

Understanding Worker Leave Policies: An Overview

FACT SHEET

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

	FMLA (Family and Medical Leave Act)	“Paid Family and Medical Leave” or “Paid Family Leave Insurance”	Paid Sick and Safe Days
What is it?	<p>An existing federal law that provides up to 12 weeks of unpaid, job-protected leave per year for serious personal or family health needs, bonding with a new child, or circumstances arising from the deployment of a servicemember.</p> <p>Amendments in 2008 and 2009 provide for extended leave of up to 26 weeks for family members caring for a wounded servicemember.</p> <p>The FMLA applies to businesses that employ 50 or more employees within a 75 mile radius.</p> <p>Employees within a covered business must have worked at least 1250 hours within the past year and been with their employer for at least one year.</p>	<p>Policies that provide income replacement while a worker is off the job due to a serious personal health condition or family health needs. Ideally, the leave should be job-protected.</p>	<p>Policies that provide job-protected, paid time off for short-term, routine personal illness, to allow workers to care for a family member with a routine illness, to seek or help a family member obtain medical care, and to allow survivors of domestic violence to seek health, legal, or related services.</p>
What can it be used for?	<ul style="list-style-type: none"> ➤ To address a serious health condition (including pregnancy); ➤ To care for a family member with a serious health condition; ➤ To bond with a new baby, or newly-adopted or newly-placed foster child; ➤ To address qualifying exigencies arising from the deployment of a servicemember; ➤ To care for an injured servicemember. 	<ul style="list-style-type: none"> ➤ To address a serious health condition (including pregnancy); ➤ To care for a family member with a serious health condition; or ➤ To bond with a new baby, or newly-adopted or newly-placed foster child. 	<ul style="list-style-type: none"> ➤ For a worker's own short-term illness (such as a cold); ➤ For a worker to attend routine medical appointments; ➤ To care for a family member with a short-term common illness; or ➤ To accompany a family member to a routine medical appointment. ➤ To seek health, legal or assistance related to domestic violence, sexual assault or stalking.

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How long is the leave?	Up to 12 weeks (or 26 weeks for wounded servicemember leave) —either taken in one block or intermittently.	Up to 26 weeks to allow a worker to address his or her own illness or injury in the most generous of the five states that offer Temporary Disability Insurance (TDI) leave. Up to 6 weeks of leave for family and new child caregiving in the two states with family leave insurance programs in place. <i>Other proposals vary, some propose paid leave for up to 12 weeks.</i>	A limited number of days. Existing municipal paid sick days laws vary from providing 3 to 9 days, depending on the size of an employer’s business. <i>San Francisco’s law allows workers to earn up to 9 days per year. DC’s allows up to 7 days per year.</i>
How is “family member” defined?	Under the FMLA statute, “family member” is defined as spouse, parent, or child under 18 (unless an adult child has a disability and cannot provide self-care). Wounded servicemembers may also be cared for by “next of kin.” In 2010, the U.S. Department of Labor clarified that non-biological or adoptive parent caregivers may take FMLA leave to care for or bond with a child if the caregiver has provided or will provide day-to-day care or assumes financial responsibility for the child.	Definitions vary, but most proposals for family care include parents, spouses or domestic partners, and children. Others include grandparents, grandchildren, in-laws, siblings, and/or anyone related to the worker “by blood or affinity” whose close association is equivalent to a family relationship.	Definitions vary, but most proposals include parents, spouses or domestic partners, children, grandparents, and siblings, and/or anyone related to the worker “by blood or affinity” whose close association is equivalent to a family relationship.
Is leave paid?	No , unless the worker has paid time available through his or her employer that can or must be taken simultaneously with FMLA leave.	Partial wage replacement , either paid in a flat amount to all workers or paid as a share of the worker’s current weekly earnings, up to a maximum cap. For example: In CA, TDI and family leave are both entirely employee paid. Employees earn an average of 55% of their current wage up to a capped amount of \$978 per week (in 2010). In NJ, TDI is paid by both employers and employees, while family leave is funded solely by employees. Employees earn an average of 66% of their current wage up to a capped amount of \$561 per week (in 2010). WA passed, but has not implemented, a paid parental	Yes. <i>Paid sick days policies provide full wage replacement and job protection by the employer.</i>

		leave program that will provide a flat benefit of \$250/week for up to 5 weeks for new parents who take parental leave.	
Is this current law?	Yes , since 1993, with amendments to provide for military families added in 2008 and 2009.	In some states. CA, NJ, HI, NY, RI and Puerto Rico have Temporary Disability Insurance (TDI) programs to provide paid leave for a worker's non-work related serious health condition, including pregnancy. CA (in 2002, implemented in 2004) and NJ (in 2008, implemented in 2009) expanded their TDI programs to include leave to care for a family member or to bond with a new child.	Yes , in San Francisco, CA and Washington, DC. Milwaukee, WI, passed a law in 2008 but it is under court challenge.
What is the next step?	Expanding the scope of FMLA to cover more workers, workers in smaller businesses, and expand the definition of "family". <i>Only about half of all workers are eligible for the FMLA because of the size-of-business threshold and worker tenure/hours requirements. Additionally, the statute does not cover family caregiving for domestic partners, in-laws, siblings, grandparents, or grandchildren.</i>	<ul style="list-style-type: none"> ➤ A federal standard. For example, the Family Leave Insurance Act (H.R. 1723 in the 111th Congress) would create a federal system to provide 8-12 weeks of partially-paid time off for FMLA-related leave. The Federal Employees Paid Parental Leave Act (S. 354, H.R. 626 in the 111th Congress) would provide 4 weeks of paid parental leave to federal workers. ➤ Support for state paid leave programs. The U.S. Department of Labor's FY 2011 proposed budget included \$50 million to help fund state paid leave programs. Unfortunately, Congress did not appropriate these funds. The FIRST Act (H.R. 2339 in the 111th Congress) would create a \$1.5 billion fund to assist states in starting and improving their paid leave programs. 	<ul style="list-style-type: none"> ➤ A federal standard. The federal Healthy Families Act (S. 1152, H.R. 2460 in the 111th Congress) would let workers earn up to 7 job-protected paid sick days a year. <i>States and cities are leading the way toward a national standard. In 2009-2010, more than 25 states and cities were mobilizing for paid sick days.</i>

The National Partnership for Women & Families is a non-profit, non-partisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at www.nationalpartnership.org.