



Family and Medical Leave Laws

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

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

Federal employee paid leave. The National Defense Authorization Act for FY 2020, which was signed by the President in December 2019, allows federal employees to take up to 12 weeks of paid parental leave per year for the birth of a child or the placement of an adoptive or foster child beginning in October 2020. Employees must have worked for the federal government for at least one year and commit to returning to work following the paid leave for at least 12 weeks.³

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.⁴

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.⁵

Senate Bill 19-188. In 2019, the Colorado General Assembly passed Senate Bill 19-188, which created the Family and Medical Leave Implementation Task Force. The task force consisted of 15 members representing a variety of groups and met in 2019. The task force provided its final recommendations to the General Assembly on January 6, 2020. All of

¹29 U.S.C. § 2601, *et seq.*

²26 U.S.C. § 45S.

³S. 1790, Sec. 7601.

⁴Section 8-13.3-201, *et seq.*, C.R.S.

⁵Section 24-34-402.7, C.R.S.

the documents related to the task force's activities are available here:

<https://sites.google.com/state.co.us/famli/home>

Other States With Paid Family and Medical Leave Laws

Eight states, including California, Connecticut, Massachusetts, New Jersey, New York, Oregon, Rhode Island, and Washington have enacted paid family and medical leave (PFML) laws. The following sections discuss a few common components of these laws. More information about the laws in these states can be found here:

<http://leg.colorado.gov/publications/state-paid-family-and-medical-leave-laws>

History. Rhode Island, California, and New Jersey originally created state disability insurance programs in the 1940s. These programs provide partial wage-replacement benefits in the event of a worker's own non-work related injury, illness, or pregnancy. The PFML programs in these states often expanded the existing state disability insurance program, or used the same state agency to administer the new program.

New York. New York is unique among these states in that the state law requires that private businesses provide disability and paid family leave insurance for employees. The state's disability insurance law was enacted in 1949. The state's paid family leave insurance law was enacted in 2016, with employers required to begin offering paid family leave benefits in 2018. The law specifies the amount that an employer may require employees to contribute, the situations for which leave may be taken, and the amount of weekly benefits employees are entitled to receive. Employers may choose to provide the required disability and paid family leave insurance through the state fund, by using a private insurance company, or by self-funding benefits.

Reason for leave. All of the state PFML programs allow leave to be taken due to a worker's own serious health condition or off-the-job injury, to bond with a child within one year of the child's

birth or placement for adoption or foster care, or to care for a family member with a serious health condition. Several of the state programs also allow leave to be taken to address certain needs associated with a family member's active military duty or to provide workers with access to safe leave in the event of domestic or sexual violence.

Funding structure. The PFML programs in California, Connecticut, and Rhode Island are fully funded by employee payroll deductions. In Massachusetts, New Jersey, New York, and Washington, workers and employers share the cost of medical leave, while workers fully cover the cost of family leave. In Oregon, employees and employers share the cost of the full PFML program. Employers below a certain size, ranging from 25 to 50 employees, in Oregon and Washington are not required to pay the employer contribution.

Length of leave. The maximum length of paid leave allowed for eligible employees under these programs varies significantly by state. For example, workers in Washington can take up to 12 weeks in a 52-week period for their own medical care, while workers in California can take up to 52 weeks. Workers in Rhode Island can take up to 4 weeks for family leave, while workers in Massachusetts can take up to 12 weeks. Most states also specify the total cumulative amount of paid family and medical leave that may be taken in a 12-month period, ranging from 12 weeks to 30 weeks. Most of the laws in these states also provide job protection benefits.

Benefit amount. The amount of wage-replacement benefits that workers on leave receive varies by state program. Most are calculated based on a worker's average weekly wage (AWW) and have calculations that make the benefits progressive in nature. For example, in Oregon, workers receive 100 percent of their AWW, up to an amount equal to 65 percent of the statewide AWW, and 50 percent of their AWW above an amount equal to 65 percent of the statewide AWW, up to a maximum of 120 percent of the statewide AWW.