

Legislative Options for States Policies that Value Families at Work

(drawn from material provided by the National Partnership for Women & Families)

PAID FAMILY LEAVE POLICIES

Temporary Disability Leave (TDI)

For decades, five states (CA, HI, NJ, NY, RI) and Puerto Rico have provided partial income replacement for workers who are temporarily disabled and unable to work for non-work-related reasons; since the Pregnancy Discrimination Act of 1976, pregnancy and childbirth are included. These programs are funded by mandatory contributions either from employers and employees, or by employees only.

Workers are entitled to access the wage replacement if they meet certain requirements (how much they have paid into the system or how many quarters they have worked prior to needing the leave). Nearly all workers in these states, regardless how small their employer, are covered.

State	Funding	Benefit Level
CA	Employee only	Maximum \$917/ week; average is 55% of weekly salary.
HI	Employee and Employer	Maximum is \$476/week; average is 58% of the employee's average weekly wages.
NJ	Employer and Employee	Maximum \$524/week; average is 2/3 of average of last 8 weeks pay.
NY	Employee only	Maximum \$170/week.
RI	Employee only	Maximum is \$652/week; average is equal to 4.62% of highest quarterly wages during past year.

Family Leave Insurance

California (2002) and New Jersey (2008) expanded their TDI programs to cover leave for employees to care for family members with serious health conditions or to bond with a new child. Both of these programs are exclusively employee-funded and allow for six weeks of paid leave.

Both states financed these changes by slightly increasing the employee's contribution to the TDI fund; the benefit level is the same as that of individuals on TDI. Adding family leave to the TDI program has not affected the solvency of California's TDI funding or program.

In 2007, Washington State became the first state without an existing TDI program to offer statewide paid parental leave. The Washington State program gives new parents five weeks of paid leave, with an across the board benefit level of \$250.00 per week. Washington is still working on the permanent funding mechanism for this law; it has not yet gone into effect. Several other states are considering similar bills.

PAID SICK DAYS

Paid sick days provide workers the chance to recover from routine illnesses such as colds or fevers, and allow workers to take care of family members when those family members are sick. Workers also can use paid sick days to attend routine medical visits and check ups. Paid sick days bills provide that workers cannot be disciplined, fired, or retaliated against for using the paid sick days provided in the legislation. Workers earn the time – model legislation is one hour of paid sick time for every 30 hours worked up to a maximum of 9 days per year. It carries over but caps at the same amount each year. Workers at smaller businesses accrue slightly less time (maximum of 5 days) and accrue it more slowly (one hour for every 40 hours worked).

In 2006, San Francisco passed the nation's first ordinance providing all workers in the city paid sick days. In 2008, the District of Columbia became the second municipality to ensure that all workers have paid sick days. D.C.'s statute also provides paid time off for employees to address situations arising from domestic violence, stalking, or sexual assault for themselves or a family member. In November 2008, paid sick days were put to a vote on the Milwaukee ballot, and voters passed the measure with an overwhelming 69% of the vote, enacting a law that provides paid sick and safe days for all the city's workers.

There are active paid sick days campaigns in more than 15 states and municipalities. (For a list of these jurisdictions and campaign updates see www.paid sick days.org.)

Allowing Paid Sick Days to be Used to Care for a Sick Family Member

Currently the vast majority of those with paid sick days are not allowed to use that time to care for a sick child or other family member. A number of states have passed legislation ensuring that those with paid sick days may use that time to care for a sick family member.

EXPANDING UNPAID LEAVE

The federal Family and Medical Leave Act (FMLA) provides 12 weeks of unpaid leave for a workers to recover from their own serious health condition, to care for a new child, or to care for a family member (defined as a parent, spouse or child under the age of 18) with a serious health condition. Several states have passed their own FMLA's that improve the coverage of the federal law.

Lowering the FMLA Employer Threshold

The federal FMLA only applies to private employers with 50 or more employees. In their own FMLAs, some states have lowered their threshold to cover more workers (eg, 25 or more in Oregon, 20 or more in DC, 15 or more in Vermont).

Allowing Substitution of Other Paid Time Off for Unpaid FMLA

Some states, such as Wisconsin, allow employees to choose (but employers not to require) substitution of any paid time off (eg, sick days, vacation) for any type of FMLA-approved leave.

Expanding the FMLA Definition of Family

In 2008, the federal FMLA was amended to allow for 26 weeks of leave for military family members caring for wounded service members. For this military family expansion, the definition of “family” has been increased to include next of kin. Also in 2008 another expansion of the law for military families the definition of family was expanded to include care of adult children. State FMLA laws also have expanded the definition of family to include a wider range of family members.

State	Definition of family (beyond child, spouse and parent)
California	Domestic partner and domestic partner’s child
Connecticut	Civil union partner, parent-in-law
Hawaii	Grandparent, parent-in-law, grandparent-in-law or an employee’s reciprocal beneficiary
Maine	Domestic partner and domestic partner’s child, siblings
New Jersey	Civil union partner and child of civil union partner, parent-in-law, step parent
Oregon	Domestic partner, grandparent, grandchild or parent-in-law
Rhode Island	Domestic partners of state employees, parent-in-law
Vermont	Civil union partner, parent-in-law
Wisconsin	Parent-in-law, registered and unregistered domestic partners (can be same or opposite sex)
District of Columbia	Related to the worker by blood, legal custody, or marriage; person with whom the employee lives and has a committed relationship; child who lives with employee and for whom employee permanently assumes and discharges parental responsibility

Other State Laws that Allow for Unpaid Leave from Work

In addition to the reasons set forth in the federal FMLA, state laws allow for unpaid leave from work in other situations that are critical for families. For example:

- ❑ to attend a child’s school or educational activities (various forms in California, Colorado, District of Columbia, Illinois, Massachusetts, Minnesota, Louisiana, Nevada, North Carolina, Rhode Island, Vermont).
- ❑ to take family members to routine medical visits (examples include Massachusetts and Vermont)
- ❑ to care for the non-serious illness of a child (Oregon).
- ❑ to address the effects of domestic violence, stalking, or sexual assault (examples include Colorado, Florida, Hawaii, and Illinois).
- ❑ to allow workers to donate organs (Connecticut and Maine).

For more information, visit:
www.familyvaluesatwork.org
www.nationalpartnership.org
www.iwpr.org