</sup>

Even many industry leaders — companies that are regarded as the most “family friendly” because they offer paid leave and other benefits that help workers manage the dual demands of job and family — have room for improvement. Among *Working Mother* magazine’s top 100 companies in 2013, all provided fully paid leave to new birth mothers and more than 80 percent provided fully paid leave to new fathers and adoptive parents.<sup>41</sup> On average, however, these companies provided 7.5 weeks of fully paid maternity leave, 2.5 weeks of fully paid paternity leave and five weeks of fully paid leave to adoptive parents — much less than parents need to care adequately for new children.<sup>42</sup>

## Low-Wage Parents Are Hit the Hardest

Low-wage workers face particular challenges upon the arrival of a new child. They are disproportionately unable to access unpaid leave under the FMLA<sup>43</sup> because they tend to work for smaller employers, have shorter tenures and work multiple part-time jobs.<sup>44</sup> 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 hardships that low-wage workers already face, including low pay, little access to employer-provided health insurance or other benefits, and in many cases 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 \$11.00 PER HOUR OR LESS)	WORKERS IN THE HIGHEST WAGE QUARTILE (PAID \$26.18 PER HOUR OR MORE)
Paid family leave	12%	5%	21%
Short-term disability insurance	40%	18%	61%
Paid sick time	61%	30%	84%
Paid vacation leave	77%	49%	91%

Source: Bureau of Labor Statistics. 2013 National Compensation Survey of Employers.

Cumulatively, this puts low-wage workers in a precarious financial position when a new child arrives, and it makes the choice many new parents face — staying home to care for a new child at a crucial time or going back to work to meet family financial needs — even more stark. This problem will only grow worse as the jobs that employers are creating are disproportionately low-wage, low-benefit jobs, many of which tend to be held by women.<sup>45</sup>

## 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. Coalitions and leaders across the nation have won significant policy changes — and those advances,

in turn, have paved the way for more state innovation. They also are creating a body of evidence to support national-level change, building awareness and creating a shared sense of possibility and momentum.

In a few states, people can take longer, unpaid, job-protected time away from their jobs than the FMLA provides. Many workers in Connecticut and the District of Columbia are entitled to paid sick time to use for prenatal, postnatal and children's medical appointments. And in California, New Jersey and Rhode Island, new parents can use statewide paid family leave insurance to receive four to six weeks of income support while on leave after the arrival of a new child. New parents in Washington state are awaiting implementation of their own statewide paid parental leave program. Advocates in New York, Colorado and elsewhere are mounting campaigns for new laws, and the New York proposal passed one legislative chamber in 2014.

Experience shows that 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.<sup>46</sup> And more than a dozen states had created rights for nursing mothers at work prior to the 2010 adoption of a federal standard.<sup>47</sup>

By surveying states and charting their progress, this report provides a glimpse of what the future can and should hold for parents and workers across the country.

## California and New Jersey Prove 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. The law took effect in July 2004 and celebrates its 10th anniversary this year. New parents in California can receive 55 percent of their wages, up to a capped amount, for up to six weeks.

New Jersey enacted a similar 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.

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 included a major advance — job protection for all workers regardless of whether they work for an employer with fewer than 50 employees or a larger employer.

These programs demonstrate the benefits of paid family leave:

- ▶ Between July 2004 and June 2013, California's paid family leave program saw nearly 1.5 million claims filed by parents caring for new children.<sup>48</sup>
- ▶ Between July 2009 and March 2014, New Jersey's paid family leave program was used more than 110,000 times by parents caring for new children.<sup>49</sup>
- ▶ In the first four months of Rhode Island's paid family leave program, more than 650 claims have been approved to allow new parents to use paid leave while caring for a new child.<sup>50</sup>
- ▶ In California:
  - ▶ Parents who used the state paid family leave program were much more likely than those who did not to report that leave had a

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positive effect on their ability to care for their new children and to arrange child care;

- ▶ 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;
- ▶ Sixty percent of businesses reported coordinating their own benefits with the state program, likely leading to cost savings for these employers;<sup>51</sup> and
- ▶ New mothers more than doubled their use of maternity leave, with even larger growth among Latina and African American mothers.<sup>52</sup>

It is also clear that there is more to do, and advocates are working on improvements:

- ▶ Neither California nor New Jersey offer job protection to workers who take paid family leave under the state programs, 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.<sup>53</sup>

## Paid Leave Strengthens Families

### PAID LEAVE PROVIDES HEALTH BENEFITS FOR MOTHERS AND CHILDREN

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

Paid leave gives new 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.<sup>54</sup> And children whose mothers take a longer period of leave after giving birth and before returning to work full time are more likely to be taken to pediatricians for regular checkups,<sup>55</sup> with clear health benefits and likely cost savings down the road. In an international study of paid family leave, a 10-week extension in paid leave was predicted to decrease infant mortality by as much as four percent.<sup>56</sup> Paid time off also helps with the detection of potential developmental delays early on, when problems can be most effectively addressed and interventions put in place to minimize them.<sup>57</sup>

### FATHERS AND CHILDREN BENEFIT FROM PAID LEAVE

When fathers take leave after a child’s birth, they are more likely to be involved over the long term in the direct care of their children. 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 the birth than fathers who took no leave.<sup>58</sup>

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: Men were 18.7 percent of the state’s parental leave-takers in 2005-2006 and 31.3 percent of them in 2012-2013, and the number of men taking leave more than doubled over that period.<sup>59</sup> 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.<sup>60</sup>

## **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 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 or poor child care often find themselves struggling to fill unexpected gaps in care while also trying to keep their jobs. For some, discipline and serial unemployment are common.

Access to paid leave gives parents time to find child care. 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.<sup>61</sup>

## **Businesses Benefit from Paid Family Leave**

Paid leave makes sense for employers. Not only does it keep people in their jobs and able to spend money at businesses in their communities, but worker turnover also declines and loyalty increases when workers are able to use paid leave to care for a new child. 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.<sup>62</sup> Worker retention saves employers money because replacing workers can be expensive — turnover costs are estimated to average one-fifth of an employee's annual salary.<sup>63</sup> In California, nearly 88 percent of workers reported returning to their employers after taking paid family leave. Access to paid family leave insurance also affects businesses' ability to retain workers in lower-quality jobs.

In addition, small and large businesses have adjusted easily to the California and the New Jersey paid family leave program. Research among California employers shows that the vast majority perceive a positive or negligible effect on employee productivity, profitability, performance and morale.<sup>64</sup> Research among New Jersey employers yields similar findings.<sup>65</sup>

What's more, the California case study demonstrates how beneficial a state paid family leave 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 leave, family

### **Paid leave task forces: More progress on the horizon?**

A number of state legislatures, including those in Connecticut, Vermont and New Hampshire, created state paid leave task forces in 2013 to study the feasibility of adopting state paid family and medical leave insurance programs in their states. New Hampshire's task force recommended an actuarial study. Vermont's task force created legislative principles, including 100 percent wage replacement for workers at the lower end of the wage scale. Connecticut's task force recommendations will be out in the coming months. As the work of these task forces is translated into proposed legislation, more progress on paid leave could be on the horizon.

leave or personal time during maternity or parental leave and shouldered the entire cost of providing that time off.<sup>66</sup>

## **Paid Leave Provides Economic Benefits for Families and Governments**

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. First-time mothers who use paid leave after the birth of a child are more likely to work into the last month of pregnancy.<sup>69</sup> In addition, a recent 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 be working nine to 12 months after the child's birth than those who take no leave (paid or unpaid) at all.<sup>70</sup> 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.<sup>71</sup>

In addition, families rely less often on public assistance when new parents have access to paid leave, even when controlling for other socioeconomic factors that might affect reliance on 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 in the year after a child's birth when compared to those who return to work without taking paid or unpaid family leave.<sup>72</sup> 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.<sup>73</sup> 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 following a child's birth, particularly when they use paid leave programs.<sup>74</sup>

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

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

The states that provide greater legal rights and protections to their residents 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.

### **Employer experiences**

Some leading employers have adopted their own policies and support public policies that would allow all workers to take needed time off. Nationwide, about 60 percent of smaller employers support a program like California's or New Jersey's.<sup>67</sup>

"New Jersey's Family Leave Insurance program has been a huge positive for Caliper. When you think about the cost of individuals leaving, the cost of seeking new employees, the cost of training them, etc., there is just no comparison in terms of the pure balance sheet. This policy has saved my business money."

– *Herb Greenberg, founder and CEO, Caliper Corp (New Jersey)*

"I supported California's Paid Family Leave law and I support [a] national version. If we're not taking care of our coworkers, we're not taking care of business."

– *Paul Orfalea, founder, Kinko's (California)*

"Policies like [paid family leave] support workers and help businesses come out ahead by building a stronger workforce."

– *Vincent Siciliano, president and CEO, New Resource Bank (California)*<sup>68</sup>

# Methodology

This report provides the most comprehensive assessment to date of state policies that support 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 a leave of absence from their job to care for a new child (“parental” leave) or a spouse or partner disabled by pregnancy (“family” leave)
- ▶ State laws that provide birth mothers a period of disability leave to prepare for and recover from pregnancy and childbirth (“medical leave” or “maternity leave”)
- ▶ 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 exceed federal standards in guaranteeing pregnant women the right to reasonable accommodations at work when pregnancy-related physical limitations necessitate such accommodations (“reasonable accommodations for pregnant workers”)
- ▶ State laws that exceed federal standards in enabling new mothers to continue to provide breast milk to a new baby after returning to work (“workplace rights for nursing mothers”)

The National Partnership used legal search engines, reviewed materials created by the National Conference on State Legislatures and searched state websites, statutes, regulations and case law to identify state laws that guarantee access to leave to new and expecting parents, reasonable accommodations for pregnant workers and support for breastfeeding mothers.<sup>75</sup> States may have other laws in place that help new parents, including laws affecting state employees’ ability to work a flexible or reduced schedule, or 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

### PRIVATE SECTOR WORKERS

To evaluate leave, pregnancy accommodations and breastfeeding support laws that apply to private sector workers, the following questions were answered:

#### Paid Family and Medical Leave

- ▶ Does the state guarantee wage replacement to workers while they take leave from work to care for a new child or a spouse disabled by pregnancy?
- ▶ Does the state guarantee wage replacement to female workers when they take leave due to pregnancy- or childbirth-related medical issues?
- ▶ Does the state require employers to provide paid sick time that can be used by pregnant women and their partners to seek prenatal and postnatal care or to take a new baby to the doctor?

## **Job-Protected Family Leave**

- ▶ Does the state guarantee workers greater access to job-protected family leave than the federal FMLA by requiring smaller employers to provide leave?
- ▶ Does the state 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?
- ▶ Does the state guarantee workers access to job-protected family leave for a longer period of time away from work than the federal FMLA?

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

- ▶ Does the state 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?
- ▶ Does the state guarantee female workers greater access to job-protected medical or disability leave than federal law by requiring smaller employers to provide leave?
- ▶ Does the state guarantee female workers greater access to job-protected medical or disability leave than the federal FMLA by providing access to workers with less time on the job?
- ▶ Does the state provide workers with a longer period of job-protected time off for medical or disability leave than the federal FMLA?

## **Paid Sick Days**

- ▶ Does the state guarantee workers the ability to earn paid sick time that can be used for the workers' own illnesses, to care for an ill family member or for personal or family medical visits?

## **Pregnancy Accommodations**

- ▶ Does the state guarantee pregnant workers the same right to reasonable workplace accommodations as it provides to other workers with temporary physical limitations?

## **Other Policies Affecting New Parents**

- ▶ Does the state have a flexible sick-leave requirement that permits workers to use accrued earned paid sick time for leave to care for a new child or a spouse or partner with medical needs?
- ▶ Does the state guarantee nursing mothers greater rights to express breast milk at work than federal law does?

## **STATE WORKERS**

- ▶ Does the state provide its workers with paid family leave or paid medical leave?
- ▶ Does the state provide its workers with a longer period of job-protected time off for family or medical leave than the federal FMLA?

- ▶ Does the state provide its workers with a lower threshold for the hours they are required to work in order to qualify for job-protected time off for family or medical leave?
- ▶ Does the state have a flexible sick time requirement that allows its workers to use accrued earned paid sick time for leave to care for a new child or an ill spouse or partner?
- ▶ Does the state provide pregnant employees the same right to reasonable workplace accommodations as it provides to other workers with temporary physical limitations?
- ▶ Does the state provide all nursing mothers who return to work for the state with reasonable break time to express breast milk?

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

## Scoring Results

### PRIVATE SECTOR WORKERS

#### Paid Family Leave Benefits

Thirty points were awarded to California, New Jersey and Rhode Island for their programs providing paid family leave to new parents who are caring for newborns, newly adopted children or newly placed foster children, or for a spouse disabled by pregnancy. Washington state passed a paid parental leave program in 2007 but, due to budget constraints, it has not yet been implemented. Washington was awarded 10 points for taking a step toward providing paid leave.

#### Paid Medical/Pregnancy Disability Leave Benefits

Twenty-five points were awarded to each state with a program that provides paid medical leave to birth mothers who need leave for pregnancy-related disabilities and for recovery after childbirth. These five states (California, Hawaii, New Jersey, New York and Rhode Island) and Puerto Rico have short-term disability insurance programs that provide paid leave to women who are temporarily disabled due to pregnancy and childbirth.

#### Paid Sick Days

Fifteen points were awarded to the District of Columbia and Connecticut for their paid sick time laws, under which employers are required to provide workers with a limited number of days each year that can be used to address a worker's own illness, to seek medical care or to accompany a family member to a medical appointment. Access to paid sick time may help new and expecting parents attend prenatal, postnatal and well-baby/sick-baby medical appointments and take a few paid days off in connection with childbirth.

#### Expanded Job-Protected Family Leave for Workers in Smaller Businesses

Ten points were awarded to states that provide job-protected unpaid family leave to workers in businesses with fewer than 50 employees. Laws in six states (Maine, Maryland, Minnesota, New Jersey, Oregon and Vermont) plus the District of Columbia provide this expanded leave.

#### Expanded Job-Protected Family Leave for Workers with Less Time on the Job

Ten points were awarded to states that provide job-protected unpaid family leave to workers with less than one year of job tenure or fewer than 1,250 hours worked in the previous year. Laws in seven states (Connecticut, Hawaii, Maine, Minnesota, New Jersey, Oregon and Wisconsin) plus the District of Columbia provide this expanded leave.

### **Extended Length of Job-Protected Family Leave**

Ten points were awarded to states that give workers a longer period of job-protected leave to care for new babies or to recover from maternity disability than the 12 weeks provided by the federal FMLA. Laws in four states (Connecticut, Oregon, Rhode Island and Tennessee) and the District of Columbia provide a longer period of family leave.

### **Expanded Definition of “Family” for Purposes of Job-Protected Family Leave<sup>76</sup>**

Ten points were awarded to states that provide an expanded definition of covered family members to allow workers to take family leave to care for a pregnant domestic partner or same-sex spouse or to care for the child of a domestic partner or same-sex spouse. Laws in nine states (California, Colorado, Hawaii, Maine, New Jersey, Oregon, Vermont, Washington and Wisconsin) and the District of Columbia provide an expanded definition of covered family members.

### **Expanded Job-Protected Medical or Pregnancy Leave for Workers in Smaller Businesses<sup>77</sup>**

Ten points were awarded to states that provide job protection for pregnancy and childbirth-related disabilities to women who work for businesses with fewer than 50 employees. Laws in ten states (California, Connecticut, Hawaii, Iowa, Louisiana, Massachusetts, Montana, New Hampshire, Vermont and Washington) protect women in smaller businesses.<sup>78</sup>

### **Expanded Job-Protected Medical or Pregnancy Leave for Workers with Less Time on the Job<sup>79</sup>**

Ten points were awarded to states that provide job-protected pregnancy or childbirth-related disability leave to workers with less than one year of job tenure or fewer than 1,250 hours worked in the previous year. Laws in nine states (California, Connecticut, Hawaii, Iowa, Louisiana, Massachusetts, Montana, New Hampshire and Washington) provide job-protected leave to mothers with reduced or no tenure requirement.

### **Extended Length of Job-Protected Medical or Pregnancy Disability Leave<sup>80</sup>**

Ten points were awarded to states that provide a longer period of job-protected pregnancy- or childbirth-related disability leave than the 12 weeks provided by the federal FMLA. Laws in four states (California, Louisiana, Oregon and Washington) and the District of Columbia provide a longer period of leave.<sup>81</sup> Among these jurisdictions, California, Oregon, Washington and the District of Columbia allow birth mothers two “buckets” of leave — one to recover from pregnancy and another to care for their new children.

### **Flexible Use of Sick Leave**

Fifteen points were awarded to states that allow workers to use earned paid sick time to care for a new child and/or a spouse or partner with a pregnancy-related disability. Nine states (California, Connecticut, Hawaii, Maine, Maryland, Minnesota, Oregon, Washington and Wisconsin) and the District of Columbia allow some workers to use their leave to care for either a new child or an ill family member (such as a spouse or partner disabled by pregnancy), and some of these jurisdictions permit both.

### **Workplace Protection for Nursing Mothers**

Fifteen points were awarded to states that improve upon the federal law by providing all nursing mothers with reasonable break times and/or a place other than a bathroom to express breast milk at work. Fifteen states (Arkansas, California, Colorado, Connecticut, Hawaii, Illinois, Indiana, Maine, Minnesota, New Mexico, New York, Oregon, Rhode Island, Tennessee and Vermont) and the District of Columbia received points for their laws supporting nursing mothers at work.

### **Reasonable Accommodations for Pregnant Workers**

Fifteen points were awarded to states that guarantee reasonable accommodations in the workplace to workers with pregnancy-related physical limitations. Nine states (California, Connecticut, Hawaii,

Illinois (awaiting the governor's signature and effective January 1, 2015), Louisiana, Maryland, Minnesota, New Jersey and West Virginia) received points for their pregnancy accommodation laws, most of which have been adopted within the last two years.

## **STATE EMPLOYEES**

### **Paid Family and Medical Leave Benefits**

Twenty points were awarded to states that do not provide paid leave to private sector workers but do provide at least some of their own workers with paid family leave to care for a new child or ill spouse, or paid medical leave for birth mothers' pregnancy- or childbirth-related disability. Three states (Illinois, Ohio and Virginia) received points for providing paid leave.

### **Expanded Job-Protected Family and/or Medical Leave for Workers with Less Time on the Job**

Ten points were awarded to states that provide their own workers (but not private sector workers) with family and/or pregnancy disability leave before a worker has been on the job for one year and has worked 1,250 hours in the prior year. Twelve states (Alaska, Connecticut, Florida, Illinois, Kentucky, Massachusetts, Montana, New York, North Carolina, Pennsylvania, Texas and West Virginia) received points for relaxed job tenure requirements.

### **Extended Length of Family and/or Medical Leave**

Ten points were awarded to states that provide their own workers (but not private sector workers) with more than 12 weeks of job-protected family or medical leave by statute or administrative rule. Twelve states (Alaska, Colorado, Connecticut, Florida, Illinois, Massachusetts, New York, North Carolina, Pennsylvania, Vermont, Washington and Wisconsin) received points for providing longer leave.

### **Flexible Use of Sick Leave**

The report provides information on states whose statutes or administrative rules permit state workers to use accrued sick time to care for a new child or ill family member. Points were not awarded for these policies.

### **Workplace Protection for Nursing Mothers**

The report provides information on states whose statutes or administrative rules provide all nursing mothers returning to work for the state with reasonable break time and a private place to express breast milk. Points were not awarded for these policies.

### **Reasonable Accommodations for Pregnant Workers**

Ten points were awarded to states that guarantee their own workers (but not private sector workers) reasonable accommodations. Alaska and Texas received points for their pregnancy accommodation laws.

# 2014 State-By-State Report Card\*

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

<b>A-</b>	POINTS AWARDED
California.....	140

<b>B+</b>	
Connecticut.....	120
Hawaii.....	110
New Jersey.....	100
District of Columbia.....	95

<b>B</b>	
Oregon.....	80
Rhode Island.....	80
Washington.....	75
Illinois.....	70**

<b>B-</b>	
Minnesota.....	65
Maine.....	60
New York.....	60

<b>C+</b>	
Vermont.....	45

<b>C</b>	
Louisiana.....	45
Wisconsin.....	45
Maryland.....	40
Massachusetts.....	40

<b>C-</b>	
Colorado.....	35
Alaska.....	30
Montana.....	30

<b>D+</b>	
Tennessee.....	25
West Virginia.....	25

<b>D</b>	
Florida.....	20
Iowa.....	20
New Hampshire.....	20
North Carolina.....	20
Ohio.....	20

Pennsylvania.....	20
Texas.....	20
Virginia.....	20

<b>D-</b>	
Arkansas.....	15
Indiana.....	15
New Mexico.....	15
Kentucky.....	10

<b>F</b>	
Alabama.....	0
Arizona.....	0
Delaware.....	0
Georgia.....	0
Idaho.....	0
Kansas.....	0
Michigan.....	0
Mississippi.....	0
Missouri.....	0
Nebraska.....	0
Nevada.....	0
North Dakota.....	0
Oklahoma.....	0
South Carolina.....	0
South Dakota.....	0
Utah.....	0
Wyoming.....	0

\*Just as the second edition of *Expecting Better* included a wider variety of laws than the first edition and employed a different scoring system, this third edition expands upon the laws included in the second edition by including pregnant worker accommodation laws; as a result, this third edition employs a different scoring system than the previous two editions, making it impossible to provide a direct comparison of individual states' 2005, 2012 and 2014 grades. In broad strokes, however, this 2014 analysis reveals very similar results to the 2005 and 2012 analyses — a handful of states score relatively high grades of “A-,” “B+” or “B,” but the majority garners failing or near-failing grades.

\*\*Illinois received points for its pregnancy accommodation law, which has passed both houses of the legislature and is awaiting the governor's signature. Once signed, the law will go into effect on January 1, 2015.

# Summary of State Laws

The descriptions that follow provide a snapshot of how state-based rights and protections 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 some nursing mothers' right to express breast milk at work under the Fair Labor Standards Act (FLSA).<sup>82</sup>

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

## 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 910 hours over six months and grants workers 18 weeks of leave.<sup>83</sup>

#### Pregnancy Accommodations

State workers who are pregnant may request a temporary transfer to a position that is less strenuous or hazardous, and the state must grant the transfer if the employee is qualified for the position and the transfer is recommended by a licensed health care provider.<sup>84</sup>

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

#### Flexible Use of Sick Time

State workers who earn sick time are entitled to use up to 40 hours to attend medical appointments or care for the illness of a spouse, child or parent.<sup>85</sup>

Although some states have made progress, others have moved in the wrong direction. Since the last edition, Arizona repealed a regulation granting state workers 180 days of pregnancy disability leave.<sup>86</sup> Kentucky reduced the amount of pregnancy disability leave available to state workers from one year to 30 days.<sup>87</sup>

## 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 are entitled to reasonable break time to express breast milk at work for an unspecified time after childbirth. Employers must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.<sup>88</sup>

## STATE WORKERS

Arkansas 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 who work for the state of Arkansas are entitled to reasonable break time to express breast milk at work for an unspecified time after childbirth. The state must make reasonable efforts to provide a place other than a toilet stall for nursing employees to express breast milk.<sup>89</sup>

# CALIFORNIA

## PRIVATE SECTOR WORKERS

### Paid Family and Medical Leave

Private sector workers who qualify for the state's disability insurance system are entitled to up to six weeks of paid family leave that can be used by either parent.<sup>90</sup> 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 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 a medically disabling condition, including disability resulting from pregnancy or childbirth. 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.<sup>91</sup> Women who take SDI leave for a pregnancy-related disability are also eligible to take paid family leave; SDI leave and family leave must be taken sequentially rather than concurrently. Although SDI covers a disabled worker for up to 52 weeks, typical coverage for a pregnancy-related disability is four weeks prior to the woman's due date and six weeks after delivery.<sup>92</sup>

### Job-Protected Family and Medical Leave

More private sector workers have parental and family caregiving leave rights under California law than under the federal FMLA. The California leave law extends parental and family leave rights to workers caring for a domestic partner or the child of a domestic partner.<sup>93</sup>

In addition, because same-sex marriage is now legal in California, same-sex married couples are covered by the law.<sup>94</sup>

### **Job-Protected Medical Leave for Pregnancy Disability**

Workers disabled by pregnancy, childbirth or related medical conditions also have protections under California anti-discrimination law. Pregnant women are eligible for up to four months of job-protected leave to address a pregnancy-related health condition. The law applies to women working for employers with five or more employees, regardless of the worker's tenure or the number of hours she has worked.<sup>95</sup> Once a pregnancy-related disability ends, a woman eligible for leave under the California Family Rights Act can request up to 12 additional weeks of leave to care for her new baby.

### **Flexible Use of Sick Leave**

Private sector workers who earn sick time are entitled to use up to half of their allotted leave each year for the care of a sick child, parent, spouse or domestic partner, including a spouse or domestic partner with a pregnancy-related disability.<sup>96</sup> Unlike similar laws in some other states, the California law does not require that employer-provided sick time be available to care for a healthy newborn or newly adopted child.

### **Nursing Mothers' Workplace Rights**

All nursing mothers are entitled to reasonable break time to express breast milk at work while their children are infants. Employers must make reasonable efforts to provide a private place other than a toilet stall for nursing employees to express breast milk.<sup>97</sup>

### **Pregnancy Accommodations**

Private sector workers who are pregnant are entitled to a reasonable accommodation for a pregnancy-related condition, upon the advice of the worker's physician. The accommodation may include a transfer to a less strenuous or hazardous position if the transfer can be reasonably accommodated.<sup>98</sup> The law applies to employers with five or more employees in the state.<sup>99</sup>

## **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.<sup>100</sup> If an employee contributes to the SDI system, that employee is also eligible for paid family leave. The time allotted for SDI and paid family leave and the wage replacement level is the same for covered state workers as it is for private sector workers.

### **Job-Protected Family and Medical Leave**

Like private sector workers, more state workers have parental and family caregiving leave rights under California law than under the federal FMLA because the California leave law extends parental and family leave rights to workers caring for a domestic partner or the child of a domestic partner.<sup>101</sup>

In addition, because same-sex marriage is now legal in California, same-sex married couples are covered by the law.<sup>102</sup>

### **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 pregnancy-related health condition regardless of their tenure on the job or the number of hours worked in the prior year.<sup>103</sup> Once a pregnancy-related disability ends, a state worker eligible for leave under the California Family Rights Act may take up to 12 additional weeks of leave to care for her new baby.

### **Flexible Use of Sick Leave**

Like private sector workers, state workers who earn sick time are entitled to use up to half of their allotted time each year for the care of a sick child, parent, spouse or domestic partner, including a spouse or domestic partner with a pregnancy-related disability.<sup>104</sup>

### **Nursing Mothers' Workplace Rights**

As in private sector workplaces, nursing mothers working for the state of California are entitled to reasonable break time to express breast milk at work while their children are infants. The state must make reasonable efforts to provide a private place other than a toilet stall for nursing employees to express breast milk.<sup>105</sup>

### **Pregnancy Accommodations**

Like private sector workers, state workers who are pregnant are entitled to a reasonable accommodation for a pregnancy-related condition, upon the advice of the worker's physician. The accommodation may include a transfer to a less strenuous or hazardous position if the transfer can be reasonably accommodated.<sup>106</sup>

## **COLORADO**

**C-**

### **PRIVATE SECTOR WORKERS**

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

#### **Job-Protected Family and Medical Leave**

More private sector workers have family and pregnancy disability 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.<sup>107</sup>

#### **Nursing Mothers' Workplace Rights**

All nursing mothers are entitled to 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.<sup>108</sup>

### **STATE WORKERS**

#### **Job-Protected Family and Medical Leave**

Employees of the state who work full time and meet federal FMLA eligibility requirements are entitled to up to 520 hours (the equivalent of 13 weeks) of family leave or leave for a pregnancy-related disability each fiscal year. The number of hours available to part-time employees is prorated.<sup>109</sup>

Like private sector workers, more state workers have family and pregnancy disability 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.<sup>110</sup>

#### **Flexible Use of Sick Leave**

State workers who earn sick time are entitled to use it to seek medical diagnosis or treatment or to care for a sick child, parent, spouse, dependent or other care recipient, including a spouse disabled by pregnancy.<sup>111</sup>

#### **Nursing Mothers' Workplace Rights**

As in private sector workplaces, women who work for the state of Colorado are entitled to 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.<sup>112</sup>

## 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.<sup>113</sup> Connecticut's family and medical leave law applies to private sector workers who have worked 1,000 hours during the previous year.<sup>114</sup> 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).<sup>115</sup>

In addition, because same-sex marriage is now legal in Connecticut, same-sex married couples are covered by the law.<sup>116</sup>

### Job-Protected Medical Leave for Pregnancy Disability

Workers disabled by pregnancy, childbirth or related medical conditions also have protections under Connecticut anti-discrimination law. Pregnant women are eligible for a "reasonable" period of leave to address a pregnancy-related health condition.<sup>117</sup> The law applies to workers in businesses with three or more employees.<sup>118</sup>

### 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 that can be used to care for a child or spouse who is ill or needs to seek medical care.<sup>119</sup> Workers may earn up to 40 hours per year. The law entitles pregnant women to use paid sick time to seek prenatal or postnatal care.

### 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 are entitled to use up to two weeks for the birth or adoption of a child or to care for an ill child, spouse or parent.<sup>120</sup>

### 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 for an unspecified period of time after giving birth. Unlike most other states, Connecticut's law does not require that workers also be provided reasonable break time to express breast milk.<sup>121</sup>

### 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.<sup>122</sup>

## STATE WORKERS

### Job-Protected Family and Medical Leave

State workers have greater family and pregnancy 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,<sup>123</sup> and grants workers up to 24 weeks of leave in a two-year period.<sup>124</sup>

In addition, because same-sex marriage is now legal in Connecticut, same-sex married couples are covered by the law.<sup>125</sup>

### **Job-Protected Medical Leave for Pregnancy Disability**

Like many private sector workers in Connecticut, state workers disabled by pregnancy, childbirth or related medical conditions have protections under Connecticut anti-discrimination law. Pregnant women are eligible for a “reasonable” period of leave to address a pregnancy-related health condition.<sup>126</sup>

### **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 for an unspecified period of time after childbirth. Unlike most other states, Connecticut’s law does not require that workers also be provided reasonable break time to express breast milk.<sup>127</sup>

### **Pregnancy Accommodations**

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.<sup>128</sup>

## **DELAWARE**

**F**

### **PRIVATE SECTOR WORKERS**

Delaware law does not expand upon federal rights or protections for new and expecting parents who work in the private sector. However, because Delaware law now recognizes same-sex marriages, same-sex married couples in the state have access to federal FMLA leave.<sup>129</sup>

### **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. However, because Delaware law now recognizes same-sex marriages, same-sex married couples in the state have access to federal FMLA leave.<sup>130</sup>

### **Flexible Use of Sick Leave**

State workers who earn sick time are entitled to use it upon the birth of a child or upon the adoption of a pre-kindergarten-age child.<sup>131</sup>

## **DISTRICT OF COLUMBIA**

**B+**

### **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.<sup>132</sup> Employees who have worked at least 1,000 hours over the preceding year are eligible and entitled to up to 16 weeks of leave over two years to care for a new child or a family member with a serious health condition.<sup>133</sup> Women with a pregnancy-related disability are eligible for up to 16 weeks of medical leave over two years;<sup>134</sup> this is in addition to any period of leave taken to care for a new child.<sup>135</sup>

In addition, District law provides a broader definition of “family member” than the federal FMLA so that a worker in a “committed relationship” may take leave to care for a partner with a serious health condition, including a pregnancy-related disability.<sup>136</sup> D.C. law also recognizes same-sex marriages, so same-sex married couples are covered by the D.C. law.<sup>137</sup>

#### **Job-Protected Paid Sick Days**

Most private sector workers in the District are entitled 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.<sup>138</sup> The law entitles

pregnant women to use paid sick time to seek prenatal or postnatal care and enables a spouse, domestic partner or other family member to take time away from work for a relative's pregnancy-related disability or medical care. The number of days a full-time worker earns ranges from three to seven days, depending on employer size.<sup>139</sup> 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.<sup>140</sup>

### **Nursing Mothers' Workplace Rights**

All nursing mothers are entitled to reasonable break time to express breast milk at work for an unspecified period of time after childbirth. Employers must make reasonable efforts to provide a place other than a bathroom for nursing employees to express breast milk.<sup>141</sup>

## **DISTRICT WORKERS**

### **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 1,000 hours in the previous year are entitled to up to 16 weeks of leave to care for a new child or family member with a serious health condition,<sup>142</sup> and female workers may take up to 16 weeks of pregnancy disability leave<sup>143</sup> — which is in addition to any period of leave taken to care for a new child.<sup>144</sup>

In addition, the expanded “family” definition that includes taking leave to care for an ill or disabled partner in a “committed relationship” applies to District workers as it does to private sector workers.<sup>145</sup> D.C. law also recognizes same-sex marriages, so same-sex married couples are covered by the D.C. law.<sup>146</sup>

### **Job-Protected Paid Sick Days**

Like most private sector workers, District workers earn paid sick time that may be used for their own medical care and the medical care of a child or other family member.<sup>147</sup>

### **Nursing Mothers' Workplace Rights**

Like private sector workers, women employed by the District are entitled to reasonable break time to express breast milk at work for an unspecified period of time after childbirth. The District must make reasonable efforts to provide a place other than a bathroom for nursing employees to express breast milk.<sup>148</sup>

## **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 and Medical Leave**

State workers have greater family and pregnancy disability 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 personal or spousal medical issues arising from pregnancy or childbirth.<sup>149</sup> Workers do not have to satisfy any tenure requirements to be eligible for leave.

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

# HAWAII

**B+**

## PRIVATE SECTOR WORKERS

### Paid Medical Leave

Under Hawaii's Temporary Disability Insurance (TDI) law, most private sector workers disabled by pregnancy or the termination of a pregnancy are entitled to up to 26 weeks of partial wage replacement each year. To be eligible, a worker must have worked at least 14 weeks and earned at least \$400 in the previous 52 weeks.<sup>150</sup> Under Hawaii's law, employers of all sizes are required to provide TDI for their employees.<sup>151</sup> 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.<sup>152</sup>

### 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 protects employees with six months' tenure, regardless of the number of hours worked,<sup>153</sup> and defines family more broadly than the federal FMLA to include caregiving for a designated "reciprocal beneficiary," which may include a same-sex partner.<sup>154</sup>

In addition, because Hawaii law recognizes same-sex marriages, same-sex married couples are covered by the law.<sup>155</sup>

### 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. The law applies to employers of all sizes and protects employees regardless of tenure and number of hours worked. Pregnant workers must be granted leave for a "reasonable period of time."<sup>156</sup>

### 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 or other forms of paid leave are entitled to use up to 10 days for the care of a new child or to assist an ill family member.<sup>157</sup>

### Nursing Mothers' Workplace Rights

All nursing mothers are entitled to reasonable break time to express breast milk and a private place other than a restroom for nursing employees 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.<sup>158</sup>

### Pregnancy Accommodations

All private sector employers are required to make reasonable accommodations for pregnant employees with a pregnancy- or childbirth-related disability.<sup>159</sup>

## STATE WORKERS

### Paid Medical Leave

Like private sector workers, state workers disabled by pregnancy or childbirth are eligible for partial wage replacement under Hawaii's TDI law.<sup>160</sup>

### Job-Protected Family Leave

Like private sector workers, state workers have greater access to parental and caregiving leave

under Hawaii law than under the federal FMLA. Hawaii’s family leave law protects workers with six months’ tenure, regardless of the number of hours worked,<sup>161</sup> and defines family more broadly than the federal FMLA.<sup>162</sup>

In addition, because Hawaii law recognizes same-sex marriages, same-sex married couples are covered by the law.<sup>163</sup>

### **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.<sup>164</sup>

### **Flexible Use of Sick Time**

Like private sector workers, state workers who earn sick time or other forms of paid leave are entitled to use up to 10 days for the care of a new child or to assist a family member, pursuant to Hawaii’s family leave law.<sup>165</sup>

### **Nursing Mothers’ Workplace Rights**

Like private sector workers, women employed by the state of Hawaii are entitled to reasonable break time to express breast milk and a private place other than a restroom for nursing employees 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.<sup>166</sup>

### **Pregnancy Accommodations**

As in private sector workplaces, state employers are required to make reasonable accommodations for pregnant employees with a pregnancy- or childbirth-related disability.<sup>167</sup>

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

## **ILLINOIS**

**B**

### **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. However, because Illinois law recognizes same-sex marriages, same-sex married couples in the state have access to FMLA leave.<sup>168</sup>

### **Nursing Mothers’ Workplace Rights**

Nursing mothers employed by private employers with more than five employees are entitled to reasonable break time to express breast milk at work while their children are infants. Employers must make reasonable efforts to provide a private place other than a toilet stall for nursing employees to express breast milk.<sup>169</sup>

## **Pregnancy Accommodations**

Illinois' pregnancy accommodation law, which has passed both houses of the legislature and is awaiting the governor's signature, would go into effect on January 1, 2015. The law requires all private employers to 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.<sup>170</sup>

### **STATE WORKERS**

#### **Paid Family Leave**

State workers are entitled to four weeks of paid parental leave — upon the birth or adoption of a child — that can be used by either parent. If both parents are state workers, the family is entitled to just one leave per pregnancy or adoption.<sup>171</sup>

#### **Job-Protected Family and Medical 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 mutually dependent relationship.<sup>172</sup>

In addition, because Illinois law recognizes same-sex marriages, same-sex married couples are covered by the law.<sup>173</sup>

#### **Nursing Mothers' Workplace Rights**

Like private sector workers, women who work for the state of Illinois are entitled to reasonable break time to express breast milk at work while their children are infants. The state must make reasonable efforts to provide a private place other than a toilet stall for nursing employees to express breast milk.<sup>174</sup>

## **Pregnancy Accommodations**

Illinois's pregnancy accommodation law, which has passed both houses of the legislature and is awaiting the governor's signature, would go into effect on January 1, 2015. The law requires public employers to 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.<sup>175</sup>

# **INDIANA**

**D-**

### **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 larger employers in Indiana (25 or more employees) must be provided a private place other than a toilet stall to express breast milk 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.<sup>176</sup>

### **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.

## **Nursing Mothers' Workplace Rights**

Women employed by the state of Indiana are entitled to reasonable paid 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 bathroom for nursing employees to express breast milk.<sup>177</sup>

# **IOWA**

**D**

## **PRIVATE SECTOR WORKERS**

### **Job-Protected Family and Medical Leave**

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 pregnancy, childbirth and related medical disabilities. Leave must be granted regardless of a woman's tenure on the job or the number of hours she has worked.<sup>178</sup> The law is silent as to whether a woman is entitled to return to the same or a similar position after returning from leave.

In addition, because same-sex marriage is now legal in Iowa, same-sex married couples in the state have access to federal FMLA leave.<sup>179</sup>

## **STATE WORKERS**

### **Job-Protected Family and Medical Leave**

As in the private sector, state workers have greater access to pregnancy disability leave under state law than under federal law. The state may not deny a woman's request for up to eight weeks of leave to address pregnancy, childbirth and related medical disabilities. Leave must be granted regardless of a woman's tenure or the number of hours she has worked.<sup>180</sup> The law is silent as to whether a woman is entitled to return to the same or a similar position after returning from leave.

In addition, because same-sex marriage is now legal in Iowa, same-sex married couples in the state have access to federal FMLA leave.<sup>181</sup>

# **KANSAS**

**F**

## **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**

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

# **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 immediate family member.<sup>183</sup>

Adoptive parents in Kentucky have a novel right to leave. Under state law, private sector employers of all sizes must grant new adoptive parents 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.<sup>182</sup>

## 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 federal law. Louisiana’s pregnancy disability law applies to employers with more than 25 employees.<sup>184</sup> Women are protected by the law regardless of tenure or the number of hours they have worked. The law forbids an employer to refuse to allow a worker to take up to four months of leave for her own disability related to pregnancy, childbirth or related medical conditions.<sup>185</sup> 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.<sup>186</sup> The law is silent as to whether a woman is entitled to return to the same or a similar position after returning from leave.

#### 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 25 or more employees in each of 20 or more weeks in the current or previous calendar year.<sup>187</sup>

### 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 related to pregnancy disability, childbirth or related medical conditions.<sup>188</sup> The law applies to all workers, without eligibility requirements related to tenure or hours worked. 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.<sup>189</sup>

#### 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.<sup>190</sup>

## 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 months’ tenure, regardless of the number of hours worked.<sup>191</sup> The

Maine law also defines family more broadly than the federal FMLA to include domestic partners, the children of domestic partners and cohabiting siblings.<sup>192</sup> 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).<sup>193</sup>

In addition, because Maine law recognizes same-sex marriages, same-sex married couples are covered by the law.<sup>194</sup>

### **Flexible Use of Sick Time**

Private sector workers who earn paid leave and are employed by a firm with 25 or more employees are entitled to use at least 40 hours of paid leave per year for the care of an ill child, spouse or parent.<sup>195</sup>

Unlike similar laws in some other states, the law does not require that leave be available to care for a healthy newborn or newly adopted child.

### **Nursing Mothers' Workplace Rights**

All nursing mothers are entitled to 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.<sup>196</sup>

## **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 months' tenure are eligible for leave regardless of the number of hours they have worked.<sup>197</sup> The Maine law also defines family more broadly than the federal FMLA to include domestic partners, the children of domestic partners and cohabiting siblings.<sup>198</sup> As it is for private sector workers, the duration of family and medical leave under Maine law is less than under the federal FMLA.<sup>199</sup>

In addition, because Maine law recognizes same-sex marriages, same-sex married couples are covered by the law.<sup>200</sup>

### **Flexible Use of Sick Time**

Like private sector workers, state workers who earn paid leave are entitled to use at least 40 hours per year for the care of an ill child, spouse or parent.<sup>201</sup>

### **Nursing Mothers' Workplace Rights**

Like private sector workers, women employed by the state of Maine are entitled to 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.<sup>202</sup>

## **MARYLAND**

**C**

## **PRIVATE SECTOR WORKERS**

### **Job-Protected Family and Medical Leave**

Beginning October 2014, full-time workers in firms with 15 or more employees and who meet the FMLA hours-worked requirements are entitled to 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.<sup>203</sup>

In addition, because Maryland law now recognizes same-sex marriages, same-sex married couples in the state have access to federal FMLA leave.<sup>204</sup>

### **Flexible Use of Sick Time**

Private sector workers who work for employers with 15 or more employees and earn sick time are entitled to use it for the care of an ill child, spouse or parent.<sup>205</sup> Unlike similar laws in some other states, the law does not require that leave time be available to care for a healthy newborn or newly adopted child.

### **Pregnancy Accommodations**

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. The law protects workers regardless of tenure and number of hours worked.<sup>206</sup>

## **STATE WORKERS**

Maryland state workers do not have parental or pregnancy disability leave rights or protections beyond those provided by the federal FMLA. However, because Maryland law now recognizes same-sex marriages, same-sex married couples in the state have access to federal FMLA leave.<sup>207</sup>

### **Flexible Use of Sick Time**

State workers who earn sick time are entitled to use it for the care of a child, spouse or parent, including upon the birth or adoption of a child.<sup>208</sup>

### **Pregnancy Accommodations**

As in private sector workplaces, state employers 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. The law protects workers regardless of tenure and number of hours worked.<sup>209</sup>

# **MASSACHUSETTS**

# **C**

## **PRIVATE SECTOR WORKERS**

### **Job-Protected Medical or "Maternity" Leave**

Women in the private sector have greater access to "maternity leave" rights (defined as leave for giving birth or leave to care for an adopted 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;<sup>210</sup> workers with three months' tenure are eligible.<sup>211</sup>

In addition, because same-sex marriage is now legal in Massachusetts, same-sex married couples in the state have access to federal FMLA leave.<sup>212</sup>

## **COMMONWEALTH WORKERS**

### **Job-Protected Family and Medical Leave**

Like private sector workers, women employed by the commonwealth have greater access to "maternity leave" rights under commonwealth law than under the federal FMLA. The Massachusetts leave law provides up to eight weeks of job-protected leave;<sup>213</sup> employees with three months' tenure are eligible.<sup>214</sup>

In addition, executive branch employees have greater access to parental and pregnancy disability leave than under the federal FMLA. Massachusetts's public sector family and medical leave regulations grant workers up to 26 weeks of leave and apply to employees with three months' tenure, regardless of the number of hours worked.<sup>215</sup>

In addition, because same-sex marriage is now legal in Massachusetts, same-sex married couples in the state have access to federal FMLA leave.<sup>216</sup>

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

## 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;<sup>217</sup> employees who have worked at least part time in the previous 12 months are entitled to up to six weeks of leave to care for a newborn or newly adopted child. Beginning in August 2014, the maximum leave length will increase to 12 weeks, and employees will also be able to take leave for prenatal care or incapacity due to pregnancy, childbirth or related conditions.<sup>218</sup>

In addition, because Minnesota law now recognizes same-sex marriages, same-sex married couples in the state have access to FMLA leave.<sup>219</sup>

#### Flexible Use of Sick Time

Private sector workers at firms with 21 or more employees who earn sick time are entitled to use it for the care of an ill spouse, child, sibling, parent, stepparent, grandparent and, beginning in August 2014, parent-in-law or grandchild.<sup>220</sup> Unlike similar laws in some other states, the law does not require employer-provided sick time to be available to care for a healthy newborn or newly adopted child.

#### Nursing Mothers' Workplace Rights

All nursing mothers are entitled to 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.<sup>221</sup>

#### Pregnancy Accommodations

Private sector workers with pregnancy- or childbirth-related health conditions can request an accommodation based on the advice of the worker's physician, and employers must grant this unless the accommodation would impose an undue hardship. The law applies to employers with 21 or more employees in the state.<sup>222</sup>

### 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 at least part time in the previous 12 months are entitled to up to six weeks of leave to care for a newborn or newly adopted child. Beginning in August 2014, the maximum leave length will increase to 12 weeks, and employees

will also be able to take leave for prenatal care or incapacity due to pregnancy, childbirth or related conditions.<sup>223</sup>

In addition, because Minnesota law now recognizes same-sex marriages, same-sex married couples in the state have access to FMLA leave.<sup>224</sup>

### **Flexible Use of Sick Time**

State workers who earn sick time are entitled to use it for the care of an ill spouse, child, sibling, parent, stepparent, grandparent and, beginning in August 2014, parent-in-law or grandchild.<sup>225</sup> Unlike similar laws in some other states, the law does not require employer-provided sick time to be available to care for a healthy newborn or newly adopted child.

### **Nursing Mothers' Workplace Rights**

Like private sector workers, women employed by the state of Minnesota are entitled to 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.<sup>226</sup>

### **Pregnancy Accommodations**

As in the private sector, state workers with pregnancy- or childbirth-related health conditions can request an accommodation based on the advice of the worker's physician, and the state must grant this unless the accommodation would impose an undue hardship.<sup>227</sup>

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

## **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 state workers do not have parental or pregnancy disability leave rights or protections beyond those provided by the federal FMLA.

### **Flexible Use of Sick Time**

State workers who earn sick time are entitled to use it for the care of a spouse, child, stepchild or other relative or household member, or upon the adoption of a child.<sup>228</sup>

## **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. Montana law applies to employers of any size and protects employees regardless of tenure and number of hours worked.<sup>229</sup> Workers are entitled to “a reasonable leave of absence for the pregnancy” with job protection and cannot be required to take a “mandatory maternity leave for an unreasonable length of time.”<sup>230</sup>

## STATE WORKERS

### Job-Protected Family and Medical 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. Montana law protects employees regardless of tenure and number of hours worked.<sup>231</sup> Workers are entitled to “a reasonable leave of absence for the pregnancy” with job protection and cannot be required to take a “mandatory maternity leave for an unreasonable length of time.”<sup>232</sup> The state government has adopted rules providing that six weeks is “reasonable” leave after the birth of a child.<sup>233</sup>

In addition, birth fathers and adoptive parents employed by the state are entitled to 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.<sup>234</sup>

### Nursing Mothers’ Workplace Rights

Women employed by the state are entitled to reasonable break time to express breast milk at work for an unspecified period of time 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.<sup>235</sup> All public employers must have a written policy supporting women who want to continue breastfeeding after returning from maternity leave.<sup>236</sup>

## NEBRASKA

F

### PRIVATE SECTOR WORKERS

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

### STATE WORKERS

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

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

### Flexible Use of Sick Time

State workers are entitled to use up to 120 hours of their accrued sick time in any calendar year to care for a spouse, child, stepchild, parent, stepparent, sibling, grandparent, grandchild, uncle, aunt, nephew, niece, great grandchild or live-in in-law, if that family member has an illness or other authorized medical need.<sup>237</sup>

## PRIVATE SECTOR WORKERS

### Job-Protected Family and Medical Leave

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.<sup>238</sup> 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.”<sup>239</sup>

In addition, because New Hampshire law now recognizes same-sex marriages, same-sex married couples in the state have access to federal FMLA leave.<sup>240</sup>

## STATE WORKERS

### Job-Protected Family and Medical Leave

Like private sector workers, state workers have greater access to pregnancy disability leave under state anti-discrimination law than under the federal law. The New Hampshire law applies to workers regardless of tenure and number of hours worked.<sup>241</sup> 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.”<sup>242</sup>

In addition, because New Hampshire law now recognizes same-sex marriages, same-sex married couples in the state have access to federal FMLA leave.<sup>243</sup>

### Flexible Use of Sick Time

State workers are entitled to 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 healthcare provider visits.<sup>244</sup>

# NEW JERSEY

## PRIVATE SECTOR WORKERS

### Paid Family and Medical Leave

Private sector workers are entitled to 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.<sup>245</sup> The state’s paid family leave law is an expansion of New Jersey’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. 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.<sup>246</sup> The TDI program is funded jointly through employer and employee payroll contributions.<sup>247</sup> 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.<sup>248</sup> Although workers are eligible for up to 26 weeks of TDI leave, the typical duration of benefits for pregnancy disability leave is four weeks prior to a woman’s expected due date and six weeks after delivery.<sup>249</sup>

### **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;<sup>250</sup> employees who have worked 1,000 hours over the preceding year are eligible for leave to care for a new child or a spouse disabled by pregnancy or childbirth. However, the duration of family and medical leave under New Jersey law is less than under the federal FMLA (12 weeks in a 24-month period).<sup>251</sup> The New Jersey law also defines family more broadly than the federal FMLA to include civil union partners.<sup>252</sup>

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.<sup>253</sup>

In addition, because same-sex marriage is now legal in New Jersey, same-sex married couples are covered by the law.<sup>254</sup>

### **Pregnancy Accommodations**

Private sector workers affected by pregnancy- or childbirth-related conditions, including recovery from childbirth, can request an accommodation based on the advice of her physician. Employers must grant this request unless they can demonstrate an undue hardship.<sup>255</sup> The law applies to all employers of any size in the state.<sup>256</sup>

## **STATE WORKERS**

### **Paid Family and Medical Leave**

Like private sector workers, state workers are entitled to six weeks of paid family leave that can be used by either parent.<sup>257</sup>

However, female state workers are not necessarily entitled 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.<sup>258</sup>

### **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.<sup>259</sup>

In addition, because same-sex marriage is now legal in New Jersey, same-sex married couples are covered by the law.<sup>260</sup>

### **Flexible Use of Sick Time**

State workers who earn sick time are entitled to use it for the care of a seriously ill spouse, domestic partner, child, legal ward, grandchild, foster child, parent, parent-in-law, legal guardian, grandparent, sibling or other relative living in the employee's household, including a family member disabled by pregnancy.<sup>261</sup>

### **Pregnancy Accommodations**

Like private sector workers, state workers affected by pregnancy- or childbirth-related conditions, including recovery from childbirth, can request an accommodation based on the advice of her physician. Employers must grant this request unless they can demonstrate undue hardship.<sup>262</sup>

## PRIVATE SECTOR WORKERS

New Mexico has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents. However, because same-sex marriage is now legal in New Mexico, same-sex married couples in the state have access to FMLA leave.<sup>263</sup>

### Nursing Mothers' Workplace Rights

All nursing mothers who work for employers with four or more workers are entitled to “flexible” break times and a place other than a bathroom to express breast milk at work for an unspecified period of time after childbirth.<sup>264</sup>

## STATE WORKERS

New Mexico state workers do not have parental or pregnancy disability leave rights or protections beyond those provided by the federal FMLA. However, because same-sex marriage is now legal in New Mexico, same-sex married couples in the state have access to FMLA leave.<sup>265</sup>

### Nursing Mothers' Workplace Rights

Like private sector workers, women employed by the state are entitled to “flexible” break times and a place other than a bathroom to express breast milk at work for an unspecified period of time after childbirth.<sup>266</sup>

# NEW YORK

## PRIVATE SECTOR WORKERS

New York has no laws beyond the federal FMLA that guarantee job-protected family leave for new or expecting parents. However, because New York law recognizes same-sex marriages, same-sex married couples in the state have access to FMLA leave.<sup>267</sup>

### Paid Medical Leave for Pregnancy Disability

New York's Temporary Disability Insurance (TDI) program provides up to \$170 per week to eligible workers who are temporarily disabled, including women with pregnancy- or childbirth-related disabilities. The TDI program is funded by contributions from employers and workers.<sup>268</sup> 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.<sup>269</sup>

### Nursing Mothers' Workplace Rights

All nursing mothers are entitled to reasonable break time to express breast milk at work for up to three years after childbirth. Employers must make reasonable efforts to provide a room or other location near the work area for nursing employees to express breast milk.<sup>270</sup>

## STATE WORKERS

### Paid Medical Leave for Pregnancy Disability

State workers are not covered by New York's TDI system.<sup>271</sup>

### 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.<sup>272</sup>

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.<sup>273</sup>

### **Nursing Mothers’ Workplace Rights**

Like private sector workers, women employed by the state are entitled to 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 room or other location near the work area for employees to express breast milk.<sup>274</sup>

## **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. Permanent employees who have worked at least 1,040 hours over the past 12 months are eligible for up to 12 weeks of job-protected leave.<sup>275</sup>

In addition to the 12 weeks, state employees who have 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 child, spouse or parent with a serious health condition.<sup>276</sup>

#### **Flexible Use of Sick Time**

North Carolina state workers who earn sick time are entitled to use it for family medical appointments, to care for an ill child, stepchild, parent, parent-in-law, stepparent, sibling, spouse of sibling, stepsibling, grandparent, grandchild, grandparent-in-law, grandchild-in-law, live-in dependent or spouse, including a spouse disabled by pregnancy or childbirth, and following the adoption of a child.<sup>277</sup>

## **NORTH DAKOTA**

**F**

### **PRIVATE SECTOR WORKERS**

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

### **STATE WORKERS**

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

#### **Flexible Use of Sick Time**

North Dakota state workers are entitled to up to 80 hours of paid leave provided by an employer to care for a child, spouse or parent with a serious health condition, including a pregnancy-related disability.<sup>278</sup>

**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****Job-Protected Paid Family Leave**

State workers who work at least 30 hours per week, regardless of tenure, are entitled to up to six weeks of parental leave after the birth or adoption of a child. Leave can be used by either parent. New parents receive four weeks of leave at 70 percent of their current salary after satisfying a two-week waiting period. Workers can use accrued paid sick or vacation time during the two-week waiting period and to top off the paid leave benefit, 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.<sup>279</sup>

**Job-Protected 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 are entitled to up to 12 months of paid disability leave over the course of their employment, including for a pregnancy-related disability.<sup>280</sup> Workers are paid 67 percent of their usual salary while on disability leave.<sup>281</sup>

**Flexible Use of Sick Time**

State workers who earn sick time are entitled to use it for the care of an ill spouse, significant other, parent, parent-in-law, stepparent, child, stepchild, spouse of child, grandparent, sibling, stepsibling, spouse of sibling, grandchild or legal guardian, including a sick child or a spouse or live-in significant other disabled by pregnancy.<sup>282</sup>

**OKLAHOMA****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****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.<sup>283</sup> Workers who have worked 25 or more hours per week for 180 days are eligible for up to 12 weeks of leave.<sup>284</sup> The law defines family more broadly than the federal FMLA to include domestic partners.<sup>285</sup> In addition, because same-sex marriage is now legal in Oregon, same-sex married couples are covered by the law.<sup>286</sup>

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, birth mothers are eligible for an additional 12 weeks of pregnancy disability leave.<sup>287</sup>

### **Flexible Use of Sick Time**

Under the Oregon family leave law, private sector workers at firms with 25 or more employees who earn paid leave are entitled to use it for the care of a new child or a family member with a serious health condition (including pregnancy disability).<sup>288</sup>

### **Nursing Mothers' Workplace Rights**

All nursing mothers who work for employers with 25 or more workers are entitled to reasonable break time to express breast milk at work for up to 18 months after childbirth. Employers must make reasonable efforts to provide a place other than a bathroom for nursing employees to express breast milk.<sup>289</sup>

## **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 25 or more hours per week for 180 days are eligible for up to 12 weeks of leave.<sup>290</sup> The law defines family more broadly than the federal FMLA to include domestic partners.<sup>291</sup>

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, female state workers who are eligible for family and medical leave are eligible for an additional 12 weeks of pregnancy-related leave.<sup>292</sup>

### **Flexible Use of Sick Time**

As in the private sector, state workers who earn paid leave are entitled to use it for the care of a new child or a family member with a serious health condition (including pregnancy disability).<sup>293</sup>

### **Nursing Mothers' Workplace Rights**

As in the private sector, women employed by the state are entitled to reasonable break time to express breast milk at work for up to 18 months after childbirth. The state must make reasonable efforts to provide a place other than a bathroom for nursing employees to express breast milk.<sup>294</sup>

# **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 parental and pregnancy disability leave under public sector regulations than under the federal FMLA. Permanent management workers, non-represented workers and some workers covered by collective bargaining agreements are entitled to up to six months of either parental leave or pregnancy disability leave, provided they meet the federal FMLA eligibility requirements.<sup>295</sup> All other permanent workers are entitled to up to six months of parental leave and another six months of pregnancy disability leave, regardless of tenure or hours worked.<sup>296</sup>

In addition to the parental and pregnancy disability leave discussed above, commonwealth workers

also have greater access to family caregiving leave under public sector regulations than under the federal FMLA, and some have access to a longer leave for family caregiving. Permanent management workers, non-represented workers and some workers covered by collective bargaining agreements are eligible for up to six months of leave to care for a family member with a serious health condition, including a pregnancy-related disability, provided they meet the federal FMLA eligibility requirements.<sup>297</sup> All other permanent workers need only have been employed for one year or more to qualify for up to 12 weeks of such leave.<sup>298</sup>

## RHODE ISLAND

## B

### PRIVATE SECTOR WORKERS

#### Paid Family and Medical Leave

Private sector workers are entitled to up to four weeks of paid, job-protected family leave that can be used to care for a seriously ill child, spouse or other family member, or to bond with a new child.<sup>299</sup> The state's paid family leave law is an expansion of Rhode Island's Temporary Disability Insurance (TDI) program. The paid family leave program 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.

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.<sup>300</sup> The TDI program is funded through workers' payroll contributions.<sup>301</sup> Workers are eligible for up to 30 weeks of TDI payments up to a maximum payment cap.<sup>302</sup>

#### Job-Protected Family and Medical Leave

Private sector workers have access to a slightly longer family and pregnancy disability leave under state law than under the federal FMLA. Under the Rhode Island family and medical leave law, workers with one year of tenure who work an average of 30 hours or more per week are eligible for up to 13 weeks of leave in a two-year period for parental or family care.<sup>303</sup>

In addition, because Rhode Island law recognizes same-sex marriages, same-sex married couples are covered by the law.<sup>304</sup>

#### Nursing Mothers' Workplace Rights

Employers must make reasonable efforts to provide a place other than a bathroom for nursing employees to express breast milk at work while their children are infants.<sup>305</sup> Unlike most other state laws, the Rhode Island law permits, but does not require, employers to provide reasonable break time.

### STATE WORKERS

#### Paid Family and Medical Leave

Rhode Island's TDI and family leave insurance programs cover only some state workers. Governmental entities can elect to participate in the program, or state workers may choose to become subject to it through the collective bargaining process.<sup>306</sup> The law covers participating state workers in the same way it covers private sector workers.

#### Job-Protected Family and Medical Leave

As in the private sector, state workers have access to a slightly longer family and pregnancy disability leave under state law than under the federal FMLA. Under the Rhode Island family leave law, workers with one year of tenure who work an average of 30 hours or more per week are eligible

for up to 13 weeks of leave.<sup>307</sup> As applied to state workers, the definition of “family member” includes domestic partners, a definition that is broader than under the federal FMLA.<sup>308</sup>

In addition, because Rhode Island law recognizes same-sex marriages, same-sex married couples are covered by the law.<sup>309</sup>

### **Flexible Use of Sick Time**

State workers may use up to 10 paid sick days each year for the illness of an immediate family member.<sup>310</sup>

### **Nursing Mothers’ Workplace Rights**

As in the private sector, the state must make reasonable efforts to provide a place other than a bathroom to express breast milk at work while their children are infants.<sup>311</sup>

## **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 state workers do not have parental or pregnancy disability leave rights or protections beyond those provided by the federal FMLA.

### **Flexible Use of Sick Time**

State workers who earn sick time are entitled to use up to 10 days to care for an ill spouse, child, parent, sibling, legal guardian, grandparent or grandchild.<sup>312</sup>

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

## **TENNESSEE**

**D+**

### **PRIVATE SECTOR WORKERS**

#### **Job-Protected Family Leave**

Full-time workers in firms with more than 100 employees and who have at least one year of tenure are entitled to up to four months of leave “for adoption, pregnancy, childbirth and nursing an infant.”<sup>313</sup>

#### **Nursing Mothers’ Workplace Rights**

All nursing mothers are entitled to 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.<sup>314</sup>

## STATE WORKERS

### Job-Protected Family Leave

Like private sector workers in larger firms, state employees have greater family leave rights under state law than under the federal FMLA. Tennessee’s law provides full-time workers with up to four months of leave “for adoption, pregnancy, childbirth and nursing an infant.”<sup>315</sup>

### Flexible Use of Sick Time

State workers who earn sick time are entitled to use it to care for an ill immediate family member, including a spouse disabled by pregnancy.<sup>316</sup>

### Nursing Mothers’ Workplace Rights

Like private sector workers, women employed by the state are entitled to 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.<sup>317</sup>

## 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 Family 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.<sup>318</sup> The statute and the regulations are silent as to whether the leave is job-protected.

### Flexible Use of Sick Time

State workers who earn sick time are entitled to use it to “care for and assist” an immediate family member.<sup>319</sup>

### Pregnancy Accommodations

A county or municipal employer is required to make a reasonable effort to accommodate an employee who is determined by a physician to be partially physically restricted by pregnancy.<sup>320</sup>

## UTAH

## F

### PRIVATE SECTOR WORKERS

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

## STATE WORKERS

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

### Flexible Use of Sick Time

State workers who earn sick time may use it to care for a new child or a seriously ill spouse, child or parent living in the worker’s home, including a spouse recovering from pregnancy and childbirth.<sup>321</sup>

**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.<sup>322</sup> Eligible workers (those who have worked an average of 30 hours per week for one year) are entitled to up to 12 weeks of parental leave during pregnancy and following the birth or adoption of a child.<sup>323</sup>

Under a separate family leave provision, eligible workers in businesses with 15 or more employees are entitled to up to 12 weeks of leave to care for a spouse with a serious health condition, including pregnancy-related health issues.<sup>324</sup> Under Vermont's civil union law, a civil union partner has the same rights as a married "spouse" to take family leave.<sup>325</sup>

In addition, because Vermont law recognizes same-sex marriages, same-sex married couples are covered by the law.<sup>326</sup>

**Nursing Mothers' Workplace Rights**

All nursing mothers are entitled to reasonable break time to express breast milk at work for up to three years after childbirth. Employers must make a reasonable accommodation to provide a place other than a bathroom stall for nursing employees to express breast milk, unless doing so would substantially disrupt the employer's operations.<sup>327</sup>

**STATE WORKERS****Job-Protected Parental and Medical Leave**

State workers have greater parental and pregnancy disability leave rights under state law than under the federal FMLA. Vermont's public sector family leave policy provides workers 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 a child's adoption. Birth mothers are able to use accrued sick time for any period of disability prior to childbirth and for up to six weeks after childbirth.<sup>328</sup>

State workers are entitled to up to 12 weeks of family leave to care for a family member with a serious health condition, including a pregnancy-related disability.<sup>329</sup>

Under Vermont's civil union law, a civil union partner has the same rights as a married "spouse" to take family leave.<sup>330</sup> In addition, because Vermont law recognizes same-sex marriages, same-sex married couples are covered by the law.<sup>331</sup>

**Nursing Mothers' Workplace Rights**

As in the private sector, women employed by the state of Vermont are entitled to reasonable break time to express breast milk at work for up to three years after childbirth. The state must make a reasonable accommodation to provide a place other than a bathroom stall for nursing employees to express breast milk, unless doing so would substantially disrupt the employer's operations.<sup>332</sup>

**PRIVATE SECTOR WORKERS**

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

## STATE WORKERS

### Paid Family and Medical Leave

Certain female state workers, including those who participate in the state's retirement system, are eligible for up to 125 days of full or partial wage replacement for pregnancy disability/maternity leave through Virginia's short-term disability insurance system.<sup>333</sup>

In addition, certain state workers, including those who participate in the state's retirement system, are entitled to a few days per year of paid family or personal leave to address a family member's illness, death or any other need. Workers with up to one year of tenure receive 32 hours per year; workers with longer tenure receive 40 hours per year.<sup>334</sup>

## WASHINGTON

## B

### PRIVATE SECTOR WORKERS

#### Job-Protected Paid Family Leave

In 2007, Washington state enacted a paid parental leave program that has not yet gone into effect. Once implemented, the program will provide eligible workers — both mothers and fathers — up to five weeks per year of paid leave to care for a newborn or newly adopted child.<sup>335</sup> The benefit amount will be \$250 per week for full-time workers, and part-time workers will receive a prorated benefit.<sup>336</sup>

Leave taken under the family leave insurance program would run concurrently with any leave taken under the federal FMLA or the state family and medical leave law.

Employers with more than 25 workers will be required to provide job protection to any worker who takes leave under the paid parental leave program if the worker has been with the employer for one year and has worked at least 1,250 hours during the previous year.<sup>337</sup>

#### 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.<sup>338</sup> Like the federal FMLA, workers who meet state family leave eligibility requirements are entitled to up to 12 weeks of leave to care for a new child or a seriously ill spouse or partner.

In addition, because Washington law recognizes same-sex marriages, same-sex married couples are covered by the law.<sup>339</sup>

#### 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 anti-discrimination law applies to employers with eight or more employees<sup>340</sup> and covers pregnant workers regardless of tenure and number of hours worked.<sup>341</sup> Women may take job-protected leave for the entire period of a pregnancy-related disability,<sup>342</sup> and this period of leave does not count against a worker's parental leave rights under the state family and medical leave law.<sup>343</sup> This means a woman with a normal 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.<sup>344</sup>

#### Flexible Use of Sick Time

Private sector workers who earn paid time off are entitled to use it for the care of an ill child, spouse, parent, parent-in-law or grandparent. Unlike similar laws in some other states, the law does not require that paid time off be available to care for a healthy newborn or newly adopted child.<sup>345</sup>

## STATE WORKERS

### Job-Protected Paid Family Leave

Like private sector workers, state workers will be eligible to participate in Washington’s family leave insurance program once the program is implemented. State workers will be eligible for up to five weeks of paid leave upon the birth or adoption of a child.<sup>346</sup> Leave for state workers who meet the minimum tenure and hours-worked requirements will be job-protected.<sup>347</sup>

### 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 or newly adopted child.<sup>348</sup>

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.<sup>349</sup>

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.<sup>350</sup>

In addition, because Washington law recognizes same-sex marriages, same-sex married couples are covered by the law.<sup>351</sup>

### Flexible Use of Sick Time

Like private sector workers, state workers who earn paid time off are entitled to use it for the care of an ill child, spouse, parent, parent-in-law or grandparent.<sup>352</sup>

## WEST VIRGINIA

D+

## 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 workers with documented pregnancy- or childbirth-related limitations are entitled to reasonable accommodations, unless the accommodation would impose an undue hardship on the employer.<sup>353</sup> The law applies to any employer with 12 or more employees within the state for 20 or more calendar weeks during the year.<sup>354</sup>

## 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. 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 spouse, child or other immediate family member with a serious health condition.<sup>355</sup>

### Pregnancy Accommodations

Like private sector workers, state workers with documented pregnancy- or childbirth-related limitations are entitled to reasonable accommodations, unless the accommodation would impose an undue hardship on the employer.<sup>356</sup>

## PRIVATE SECTOR WORKERS

### Job-Protected Family and Medical Leave

Private sector workers have greater access to family and medical leave under state law than under the federal FMLA. The Wisconsin law applies to workers who have worked at least 1,000 hours over the preceding year<sup>357</sup> and defines family more broadly than the federal FMLA to include domestic partners.<sup>358</sup> However, state law provides less generous amounts of time off than the federal FMLA. Workers are entitled to 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 serious health condition, and up to two weeks of pregnancy-related leave in any 12-month period.<sup>359</sup>

### 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 are entitled to use it for the birth or adoption of a child or to care for an ill child, spouse, domestic partner or parent.<sup>360</sup>

## STATE WORKERS

### Job-Protected Family and Medical Leave

By regulation, permanent classified employees of the state are entitled to up to six months of unpaid maternity, paternity, adoption and pre-adoptive foster-care leave.<sup>361</sup> Other state employees are entitled to the same leave rights as private sector workers.<sup>362</sup> Workers with at least 1,000 hours of service in the preceding year 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 (up to two weeks),<sup>363</sup> including a spouse or domestic partner.<sup>364</sup> Female state workers with at least 1,000 hours of service in the preceding year may take up to two weeks of job-protected leave for pregnancy-related medical leave.<sup>365</sup>

### Flexible Use of Sick Time

State workers who earn sick time are entitled to use it for family medical or dental appointments or for the emergency care of an ill or injured child, stepchild, spouse of child, parent, stepparent, sibling or spouse of sibling, aunt, uncle, grandparent, grandchild or spouse (for up to five days per illness or injury).<sup>366</sup>

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

### Flexible Use of Sick Time

State workers who earn sick time are entitled to use it to care for the illness of an immediate family member and for disabilities due to pregnancy, childbirth and related medical conditions.<sup>367</sup>

## FEDERAL GOVERNMENT

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

### **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 child or other family member.<sup>368</sup> Regulations issued by the U.S. Office of Personnel Management authorize federal agencies to issue advanced sick time (sick time not yet earned) to federal government workers under certain circumstances. Agencies may advance up to 30 days of sick time to a worker for a disability related to pregnancy or childbirth, a serious health condition of a family member or the adoption of a child. Agencies may advance up to 13 days of sick time to a worker for the care of a family member or to accompany a family member to medical appointments.<sup>369</sup>

### **Nursing Mothers' Workplace Rights**

All women employed by the executive branch are entitled to reasonable break time and a private place other than a bathroom to express breast milk.<sup>370</sup>

# Conclusion

The United States cannot wait any longer for public policies that honor new parents and their children. Paid leave policies, more substantial access to unpaid family and medical leave, paid sick days, pregnancy accommodation laws and other family friendly policies yield benefits for workers, families, employers, communities and the economy. Despite the imperative for change and the progress states have made over the last several years, progress has been slow. Without question, the toll taken by inaction is high.

New public policies reflect the urgent need that working people have to both provide financially for their families and provide needed care. To be sure, between the first *Expecting Better* report in 2005 and this report in 2014, two states — New Jersey and Rhode Island — enacted and implemented paid family leave, joining California as national leaders. Another state — Washington — took a first step toward paid parental leave. A smattering of other policy advances expanded workers' access to unpaid family and medical leave in Colorado, Maine, Maryland, Minnesota, Oregon and Washington, to flexible sick time in Maine and Maryland, and to paid sick days in Connecticut and the District of Columbia. A number of states, including Arkansas, Colorado, Hawaii, Illinois, Indiana, Maine, New Jersey, New York, Oregon and Vermont, as well as the District of Columbia, enacted laws to protect the rights of nursing mothers in the workplace. And between 2005 and 2014, Illinois, Maryland, Minnesota, New Jersey and West Virginia passed laws requiring employers to provide reasonable accommodations to pregnant workers.

But, in aggregate, more remains the same than has changed. In the first and second editions of *Expecting Better*, just six states received grades of “A-,” “B+” or “B;” only nine states did so in this third edition. Similarly, 19 states in 2005 and 18 states in 2012 received a grade of “F”; today, 17 states received a grade of “F.” The unfortunate reality is this: Progress is slow, and this slow pace of change means that too many working families continue to struggle at the very time they should be focused on giving a child the best possible start.

America's workers and families need and expect better. If policymakers are responsive to the needs of working families, if they pay attention to the growing body of research on the impact of family friendly policies, and if they understand the breadth and depth of public support for policies that support new parents and working families, a report like this should look very different two or three years from now. At the National Partnership, we hope that our next report will paint an entirely different picture of a nation that is truly family friendly. America's families can't afford to wait.

# State-by-State Comparison of Select Policies

PRIVATE SECTOR WORKERS											STATE WORKERS***			
State	Paid Family Leave	Pregnancy Leave Through State TDI	Paid Sick Time	Unpaid Leave with Expanded Access for Workers in Smaller Businesses	Unpaid Leave Longer Than Federal FMLA	Unpaid Leave with Expanded Access for Workers with Less Time on the Job	Unpaid Leave to Care for More Than Just an Opposite-Sex Spouse	Flexible Use of Sick Time	Right to Pump that Exceeds Federal Law	Pregnancy Accommodations	Paid Family and/or Medical Leave	Unpaid Leave Longer Than Federal FMLA	Unpaid Leave with Expanded Access for Workers with Less Time on the Job	Pregnancy Accommodations
Alabama														
Alaska												YES	YES	YES
Arizona														
Arkansas									YES					
California	YES	YES		P only	P only	P only	YES	YES	YES	YES	YES****	P only	P only	YES
Colorado							YES		YES			YES		
Connecticut			YES	P only	YES	YES		YES	YES	YES		YES	YES	YES
Delaware														
District of Columbia			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	
Kansas														
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				P only								YES	YES	
Michigan														
Minnesota				YES		YES		YES	YES	YES			YES	YES
Mississippi														
Missouri														
Montana				P only									YES	
Nebraska														
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	
North Carolina												YES	YES	
North Dakota														
Ohio											YES			
Oklahoma														
Oregon				YES	YES	YES	YES	YES	YES			YES	YES	
Pennsylvania												YES	YES	
Rhode Island	YES	YES			YES				YES		YES****	YES		
South Carolina														
South Dakota														
Tennessee					YES				YES			YES		
Texas													YES	YES
Utah														
Vermont				YES			YES		YES			YES		
Virginia											YES			
Washington	*			P only	P only	P only	YES	YES			*	YES	YES	
West Virginia										YES			YES	YES
Wisconsin						YES	YES	YES				YES	YES	
Wyoming														
<b>Total</b>	<b>3</b>	<b>5</b>	<b>2</b>	<b>16</b>	<b>8</b>	<b>15</b>	<b>10</b>	<b>10</b>	<b>16</b>	<b>10</b>	<b>7</b>	<b>18</b>	<b>24</b>	<b>11</b>

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

\* Washington passed a program but it has not been implemented.

\*\* Illinois' pregnancy accommodation law, which has passed both houses of the legislature and is awaiting the Governor's signature, would go into effect on January 1, 2015.

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

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- 77 States that have expanded the definition of family in their family leave law to allow care for a domestic partner, same-sex spouse, or child of a domestic partner or same-sex spouse were awarded points; no points were awarded to states that legalized same-sex marriage but did not directly expand their family leave law.
- 78 States that provide both family and medical leave to workers in smaller businesses are given points under the "family leave" category to avoid double counting.
- 79 Massachusetts and Montana call this type of leave "maternity" leave and permit mothers time to care for their new child (rather than simply just to address their own medical issues) during their leave. Those states are counted in this category because their laws only apply to women.
- 80 States that provide both family and medical leave to workers with less time on the job are given points under the "family leave" category to avoid double counting, except where birth mothers are provided two "buckets" of leave that allow them to take a longer leave than a biological father or an adoptive parent.
- 81 States that provide a longer period of both family and medical leave are given points under the "family leave" category to avoid double counting.
- 82 In the first edition of *Expecting Better*, states were awarded points if they provided job-protected pregnancy disability leave for a "reasonable" or unspecified length of time. A review of relevant case law reveals that the reasonable length of leave permitted is typically less than the 12 weeks permitted by the federal FMLA. Therefore, points were not awarded to these states in this second edition.
- 83 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 places of employment 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.
- 83 Alaska Stat. § 39.20.500(b).
- 84 Alaska Stat. § 39.20.520.
- 85 Ariz. Admin. Code § R2-5A-B603.
- 86 Ariz. Admin. Code § R2-5-413, *repealed by exempt rulemaking in* 18 Ariz. Admin. Reg. 2782 (Nov. 2, 2012).
- 87 101 Ky. Admin. Regs. 2:102, 3:015, *amended by* 40 Ky. Admin. Reg. 2365, 2370 (August 2013).
- 88 Ark. Code § 11-5-116.
- 89 Ibid.
- 90 Calif. Unemp. Ins. Code §§ 3300-3306.
- 91 Calif. Unemp. Ins. Code §§ 2625-2630.
- 92 State of California Employment Development Department. *FAQ — Pregnancy*. Retrieved 17 April 2014, from [http://edd.ca.gov/Disability/FAQ\\_DI\\_Pregnancy.htm](http://edd.ca.gov/Disability/FAQ_DI_Pregnancy.htm)
- 93 Calif. Fam. Code § 297.5; Cal. Gov’t Code § 12945.2.
- 94 *Perry v. Schwarzenegger*, 704 F.Supp.2d 921, 1003-04 (N.D. Cal. 2010), appeal dismissed for lack of standing by *Hollingsworth v. Perry*, 133 S. Ct. 2652, 2668 (2013).
- 95 Calif. Gov’t Code §§ 12926, 12945.
- 96 Calif. Lab. Code § 233.
- 97 Calif. Lab. Code §§ 1030-1031.
- 98 Cal. Gov’t Code § 12945.
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- 100 State of California Employment Development Department. (2011, September). *State Disability Insurance Program*. Retrieved 17 April 2014, from [http://www.edd.ca.gov/pdf\\_pub\\_ctr/de8714c.pdf](http://www.edd.ca.gov/pdf_pub_ctr/de8714c.pdf)
- 101 See note 93.
- 102 See note 94.
- 103 See note 95.
- 104 See note 96.
- 105 See note 97.
- 106 See note 95.
- 107 Colo. Rev. Stat. §§ 8-13.3-203, 14-15-103(5).
- 108 Colo. Rev. Stat. §§ 8-13.5-103(1), 8-13.5-104.
- 109 4 Colo. Code Regs. § 801-1:5(5-21).
- 110 See note 107.
- 111 4 Colo. Code Regs. § 801-1:5(5-5).
- 112 See note 108.
- 113 Connecticut employees who work for employers with between 50 and 74 employees would only receive federal FMLA protection.
- 114 Conn. Gen. Stat. § 31-51kk(1).
- 115 Conn. Gen. Stat. § 31-51ll.
- 116 Conn. Gen. Stat. §§ 31-51kk, 46b-20, 46b-38rr.
- 117 Conn. Gen. Stat. § 46a-60(a)(7).
- 118 Conn. Gen. Stat. § 46a-51.
- 119 Conn. Gen. Stat. §§ 31-57r to 31-57 t.
- 120 Conn. Gen. Stat. § 31-51pp(c)(1).
- 121 Conn. Gen. Stat. § 31-40w.
- 122 Conn. Gen. Stat. §§ 46a-60(a)(7), 46a-51(9), (10).
- 123 Conn. Gen. Stat. §§ 5-196(20), 5-248(c). Some employees do not have any tenure requirement.
- 124 Conn. Gen. Stat. § 5-248a(a).
- 125 See note 116.
- 126 See note 117.
- 127 See note 121.
- 128 See note 122.
- 129 Del. Code tit. 13 §§ 101, 129; U.S. Department of Labor, Wage and Hour Division. (2013, July). *Field Operations Handbook – Chapter 39: The Family and Medical Leave Act (Insert 1861)*. Retrieved 15 May 2014, from [http://www.dol.gov/whd/FOH/FOH\\_Ch39.pdf](http://www.dol.gov/whd/FOH/FOH_Ch39.pdf)
- 130 Ibid.
- 131 Del. Code. tit. 14, § 1333; tit. 29, §§ 5116(b), 5120.
- 132 D.C. Code § 32-516.
- 133 D.C. Code §§ 32-501(1), 32-502(a).
- 134 D.C. Code § 32-503(a).
- 135 See note 132.
- 136 D.C. Code § 32-501(4).
- 137 D.C. Code § 46-401.
- 138 D.C. Code § 32-131.02(b).
- 139 D.C. Code § 32-131.02(a).
- 140 2014 D.C. Laws 20-89 (Act 20-259).
- 141 D.C. Code §§ 2-1401.02(10), 2-1402.82(d).
- 142 See note 133.
- 143 See note 134.
- 144 See note 132.
- 145 See note 137.
- 146 D.C. Code § 46-401.
- 147 D.C. Code §§ 32-131.01(3)(B), 32-131.02(b).
- 148 See note 141.
- 149 Fla. Stat. § 110.221.
- 150 Haw. Rev. Stat. §§ 392-3, 392-21, 392-23, 392-25.
- 151 Haw. Rev. Stat. §§ 392-3, 392-41.
- 152 Haw. Rev. Stat. § 392-43.
- 153 Haw. Rev. Stat. §§ 398-1, 398-3.
- 154 Haw. Rev. Stat. § 398-3.
- 155 Haw. Rev. Stat. § 572-1.
- 156 Haw. Code R. § 12-46-108; Haw. Rev. Stat. § 378-1.
- 157 Haw. Rev. Stat. §§ 398-2, 398-4(c).
- 158 Haw. Rev. Stat. §§ 378-91, 378-92.
- 159 Haw. Code R. §§ 12-46-107, 12-46-1; Haw. Rev. Stat. § 378-1.
- 160 Haw. Rev. Stat. §§ 392-3, 392-21, 392-23.
- 161 See note 153.
- 162 Ibid.
- 163 See note 155.
- 164 Haw. Code R. § 12-46-108.
- 165 Haw. Rev. Stat. § 398-4(c).
- 166 See note 158.
- 167 See note 159.
- 168 2013 Ill. Legis. Serv. P.A. 98-597 (West); U.S. Department of Labor, Wage and Hour Division. (2013, July). *Field Operations Handbook – Chapter 39: The Family and Medical Leave Act (Insert 1861)*. Retrieved 15 May 2014, from [http://www.dol.gov/whd/FOH/FOH\\_Ch39.pdf](http://www.dol.gov/whd/FOH/FOH_Ch39.pdf)
- 169 820 Ill. Comp. Stat. 260/5, 260/10, 260/15.
- 170 775 Ill. Comp. Stat. 5/2-101(b), 5/2-102(J). H.B. 8, 98th Gen. Ass., 2d Reg. Sess. (Ill. 2014).
- 171 Ill. Admin. Code tit. 80 § 303.130.
- 172 Ill. Admin. Code tit. 80 § 303.148.
- 173 2013 Ill. Legis. Serv. P.A. 98-597 (West).
- 174 See note 169.
- 175 See note 170.
- 176 Ind. Code §§ 22-2-14-1, 22-2-14-2(a).
- 177 Ind. Code § 5-10-6-2(a).
- 178 Iowa Code §§ 216.6(2)(e), (6)(a).
- 179 *Varnum v. Brien*, 763 N.W.2d 862, 906-07 (Iowa 2009); U.S. Department of Labor, Wage and Hour Division. (2013, July). *Field Operations Handbook – Chapter 39: The Family and Medical Leave Act (Insert 1861)*. Retrieved 15 May 2014, from [http://www.dol.gov/whd/FOH/FOH\\_Ch39.pdf](http://www.dol.gov/whd/FOH/FOH_Ch39.pdf)
- 180 Iowa Code §§ 216.2(7), 216.6(2)(e).
- 181 See note 179.
- 182 Ky. Rev. Stat. §§ 337.010(1)(e), 337.015.
- 183 101 Ky. Admin. Regs. 2:102 § 2(3), 3:015 § 2(3).
- 184 La. Rev. Stat. § 23:341(A).
- 185 La. Rev. Stat. § 23:342(2)(b).
- 186 La. Rev. Stat. § 23:341(B)(1).
- 187 La. Rev. Stat. §§ 23:342(4), 23:341.
- 188 See note 185.
- 189 See note 186.
- 190 La. Rev. Stat. §§ 23:342(4), 23:341, 23:302.
- 191 Me. Rev. Stat. tit. 26 § 844(1).
- 192 Me. Rev. Stat. tit. 26 §§ 843(4), (8).
- 193 See note 191.
- 194 Me. Rev. Stat. tit. 19-A § 650-A.
- 195 Me. Rev. Stat. tit. 26 § 636.
- 196 Me. Rev. Stat. tit. 26 §§ 603(1)(A), 603(3)(D), 604.
- 197 See note 191.
- 198 See note 192.
- 199 See note 191.
- 200 See note 194.
- 201 See note 195.
- 202 Me. Rev. Stat. tit. 26 §§ 603(1)(A), 604.
- 203 2014 Md. Laws Ch. 334 (H.B. 1026).
- 204 Md. Code. Fam. Law §§ 2-201, 2-202; U.S. Department of Labor, Wage and Hour Division.

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- 205 Md. Code, Lab. & Empl. § 3-802.
- 206 Md. Code, State Gov't §§ 20–609, 20-601.
- 207 See note 204.
- 208 Md. Code, State. Pers. & Pens. §§ 9-501, 9-505.
- 209 See note 206.
- 210 Mass. Gen. Laws ch. 149, § 105D; ch. 151B, § 1(5).
- 211 Mass. Gen. Laws ch. 149, § 105D.
- 212 *Goodridge v. Dep't of Pub. Health*, 798 N.E.2d 941, 969 (Mass. 2003); U.S. Department of Labor, Wage and Hour Division. (2013, July). *Field Operations Handbook – Chapter 39: The Family and Medical Leave Act (Insert 1861)*. Retrieved 15 May 2014, from [http://www.dol.gov/whd/FOH/FOH\\_Ch39.pdf](http://www.dol.gov/whd/FOH/FOH_Ch39.pdf)
- 213 See note 210.
- 214 See note 211.
- 215 The Commonwealth of Massachusetts Human Resources Division. (2009, January). *Enhanced Family and Medical Leave Guide* (pp. 5, 8). Retrieved 25 April 2014, from <http://www.mass.gov/anf/docs/hrd/policies/fmla/guide-employees.doc>
- 216 See note 212.
- 217 Minn. Stat. § 181.940 (Subd. 3).
- 218 Minn. Stat. §§ 181.940 (Subd. 2), 181.941, amended by 2014 Minn. Sess. Law Serv. Ch. 239 (H.F. 2536); Minnesota Office of the Revisor of Statutes (n.d.). *Minnesota Session Laws*. Retrieved 16 June 2014, from <https://www.revisor.mn.gov/laws/?view=info>
- 219 Minn. Stat. §§ 517.01, 517.201; U.S. Department of Labor, Wage and Hour Division. (2013, July). *Field Operations Handbook – Chapter 39: The Family and Medical Leave Act (Insert 1861)*. Retrieved 15 May 2014, from [http://www.dol.gov/whd/FOH/FOH\\_Ch39.pdf](http://www.dol.gov/whd/FOH/FOH_Ch39.pdf)
- 220 Minn. Stat. §§ 181.9413, 181.940, amended by 2014 Minn. Sess. Law Serv. Ch. 239 (H.F. 2536); Minnesota Office of the Revisor of Statutes (n.d.). *Minnesota Session Laws*. Retrieved 16 June 2014, from <https://www.revisor.mn.gov/laws/?view=info>
- 221 Minn. Stat. § 181.939.
- 222 Minn. Stat. § 181.9414.
- 223 See note 218.
- 224 See note 219.
- 225 See note 220.
- 226 See note 221.
- 227 See note 222.
- 228 Mo. Rev. Stat. § 105.271; Mo. Code. Regs. tit. 1 § 20-5.020(2)(K).
- 229 Mont. Code §§ 49-2-101(10)-(11), 49-2-310, 49-2-311.
- 230 Mont. Code §§ 49-2-310(2), (4); 49-2-311.
- 231 Mont. Code §§ 49-2-101(10)-(11), 49-2-310, 49-2-311.
- 232 Mont. Code §§ 49-2-310(2), 49-2-311.
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- 234 Mont. Code § 2-18-606; see also *ibid*.
- 235 Mont. Code § 39-2-216.
- 236 Mont. Code § 39-2-215.
- 237 Nev. Admin. Code §§ 284.558, 284.5235, 284.52315.
- 238 N.H. Rev. Stat. §§ 354-A:2(VI)-(VII), 354-A:7(VI)(a).
- 239 N.H. Rev. Stat. § 354-A:7(VI)(b).
- 240 N.H. Rev. Stat. § 457:1-a; U.S. Department of Labor, Wage and Hour Division. (2013, July). *Field Operations Handbook – Chapter 39: The Family and Medical Leave Act (Insert 1861)*. Retrieved 15 May 2014, from [http://www.dol.gov/whd/FOH/FOH\\_Ch39.pdf](http://www.dol.gov/whd/FOH/FOH_Ch39.pdf)
- 241 See note 238.
- 242 See note 239.
- 243 See note 240.
- 244 N.H. Code Admin. R. Pers. 1204.05(c).
- 245 N.J. Stat. §§ 43:21-27(k),(o), 43:21-39(b)(2).
- 246 N.J. Stat. §§ 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 28 April 2014, from [http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp\\_pregnancy.html](http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp_pregnancy.html)
- 247 State of New Jersey Department of Labor and Workforce Development. (n.d.). *Cost to Worker — State Plan*. Retrieved 28 April 2014, from [http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp\\_cost.html](http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp_cost.html)
- 248 State of New Jersey Department of Labor and Workforce Development. (n.d.). *Family Leave Insurance — Frequently Asked Questions (#41)*. Retrieved 28 April 2014, from [http://lwd.dol.state.nj.us/labor/fli/content/fli\\_faq.html#41](http://lwd.dol.state.nj.us/labor/fli/content/fli_faq.html#41)
- 249 State of New Jersey Department of Labor and Workforce Development. (n.d.). *Pregnancy — Temporary Disability Benefits for Pregnancy Related Disabilities*. Retrieved 28 April 2014, from [http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp\\_pregnancy.html](http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp_pregnancy.html)
- 250 N.J. Stat. § 34:11B-3(f); New Jersey Office of the Attorney General. (2011, April). *Civil Rights Fact Sheet: The New Jersey Family Leave Act*. Retrieved 28 April 2014, from <http://www.state.nj.us/lps/dcr/downloads/flafactsheet.pdf>
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- 252 N.J. Stat. §§ 34:11B-3(h), (j), 37:1-31.
- 253 New Jersey Office of the Attorney General. (2011, April). *Civil Rights Fact Sheet: The New Jersey Family Leave Act*. Retrieved 28 April 2014, from <http://www.state.nj.us/lps/dcr/downloads/flafactsheet.pdf>
- 254 *Garden State Equality v. Dow*, 434 N.J. Super. 163, 218-19 (N.J. Super. Ct. Law Div. 2013), *appeal withdrawn*.
- 255 N.J. Stat. § 10:5-12(s).
- 256 N.J. Stat. § 10:5-5.
- 257 N.J. Stat. §§ 43:21-27(a)(1),(k), (o), 43:21-38.
- 258 N.J. Stat. § 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).
- 259 N.J. Stat. § 34:11B-3(e).
- 260 See note 254.
- 261 N.J. Admin. Code § 4A:6-1.3(g)(3).
- 262 N.J. Stat. §§ 10:5-12(s), 10:5-5.
- 263 *Griego v. Oliver*, 316 P.3d 865, 889 (N.M. 2013); U.S. Department of Labor, Wage and Hour Division. (2013, July). *Field Operations Handbook – Chapter 39: The Family and Medical Leave Act (Insert 1861)*. Retrieved 15 May 2014, from [http://www.dol.gov/whd/FOH/FOH\\_Ch39.pdf](http://www.dol.gov/whd/FOH/FOH_Ch39.pdf)
- 264 N.M. Stat. §§ 28-1-2, 28-20-2.
- 265 See note 263.
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# Expecting Better for All Working Families

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

## Introduction

Demographic and economic changes — greater longevity, people working until older ages to make ends meet, rising incidents of chronic health conditions among young and old alike, stagnant wages and decimated retirement accounts — make updating the nation’s work-and-family policies more urgent than ever. 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 work responsibilities while caring for a special-needs or chronically ill child; an ill parent, spouse or domestic partner; or even an ill sibling, grandparent, grandchild or in-law. Workers also have routine caregiving needs, such as attending parent-teacher conferences during work hours or accompanying a parent to a medical appointment.

The primary focus of *Expecting Better* is workplace supports for new and expecting parents, but it is also important to recognize working families' critical need for public policies that go beyond the federal Family and Medical Leave Act (FMLA) — policies that help workers meet a more 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 to help workers 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 leave to care for family members other than the family members 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 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 ill or disabled family members but are once again looking and available for work.

## Millions of Working Americans Provide Unpaid Family Care – and the Demand Is Growing

There is a growing need for laws and policies that recognize the needs of working family caregivers. Sixty-six million people in the United States — nearly one in three adults — are unpaid family caregivers.<sup>1</sup> The majority of family caregivers work outside the home, and seven in 10 have been employed at some point while providing care.<sup>2</sup> Most family caregivers assist parents or older relatives,<sup>3</sup> but one in seven provides assistance to a child with special needs.<sup>4</sup> One-third of family caregivers provide care for more than one person, frequently an adult and a child.<sup>5</sup>

Improving policies to support caregivers is a 21st century imperative. The population is aging: Over the next 25 years, the population of adults 65 and older is expected to double.<sup>6</sup> 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: they have a parent age 65 or older and are either raising a young child or financially supporting a grown child.<sup>7</sup>

The care provided by unpaid family caregivers of adults is valued at an estimated \$450 billion per year<sup>8</sup> — a cost that would otherwise be shouldered by the health care system and taxpayers.

Instead, the care is provided at a steep price to caregivers themselves. Already, approximately one-third of caregivers providing eldercare end up leaving the workforce or reducing the number of hours they work — taking a financial toll on their current economic stability and impacting their long-term retirement security.<sup>9</sup> Workers who leave the workforce to care for a parent lose an average of more than \$300,000 in wages and benefits over their lifetimes.<sup>10</sup> In addition, the stress of caregiving takes a toll on their health and well-being. Updating workplace policies to support these workers is vital to their economic security and well-being and that of their families.

## Workers Need Public Policies to Manage the Dual Demands of Work and Caregiving

Working families need public policies that recognize their family responsibilities because employers' policies often fail to match working caregivers' needs. For example, one in five family caregivers reports having had to take a leave of absence from work at some point while caregiving.<sup>11</sup> Yet, according to government data, the overwhelming majority of workers do not have paid family leave that can be used for such purposes.<sup>12</sup>

Beyond access to paid leave, caregivers urgently need flexibility in scheduling: Two-thirds 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.<sup>13</sup> 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 10 percent of employers allow all workers to change their start or end times on short notice.<sup>14</sup>

The mismatch between working caregivers' needs and workplace policies puts families' economic security at risk. 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.

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**The average worker 50 years of age or older who leaves the workforce to take care of a parent will lose more than \$300,000 in earnings 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.*

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## State Family and Medical Leave Innovations

Just as many states have improved upon federal FMLA rights for new and expecting parents, some states have recognized a broader range of family care responsibilities than those covered by the FMLA.

As shown below, 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 an ill child, spouse, parent or same-sex partner. Rhode Island offers four weeks of paid family leave for working family caregivers, with job protection. Both California and Rhode Island 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 (effective July 1, 2014), and Rhode Island's law as adopted included grandparents and parents-in-law.

Connecticut and the District of Columbia require many employers to provide paid sick time to care for ill family members or family members in need of medical care. Minnesota recently expanded its existing law on the flexible use of sick time (effective August 1, 2014) to require that employers who provide paid sick time must allow workers to be able to use that time to care for grandchildren and parents-in-law, joining other states that have similar policies in place.

## Family and Medical Leave Policies

Federal law provides some protections for working 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 workers with leave from work, working caregivers also need public policies that will provide them more control over their schedules, more flexibility in work hours and shift start and end times, and the ability to refuse overtime so that they can meet child care, eldercare and other family responsibilities.

### The Federal Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) addresses some of the key challenges working 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.<sup>15</sup>

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 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.<sup>16</sup>

New Department of Labor survey research shows that the FMLA has been a tremendous help to workers without placing significant burdens on employers. Ninety percent of worksites reported that complying with the FMLA has had a positive effect or no noticeable effect on employees and their business. In fact, 37 percent of worksites covered by the FMLA reported that compliance with the FMLA has had a "positive effect" on "employee productivity, absenteeism, turnover, career advancement and morale, as well as the business' profitability" while only eight percent reported a negative effect.<sup>17</sup> Even the law's intermittent leave provision, which employers thought would cause significant challenges, does not pose difficulties for most employers. Most covered worksites reported that, to the extent intermittent leave has had an impact on their workplace, the impact has been more positive than negative for both profitability (15 percent positive, three percent negative) and productivity (16 percent positive, six percent negative).<sup>18</sup>

### 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 is entitled 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.<sup>19</sup> The challenge with these provisions is that public awareness, even among military families, is very low. More must be done to ensure that workers know about and can exercise these rights when the need arises.

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## Where the FMLA Falls Short

As discussed in *Expecting Better*, only about six in 10 workers in the United States are covered by the FMLA.<sup>20</sup> 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 haven't been with the same employer for at least a year, are not eligible for leave under the law. These requirements exempt about 44 percent of the private sector workforce or about 49 million private sector workers.<sup>21</sup> A recent analysis found that dropping the employer-size threshold would make about 34 million more private sector workers eligible for FMLA protections.<sup>22</sup>

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 that falls outside the FMLA's protection, including parents-in-law (eight percent), grandparents (eight percent), siblings (five percent) and other relatives (11 percent).<sup>23</sup> Although the law covers caregiving for spouses, it does not cover care for domestic partners or same-sex spouses, except in states that recognize same-sex marriage. 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"

LGBT families are moving closer to having FMLA protections. In 2010, the Department of Labor (DOL) issued an Administrator's Interpretation of the FMLA's definition of "parent," making clear that family members may qualify for FMLA leave to care for a child if they stand *in loco parentis* ("in the place of a parent") to that child, regardless of whether they are the child's biological or adoptive parent.<sup>24</sup> This clarification helped to ensure that same-sex partners, grandparents and others who provide daily care or financial support to a child will be able to use FMLA leave to care for that child.

More recently, after the United States Supreme Court's decision in *United States v. Windsor*, the DOL Wage and Hour Division issued a memorandum stating that same-sex couples who are married under the laws of the state in which they reside are entitled to the same FMLA protections as opposite-sex married couples with respect to taking leave to care for a seriously ill spouse.<sup>25</sup>

DOL is expected soon to issue a proposed rule to codify FMLA rights for same-sex couples.<sup>26</sup> Advocates are urging that the rule adopt a "place of celebration" standard so that any couple who is lawfully married under the law of any state in the nation is eligible to take FMLA leave to care for a seriously ill same-sex spouse, even if the couple lives in a state that does not recognize same sex marriage.<sup>27</sup>

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.

Nine 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.

## PAID FAMILY LEAVE AND SICK DAYS

STATE	PAID LEAVE POLICY
California	Provides up to six weeks of caregiving leave at 55 percent wage replacement, up to a maximum cap, to workers caring for a child, parent, spouse, domestic partner or, as of July 1, 2014, a grandparent, grandchild or sibling with a serious health condition <sup>28</sup>
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 <sup>29</sup>
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 <sup>30</sup>
District of Columbia	Requires employers to provide most workers with a limited number of paid sick days each year that can be used, among other things, to care for an ill spouse, domestic partner, parent, parent-in-law, child and child's spouse, grandchild and 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; to take these family members to a medical appointment; or to assist a family member who is a victim of stalking, domestic violence or sexual abuse <sup>31</sup>
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, domestic partner, minor child or adult child incapable of self-care because of mental or physical disability, to take these family members to a medical appointment, or to address the impacts of domestic violence or sexual assault <sup>32</sup>

## 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 partner and child of such partner; stepparent <sup>33,34</sup>
Colorado	Civil-union partner; <sup>35</sup> domestic partner <sup>36</sup>
Connecticut	Civil-union partner; <sup>37</sup> parent-in-law; <sup>38</sup> stepparent <sup>39</sup>
Hawaii	Non-dependent adult child; <sup>40</sup> grandparent; <sup>41</sup> parent-in-law; <sup>42</sup> grandparent-in-law; <sup>43</sup> stepparent; <sup>44</sup> reciprocal beneficiary <sup>45</sup>
Maine	Domestic partner and child of domestic partner; <sup>46</sup> non-dependent adult child; <sup>47</sup> sibling who lives with employee <sup>48</sup>
New Jersey	Civil-union partner and child of civil-union partner; <sup>49</sup> parent-in-law; <sup>50</sup> stepparent <sup>51</sup>
Oregon	Domestic partner and child of domestic partner; <sup>52</sup> non-dependent adult child; <sup>53</sup> grandparent; <sup>54</sup> grandchild; <sup>55</sup> parent-in-law <sup>56</sup>
Rhode Island	Non-dependent adult child; <sup>57</sup> parent-in-law <sup>58</sup>
Vermont	Civil-union partner and child of civil-union partner; <sup>59</sup> non-dependent adult child; <sup>60</sup> parent-in-law <sup>61</sup>
Washington	Registered domestic partner and child of domestic partner <sup>62</sup>
Wisconsin	Registered or unregistered domestic partner; <sup>63</sup> parent-in-law <sup>64</sup>
District of Columbia	Person related by blood, legal custody or marriage; <sup>65</sup> child who lives with employee and for whom employee permanently assumes and discharges parental responsibility; <sup>66</sup> person with whom employee lives and maintains a committed relationship <sup>67</sup>

## STATE FAMILY LEAVE LAWS THAT PERMIT ADDITIONAL USES FOR LEAVE

STATE	ADDITIONAL USES
Maine	Death of employee's family member if that family member is a servicemember killed while on active duty <sup>68</sup>
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 <sup>69</sup>

## "SMALL NECESSITIES" LAWS

STATE	EMPLOYERS COVERED, BY SIZE	AVAILABLE LEAVE	PERMISSIBLE USES
California	25 or more employees <sup>70</sup>	40 hours per year <sup>71</sup>	To participate in a child's school activities <sup>72</sup>
Colorado	50 or more employees <sup>73</sup>	18 hours per year <sup>74</sup>	To attend an academic activity for or with a child <sup>75</sup>
Illinois	Any size <sup>76</sup>	8 hours per year <sup>77</sup>	To attend school conferences or a child's classroom activities <sup>78</sup>
Massachusetts	50 or more employees <sup>79</sup>	24 hours per year <sup>80</sup>	To participate in a child's school activities, or to accompany a child or elderly relative to medical or dental appointments <sup>81</sup>
Minnesota	Any size <sup>82</sup>	16 hours per year <sup>83</sup>	To attend a child's school conferences or school-related activities, or to observe and monitor child care <sup>84</sup>
Nevada	50 or more employees <sup>85</sup>	4 hours per year, per child <sup>86</sup>	To attend parent-teacher conferences, school-related activities or school-sponsored events, or to volunteer at a child's school <sup>87</sup>
North Carolina	Any size <sup>88</sup>	4 hours per year <sup>89</sup>	To attend or otherwise be involved at a child's school <sup>90</sup>
Rhode Island	50 or more employees <sup>91</sup>	10 hours per year <sup>92</sup>	To attend a child's school conferences or other school-related activities <sup>93</sup>
Vermont	15 or more employees <sup>94</sup>	24 hours per year <sup>95</sup>	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 <sup>96</sup>
District of Columbia	Any size <sup>97</sup>	24 hours per year <sup>98</sup>	To attend or participate in a child's school-related events <sup>99</sup>

## Modernizing Unemployment Insurance Programs to Protect Caregivers

### FEDERAL UNEMPLOYMENT INSURANCE FUNDS AND THE RECOVERY ACT

Too often, workers lose or need to leave their jobs when serious family caregiving needs arise. Until recently, 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 tend to deny benefits to workers who voluntarily leave their jobs. 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 type of modernization was to define “good cause” for leaving employment to include certain compelling family reasons. The incentives increased the number of states offering unemployment benefits to workers who lose their jobs due to a family member’s illness or disability, bringing the number of states that offer such benefits 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 an immediate family member (parent, child, spouse, sibling, grandparent or grandchild) with a disability or illness <sup>100</sup>
Arizona	The illness of an immediate family member (spouse, parent, child, sibling or any other person with a similar relationship to the worker) or providing care for a family member <sup>101</sup>
Arkansas	The illness, injury, pregnancy or disability of an immediate family member (spouse, child, parent, sibling, grandchild or grandparent) <sup>102</sup>
California	Caring for an elderly family member or a family member with a serious physical or mental illness <sup>103</sup>
Colorado	An immediate family member (spouse, civil-union partner, parent or minor child) who is suffering from an illness or disability <sup>104</sup>
Connecticut	Caring for a spouse, child or parent with an illness or disability <sup>105</sup>
Delaware	Caring for a spouse, minor child or parent with an illness or disability <sup>106</sup>
Hawaii	The illness or disability of an immediate family member <sup>107</sup>
Illinois	Caring for a spouse, child or parent who is in poor physical or mental health or is mentally or physically disabled <sup>108</sup>
Maine	The illness or disability of an immediate family member <sup>109</sup>
Minnesota	Providing necessary care because of the illness, injury or disability of an immediate family member (spouse, parent, stepparent, grandparent, child, stepchild or grandchild) <sup>110</sup>
Nevada	Providing care for an immediate family member (spouse, parent, domestic partner, grandparent, sibling or child) who is ill or has a disability <sup>111</sup>
New Hampshire	The illness or disability of an immediate family member <sup>112</sup>
New York	The illness or disability of an immediate family member <sup>113</sup>
Oklahoma	The illness or disability of an immediate family member (spouse, parent or minor child) <sup>114</sup>
Oregon	The illness or disability of an immediate family member (spouse, domestic partner, parent or minor child) <sup>115</sup>
Rhode Island	Caring for an immediate family member (spouse, parent, parent-in-law or minor child) due to illness or disability <sup>116</sup>
South Carolina	The illness or disability of an immediate family member (spouse, parent or minor child) <sup>117</sup>
Texas	The illness of a minor child or terminal illness of a spouse where reasonable alternative care is not available <sup>118</sup>
Washington	The illness or disability of an immediate family member <sup>119</sup>
Wisconsin	The illness or disability of an immediate family member (parent, spouse, child or any other person for whom the employee is and has been the source of care) <sup>120</sup>
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 <sup>121</sup>

## What's Next?

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

## Endnotes to Special Section

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- 3 Ibid, p. 18.
- 4 Ibid, p. 15.
- 5 Ibid, p. 14.
- 6 Centers for Disease Control and Prevention. (2013). *The State of Aging and Health in America 2013*. Retrieved 13 May 2014, from [http://www.cdc.gov/features/agingandhealth/state\\_of\\_aging\\_and\\_health\\_in\\_america\\_2013.pdf](http://www.cdc.gov/features/agingandhealth/state_of_aging_and_health_in_america_2013.pdf)
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- 8 Feinberg, L., et al. (2011). *Valuing the Invaluable: 2011 Update*. AARP Public Policy Institute Publication. Retrieved 13 May 2014, from <http://assets.aarp.org/rgcenter/ppi/ltc/i51-caregiving.pdf>
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- 10 Ibid.
- 11 See note 1, p. 54.
- 12 U.S. Bureau of Labor Statistics (2013, September). *Employee Benefits in the United States National Compensation Survey: Employee Benefits in the United States, March 2013 (Table 32)*. Retrieved 24 April 2014, from <http://www.bls.gov/ncs/ebs/benefits/2013/ebbl0052.pdf>
- 13 See note 1, p. 54.
- 14 Refers to employers with 50 or more employees. Matos, K., & Galinsky, E. (2014). *2014 National Study of Employers*. Families and Work Institute & Society for Human Resource Management Publication. Retrieved 14 May 2014, from <http://familiesandwork.org/downloads/2014NationalStudyOfEmployers.pdf>
- 15 A "serious health condition" is defined at 29 C.F.R. § 825.113. The FMLA only covers caregiving leaves for children under certain circumstances. FMLA leave is available to parents to care for minor children and for adult children with disabilities. An employer is not required to provide FMLA leave to workers to care for a previously healthy but now seriously ill adult child unless that adult child has a disability. 29 C.F.R., § 825.122(d).
- 16 Family and Medical Leave Act of 1993, 29 C.F.R. § 825.124.
- 17 Klerman, J., Daley, K., & Pozniak, A. (2012, September 7). *Family and Medical Leave in 2012: Technical Report* (p. 157). Abt Associates Publication. Retrieved 13 May 2014, from <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>
- 18 Ibid.
- 19 For more information on both of these provisions, see U.S. Department of Labor. (2013, February). *Fact Sheet #28M: The Military Family Leave Provisions under the Family and Medical Leave Act*. Retrieved 13 May 2014, from <http://www.dol.gov/whd/regs/compliance/whdfs28m.htm>
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- 21 Jorgensen, H., & Appelbaum, E. (2014). *Expanding Federal Family and Medical Leave Coverage: Who Benefits from Changes in Eligibility Requirements?* Center for Economic and Policy Research Publication. Retrieved 13 May 2014, from <http://www.cepr.net/index.php/publications/reports/expanding-federal-family-medical-leave-coverage>
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- 27 Lambda Legal. (n.d.). *The Supreme Court Ruling on the Defense of Marriage Act: What it Means* (p. 2). Retrieved 22 May 2014, from [http://www.lambdalegal.org/sites/default/files/publications/downloads/fs\\_post-doma-summary-2013.pdf](http://www.lambdalegal.org/sites/default/files/publications/downloads/fs_post-doma-summary-2013.pdf)
- 28 Cal. Unemp. Ins. Code § 3301(a)(1).
- 29 N.J. Stat. Ann. §§ 43:21-27, 43:21-39, 43:21-40.
- 30 R.I. Gen. Laws §§ 28-41-34, 28-41-35.
- 31 D.C. Code § § 32-131.01(4), 32-131.02(b).
- 32 Conn. Gen. Stat. §§ 31-57r to 31-57t.
- 33 Calif. Fam. Code § 297.5.
- 34 Calif. Gov't Code § 12945.2(c)(7).
- 35 Colo. Rev. Stat. § 8-13.3-203(1).
- 36 Ibid.
- 37 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-38rr. 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 spouse or the child of a same-sex spouse.
- 38 Conn. Gen. Stat. § 31-51kk(7).
- 39 Ibid.
- 40 Haw. Rev. Stat. § 398-1.
- 41 Ibid.
- 42 Ibid.
- 43 Ibid.
- 44 Ibid.
- 45 Haw. Rev. Stat. § 398-3.
- 46 Me. Rev. Stat. tit. 26, § 843(4).
- 47 Ibid.
- 48 Me. Rev. Stat. tit. 26, § 843(4), (8).
- 49 N.J. Stat. §§ 34:11B-3(a), (j), 37:1-31(e).
- 50 N.J. Stat. §§ 34:11B-3(h), (j).
- 51 Ibid.
- 52 Or. Rev. Stat. §§ 659A.150(4), 106.340.
- 53 Or. Rev. Stat. § 659A.150(4).
- 54 Ibid.
- 55 Ibid.
- 56 Ibid.
- 57 R.I. Gen. Laws § 28-48-1(5).
- 58 Ibid. Rhode Island also allows state employees to take family leave to care for seriously ill domestic partners.
- 59 Vt. Stat. tit. 21 § 471(3)(B); tit. 15 § 1204(e) (12).
- 60 Vt. Stat. tit. 21 § 471(3)(B).
- 61 Vt. Stat. tit. 21 §§ 471(3)(B), 472(a).
- 62 Wash. Rev. Code §§ 49.78.020(1), (7), (17); § 49.78.904.
- 63 Wis. Stat. § 103.10(1).
- 64 Ibid.
- 65 D.C. Code § 32-501(4)(A).
- 66 D.C. Code § 32-501(4)(B).
- 67 D.C. Code § 32-501(4)(C).
- 68 Me. Rev. Stat. tit. 26 § 843(4)(F).
- 69 Or. Rev. Stat. §§ 659A.159(1)(d), (e).
- 70 Cal. Lab. Code § 230.8.
- 71 Ibid. Certain state executive branch employees may get an additional 20 hours of leave per year. Calif. Code Regs. tit. 2 § 599.912.
- 72 See note 70.
- 73 Colo. Rev. Stat. § 8-13.3-102(4).
- 74 Colo. Rev. Stat. § 8-13.3-103.
- 75 Ibid.
- 76 820 Ill. Comp. Stat. 147/10(b), 147/15.
- 77 820 Ill. Comp. Stat. 147/15.
- 78 Ibid.
- 79 Mass. Gen. Laws ch. 149, §§ 52D(a), (b).
- 80 Mass. Gen. Laws ch. 149, § 52D
- 81 Ibid.
- 82 Minn. Stat. § 181.940 (Subd. 3).
- 83 Minn. Stat. § 181.9412.
- 84 Ibid.

- 85 Nev. Rev. Stat. § 394.179.
- 86 Ibid.
- 87 Ibid.
- 88 N.C. Gen. Stat. § 95-28.3.
- 89 Ibid.
- 90 Ibid.
- 91 R.I. Gen. Laws § 28-48-1(3)(i).
- 92 R.I. Gen. Laws § 28-48-12.
- 93 Ibid.
- 94 Vt. Stat. tit. 21 § 471(1).
- 95 Vt. Stat. tit. 21 § 472a.
- 96 Ibid.
- 97 D.C. Code § 32-1201(1).
- 98 D.C. Code § 32-1202.
- 99 Ibid.
- 100 Alaska Admin. Code tit. 8 § 85.095.
- 101 Ariz. Admin. Code § R6-3-50155(F).
- 102 Ark. Code § 11-10-513(b)(2).
- 103 Calif. Code Regs. tit. 22 § 1256-10.
- 104 Colo. Rev. Stat. § 8-73-108(4)(v).
- 105 Conn. Gen. Stat. § 31-236(a)(2).
- 106 Del. Code tit. 19 § 3314(1).
- 107 Haw. Rev. Stat. § 383-7.6.
- 108 820 Ill. Comp. Stat. 405/601(B)(1).
- 109 Me. Rev. Stat. tit. 26 § 1193(1)(A)(1).
- 110 Minn. Stat. §§ 268.035, 268.095(7).
- 111 Letter from Cynthia Jones, Deputy Director, Nevada Department of Employment, Training and Rehabilitation, to Cheryl Atkinson, Administrator, U.S. Department of Labor. (2009, May). Retrieved 12 May 2014, from <http://www.doleta.gov/recovery/pdf/NV2-3.pdf>
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- 113 N.Y. Lab. Law § 593(1)(b)(ii).
- 114 Okla. Stat. tit. 40 § 2-210.
- 115 Ore. Admin. R. 471-030-0038.
- 116 R.I. Gen. Laws § 28-44-17(a)(3).
- 117 S.C. Code § 41-35-125(B).
- 118 Tex. Lab. Code §§ 207.046(a)(3), 207.045.
- 119 Wash. Rev. Code § 50.20.050(1)(b)(ii).
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