



Family and Medical Leave Laws

By Luisa Altmann

This *issue brief* provides an overview of federal and state family and medical leave laws, including an overview of state paid family leave programs.

Federal Law

Family and Medical Leave Act. The U.S. Family and Medical Leave Act of 1993 (FMLA) provides an eligible employee with the ability to take a total of 12 weeks of leave during any 12-month period for specified circumstances.¹

FMLA applies to most employers with 50 or more employees. An employee must have worked for at least 1,250 hours with his or her employer during the prior 12-month period and have at least 12 months of service to be eligible for leave. Employers may provide leave under FMLA as either unpaid or paid time off, and may require that an employee use accrued vacation or sick time during leave in certain instances.

Circumstances covered under FMLA include time off: for the birth, adoption, or foster placement of a child; in order to care for a spouse, child, or parent who has a serious health condition; because of the employee's own serious health condition; and because of an urgent need due to an immediate family member's active duty service.

Tax incentives. In 2017, the federal Tax Cuts and Jobs Act created a tax credit for businesses that provide qualifying paid family and medical leave to eligible employees. The tax credit is in effect for tax years 2018 and 2019, and covers 12.5 percent to 25.0 percent of the wages paid to an employee on leave.²

Colorado Law

Colorado Family Care Act. The Colorado Family Care Act adds an employee's civil union or domestic partner as a qualifying immediate family member for the purposes of the FMLA, if the partner has a serious health condition.³

Domestic violence. Colorado law permits an eligible employee to take up to three days of leave in any 12-month period if the employee is a victim of domestic abuse, stalking, sexual assault, or another crime with a domestic violence component. The leave may be paid or unpaid and must be used to seek a civil protection order, obtain medical care or mental health counseling, make the employee's home secure, or seek legal assistance.⁴

States With Paid Family Leave Laws

Six states have established paid family leave programs.

California. In 2002, California created a paid family medical leave program that is designed to provide temporary disability insurance coverage, with up to six weeks of partial wage replacement benefits within any 12-month period to eligible employees who take time off work for care for a family member with a serious health condition. The wage replacement benefits under the program may also be used during leave taken to bond with a child within one year of birth, adoption, or foster placement. Wage replacement benefits currently range from \$50 to \$1,252 per week and are approximately 60 to 70 percent of wages earned prior to the leave period. The program is

¹29 U.S.C. § 2601, *et seq.*

²26 U.S.C. § 45S.

³Section 8-13.3-201, *et seq.*, C.R.S.

⁴Section 24-34-402.7, C.R.S.

administered by the State Disability Insurance Program and is funded through employee payroll deductions.⁵

Massachusetts. In 2018, Massachusetts created a paid family and medical leave program that is designed to provide partial wage replacement benefits of up to \$850 per week for eligible employees who take time off work to care for themselves or a family member with a serious health condition; to bond with a child within one year of birth, adoption, or foster placement; or due to conditions related to a family member's active duty service. Individuals are generally eligible to receive up to 12 weeks of benefits per year; however, this may be extended under certain circumstances. The program is funded through employee and employer contributions, though employers with fewer than 25 employees do not have to pay the employer share of the contribution. It is administered by the newly created Department of Family and Medical Leave. Benefits under the program are scheduled to be available beginning in 2021.⁶

New Jersey. In 2008, New Jersey created a family leave insurance program that provides up to six weeks of partial wage replacement benefits to eligible employees who take time off work to care for a family member with a serious health condition, or to bond with a newly born or adopted child. An employee may receive two-thirds of his or her average weekly wage, up to the current ceiling of \$650 per week. The program is administered under the Temporary Disability Insurance Program and funded through employee payroll deductions.⁷

New York. In 2016, New York created a paid family medical leave program that is designed to provide partial wage replacement benefits for eligible employees who take time off work to care for a family member with a serious health condition; to bond with a newly born or adopted child; or due to conditions related to an immediate family member's active duty service. Eligible

employees are currently able to receive up to 55 percent of their average weekly wage, up to a maximum of \$746, for up to 10 weeks. By 2021, benefits increase to up to 67 percent of their average weekly wage, up to a maximum of 67 percent of the state average weekly wage, for up to 12 weeks. The program is funded through employee payroll deductions and administered under the state's workers' compensation program.⁸

Rhode Island. In 2013, Rhode Island created a temporary caregiver insurance program that provides partial wage replacement benefits for up to four weeks per year to eligible employees who take time off work to care for a family member with a serious health condition, or to bond with a newly born or adopted child. Weekly wage replacement benefits are equal to 4.62 percent of an employee's quarterly wages, with a current range of \$84 to \$795 per week. The program is funded through employee payroll deductions and administered under the state's Temporary Disability Insurance Program.⁹

Washington. In 2017, Washington expanded a paid family and medical leave program that is designed to provide up to 12 weeks of partial wage replacement benefits, up to \$1,000 per week, for eligible employees who take time off work to care for themselves or a family member with a serious health condition; to bond with a child within one year of birth, adoption, or foster placement; or due to conditions related to a family member's active duty service. The program is funded through employee and employer contributions, though employers with fewer than 50 employees do not have to pay the employer share of the contribution. Additionally, employers may choose to offer a separate paid leave program that, if benefits exceed those provided under the state plan, removes the requirement that the employer contribute to the state plan. Benefits under the program are scheduled to be available beginning in 2020.¹⁰

⁵Cal. Unemp. Ins. Code § 3300, *et seq.*

⁶Mass. Gen. Laws ch. 175M.

⁷N.J. Rev. Stat. § 43:21-37, *et seq.*

⁸N.Y. Work. Comp. Law § 200, *et seq.*

⁹R.I. Gen. Laws § 28-41-34, *et seq.*

¹⁰Wash. Rev. Code § 49.78.010, *et seq.*