

Expecting Better:

**A State-by-State Analysis of
Parental Leave Programs**



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The values that underlie the National Partnership's work are fairness, equality, opportunity and justice. Those values shape our agenda and drive our success. We are amplifying women's voices, and working to create a nation where pay is fair, workplaces flexible, health care affordable, opportunity equal, and discrimination is a thing of the past.

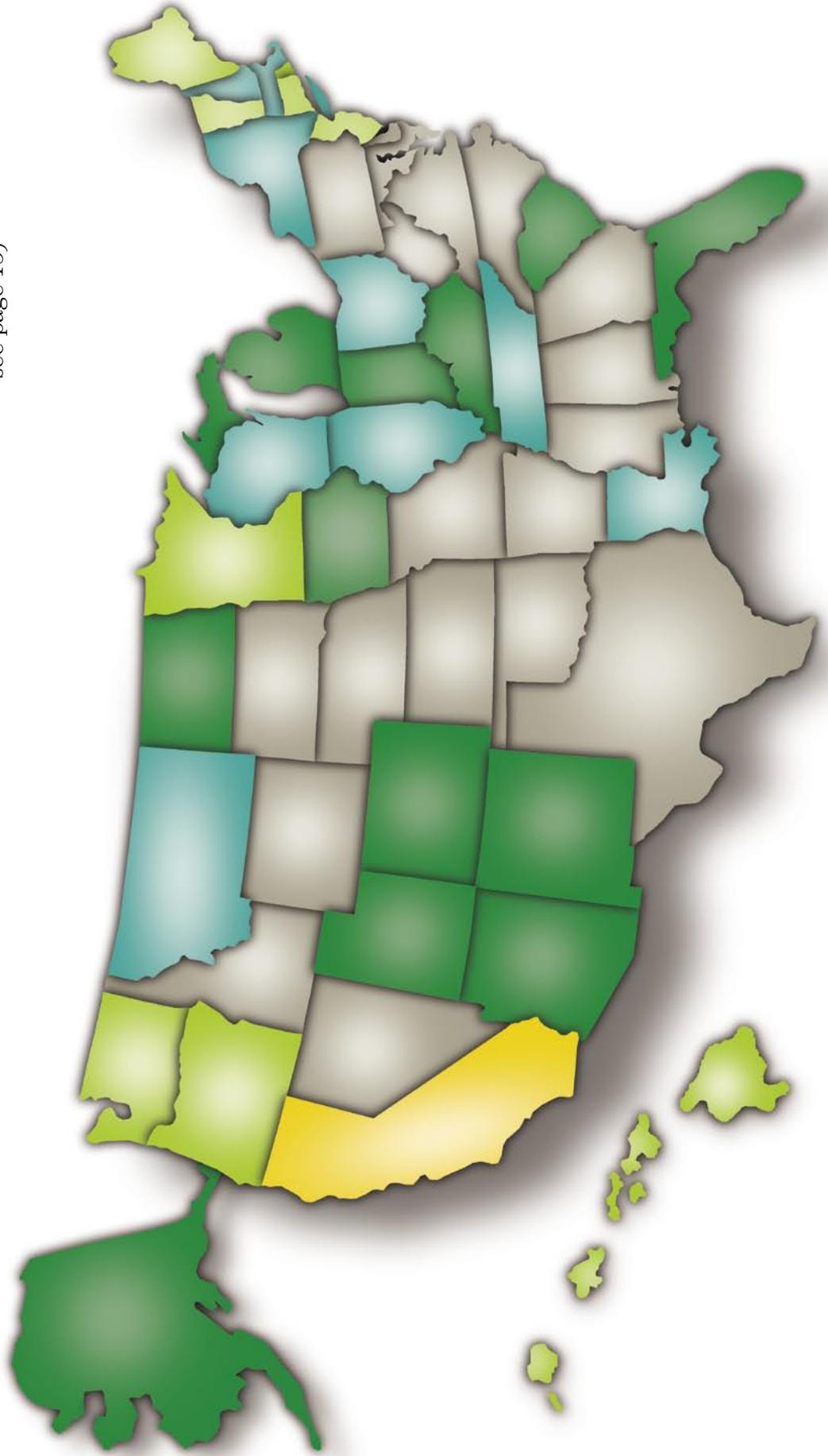
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Grades by State

(for complete report card see page 15)





Expecting Better:

A State-by-State Analysis of Parental Leave Programs

Executive Summary

It's a shock to many expecting and new parents, and financially devastating to some. In a nation in which lawmakers and business leaders talk often and easily about valuing children and families, programs that provide paid maternity and paternity leave are rare. Most Americans have no paid leave for prenatal care, no paid leave when a baby is born, and no paid leave to bond with and care for a precious new life. The failure to provide paid parental leave adds financial pressure – in some cases, distress – to millions of families at what should be one of the happiest times of their lives.

Our nation's parental leave policies are among the worst in the world. A 2004 Harvard University study of 168 countries found that 163 guarantee paid leave to women in connection with childbirth, and 45 guarantee paid paternity or parental leave. The United States guarantees no paid leave at all to new parents.

America has changed dramatically in the last few decades, but workforce policies have failed to keep up. Women are in the workforce to stay, and their families rely on their incomes to survive. In 78 percent of today's families, both parents work for pay. Women take great pride in their work and stay on the job until late in their pregnancies. More than half of pregnant women stay on the job until one month before the birth of their first child. And women are returning to work after childbirth at a faster rate than in previous decades.

As a result, the workplace is desperately out of touch with the needs of working families – and we aren't doing much to improve the situation. There are just two federal laws in place to help new and expecting parents. The Pregnancy Discrimination Act makes it illegal for employers to fire, refuse to hire or deny a woman a promotion because she is pregnant. But it provides no job protection to pregnant women or new parents. The Family & Medical Leave Act provides millions of workers with unpaid, job-protected leave when new babies come or illness strikes. But it covers only about 60 percent of workers, and millions of them cannot afford to take the unpaid leave it provides.

The Pregnancy Discrimination Act was passed in 1978. The Family & Medical Leave Act was enacted in 1993. It has been more than a decade since federal lawmakers took any action to help new parents who need leave.

As a result, families today are forced to cobble together solutions – often with dire consequences. Most low-income families lack the savings to support themselves if they take time off to care for a new baby, and they are less likely than other workers to have paid leave of any kind. Roughly two in five working parents with incomes below 200 percent of the federal poverty level have no paid leave of any kind – no paid sick days, paid vacation, or paid personal days off to use to care for a baby. Many simply lose their jobs when new babies come.

But paid parental leave is unavailable to most Americans, regardless of their income. A survey of personnel managers conducted in the year 2000 found that just 12 percent of companies offered paid maternity leave and just seven percent offered paid paternity leave.

Failing to provide paid leave is short sighted. Self-defeating. And a mistake that costs families, businesses and our nation dearly.

Expecting Better: A State-by-State Analysis of Parental Leave Policies provides a roadmap to solutions, describing programs in every corner of the country that expand on the federal Family & Medical Leave Act and provide support to new parents and their babies. It is the most comprehensive state-by-state analysis of laws, programs and policies regarding maternity and paternity leave produced to date.

It finds that all states are coming up short. *Expecting Better* concludes that no state is giving all new parents both guaranteed job protection and benefits. For this reason, not a single state earned a grade of “A.” California receives a

grade of “A-,” and Hawaii, the District of Columbia and Oregon receive grades of “B+.” Nineteen states received grades of “F” for failing to provide a single benefit or program to help support families before and after the birth of a child. Most states fall somewhere in between; they are doing something, but not enough, for working parents.

There are many tested, effective solutions to this problem. Numerous programs and policies make it possible for new parents to provide and care for their babies. California’s paid family leave program is a fine example. But few states have such programs.

For mothers and fathers, time at home during the first precious months after birth or adoption is critical to getting to know their babies. It can provide long-term benefits that improve a child’s brain development, social development and overall well being. Parental leave results in better prenatal and postnatal care and more intense parental bonding over a child’s life. It also improves the chance that a child will be immunized; as a result, it is associated with lower death rates for infants.

But lawmakers and employers are denying those benefits to most families by refusing to provide paid parental leave. For most working parents in America today, paid maternity and paternity leave is nothing more than a dream. Instead, families shoulder the economic burden of caring for a newborn alone. For some, the result is financial hardship or ruin.

**America can, and must,
do better.**



Glossary of Terms

Family Leave

Family leave is used to care for a family member. It usually refers to caring for a family member who is ill, including one who is suffering from a pregnancy-related disability or recovering from childbirth. It also refers to leave taken by a new parent to care for a baby or newly placed adopted or foster child.

Medical Leave

Medical leave is used by an employee to recover from his or her own serious health condition. Medical leave includes leave taken for pregnancy-related disabilities and to recover from childbirth.

Parental Leave

A type of family leave, parental leave provides time off to all new parents (moms and dads, both birth and adoptive) to care for an infant or newly placed child. This leave includes both maternity and paternity leave.

Maternity Leave

Women use maternity leave to take time off in connection with the birth or adoption of a child. Maternity leave can include medical leave and parental leave. Often birth mothers have access to benefits based on maternity-related disabilities. These can include access to short-term disability or the use of accrued sick leave. However, these medical leave benefits can rarely be applied to the time when the woman has recovered from childbirth and is still at home caring for her baby.

Paternity Leave

Paternity leave is used by biological and adoptive fathers after the birth of a child.

Job-Protected Leave

This term refers to a state or federal program, law, regulation or contract agreement that ensures that working men and women can take leaves of absence from work without losing their jobs.

Paid Leave Benefits

This is a general term used to refer to various programs that allow employees to receive some pay when they take leave to care for a new child, an ill family member, or to recover from their own illness.

Family Leave Benefits, Paid Family Leave

These terms are used to describe forms of partial or complete income replacement for working women and men who take time off from work to care for an ill family member or a newborn, newly adopted child or newly placed foster child.

Paid Medical Leave, Short-Term Disability Insurance and Temporary Disability Insurance

These terms are used to describe forms of partial or complete income replacement for women and men who take time off from work to recover from their own illness. This type of paid leave is sometimes available to birth mothers who take time off from work to recover from a pregnancy-related disability and to recover from childbirth.

At-Home Infant Care (AHIC)

At-Home Infant Care is a general term used to describe a program that allows income-eligible parents to receive subsidies (in lieu of a child care voucher or subsidy) to care for their infant at home.

Sick Leave, Vacation Leave and Personal Days

Some employers permit, and some states require, that employees who have certain types of accrued paid leave (including sick leave, vacation leave and/or personal leave) use that paid leave to receive compensation while on maternity or paternity leave.

Introduction

Virtually all our nation's leaders talk about valuing children and families. America ought to be a place where the birth of a child is a glorious event, rather than the beginning of a family's economic ruin.

Despite the rhetoric, our nation has failed to adopt basic policies that support families when it comes to pregnancy and childbirth. That is why so many parents are shocked to find themselves without pay, and often in danger of losing their jobs, if they want or need time away from work to care for a newborn or newly adopted child.

Numerous programs and policies would make it possible for new parents in this nation to provide and care for their babies – policies that are readily available to parents outside the United States in most of the world. In fact, the U.S. stands virtually alone among industrialized nations in failing to adopt a national paid parental leave program. We deserve a failing grade when it comes to helping families after the birth of a child.

This report is the most comprehensive state-by-state analysis of laws and programs regarding maternity and paternity leave yet produced. It highlights programs that expand upon the federal Family & Medical Leave Act (FMLA) to provide support to new parents and their babies. The report then grades each state based on its programs.

No state gives all new parents both guaranteed job protection and benefits. For this reason, no state receives a grade of "A." Nineteen states receive grades of "F" for failing to provide a single benefit or program to help support families before and after the birth of a child. Most states fall somewhere in the middle – doing something, but not enough, for working parents.

New Realities, Old Ways

America's workforce has changed. Women and mothers are in the workforce, and in the workforce to stay. In 78 percent of today's families, both parents work for pay. Women and men are working longer and longer hours, with fewer benefits. The typical American couple now works close to 90 hours per week, with each partner giving 40 or more hours to the job.

Women take great pride in their work and often work late into their pregnancies. More than half of pregnant women work until one month before the birth of their first child. Women with access to paid leave tend to stay in the workforce even longer – often well into their last month of pregnancy.

In addition, women are returning to work after pregnancy at a faster rate than in previous decades. Many mothers return to work by the third month after a child's birth, and more than half return by the sixth month. Since the early 1980's, 75 percent of women who worked during pregnancy returned to their jobs within 12 months of a child's birth. But workplace policies have not kept pace, remaining stagnant while the needs and realities of families' lives have changed.

Benefits of Paid Parental Leave to Moms, Dads and Babies

New parents want to be able to spend the first precious months after birth or adoption caring for and getting to know their babies. The quality and nature of caretaking in the first few months of a child's life is critical and can provide long-term benefits that improve a child's brain development, social development and overall well-being. Studies show that parental leave results in better prenatal and postnatal care, more intense parental bonding over a child's lifetime, and lower accident rates in the first year of life. Parental leave policies also increase the likelihood that children will be immunized and, as a result, are associated with lower death rates for infants.²

But not enough moms and dads in America today can take time off to care for new babies without fear of losing their paychecks or their jobs. Often they are forced back to work before they are ready. In fact, four out of five parents with children believe that many new mothers are pressured to return to work too quickly. The reasons vary. Infant care may be unaffordable or unavailable. Even when child care is an option, centers sometimes refuse to accept infants younger than 10 or 12 weeks old because their immune systems are not fully developed. This is one reason there is an extreme shortage of quality, affordable child care for infants.⁴

Our nation's failure to offer paid parental leave is particularly problematic given the pervasive lack of infant care and, in particular, affordable infant care that meets basic health and safety standards. Parents often face long waiting lists for slots in infant care centers because infant care is so scarce. The shortage is even more acute in low-income communities and in rural areas. High-quality child care can positively influence the developmental outcomes of infants and toddlers – but for most families, it is simply out of reach.⁷

National Policies Addressing Parental Leave

The United States has passed two laws that provide some protections to new parents. The Pregnancy Discrimination Act (PDA) and the Family & Medical Leave Act (FMLA) have helped millions of new parents hold onto their jobs. But they are only a start.

The Pregnancy Discrimination Act

The first law to protect new parents was the Pregnancy Discrimination Act (PDA). Before its passage, women were routinely fired as soon as their pregnancies became apparent. Passed in 1978, the PDA makes it illegal for employers to fire, refuse to hire, or deny a woman a promotion because she is pregnant. The law also provides that an employer must treat a pregnant woman the same way it would treat any other employee who becomes sick or temporarily disabled. If the employer provides benefits such as paid sick days or disability, it must cover pregnancy related disability and recovery from childbirth.

The PDA does not guarantee job protection; it only guarantees a pregnant employee's right to be treated the same as any other employee with a medical condition. The PDA has helped combat discrimination against millions of pregnant women. But because it does not provide job protection, it left many women without jobs if they needed to take time off for a pregnancy disability or to care for a newborn.

The Family & Medical Leave Act

The Family & Medical Leave Act (FMLA) is a federal law that has allowed millions of new parents, both moms and dads, to take needed time off after the birth or adoption of a child without fear of losing their jobs. Since the FMLA was enacted in 1993, more than 50 million Americans have been able to take time off from work in times of need, and more than one in four of these FMLA-users have been new parents. The law has made an enormous difference to the lives and economic security of working parents striving to care for their babies and support their families.

The FMLA protects working women and men who have been with the same employer for at least one year and have worked for at least 1250 hours over the course of that previous year. The FMLA only covers employees at companies with 50 or more workers.⁸ As a result, nearly 40 percent of the workforce is not eligible for the job-protected leave the FMLA provides.

Still more workers who are eligible for FMLA coverage simply cannot afford to take time off from work without pay. In one survey, 78 percent of workers who needed FMLA but did not take it said they could not afford the unpaid leave.⁹

Nearly one in ten workers who do take the unpaid leave the FMLA provides ends up receiving public assistance. In fact, 25 percent of poverty spells begin with the birth of a child.¹⁰

Special Challenges for Low-Income and Less Educated Families

Access to paid leave is correlated with income and education. The birth of a child can mean economic hardship for all families, but low-income families are the least likely to have re-

sources or savings to compensate for time off. Low-income parents often are without FMLA protections and unlikely to be able to afford the unpaid time off it provides. In addition, few have savings or other benefits such as paid sick, vacation or disability leave that will help compensate for lost income while a parent takes time off to care for a new child.

Roughly two in five working parents with incomes below 200 percent of the federal poverty level have no paid leave of any kind – no paid sick days, no paid vacation and no paid personal days off to use after a new baby comes.⁸ Seventy-six percent of low-wage workers do not have a single day of paid sick leave – the most basic employment benefit.

While highly educated, higher income women are more likely to have access to paid leave than women with less education and lower incomes, one-third still lack access to any form of paid maternity leave. In fact, more than one in three highly educated women (35 percent) are forced to take unpaid maternity leave. But they are better off than women who have less than a high school education, nearly half of whom (47 percent) are forced to take unpaid maternity leave.¹⁰

Parental Leave in America Today

Many new parents are unprepared for the costs incurred and absence of support after the birth of a child. New moms and dads with young children, and therefore a great need for paid leave, are least likely to have access to leave. Many experience grave economic hardship, and some are forced onto public assistance as a result of inadequate leave policies.

Paid parental leave programs are scarce in the private sector. A survey of personnel managers, conducted in 2000, found that just 12 percent of companies offered paid maternity leave and just seven percent offered paid paternity leave. Eighty-five percent of respondents reported no maternity or paternity leave benefits.⁹

Even companies lauded by *Working Mother* magazine as being the best employers in America for working mothers do not always offer the solutions families need:

- ▶ Twenty-nine percent of *Working Mother's* best employers offer to pay for maternity leave beyond short-term disability, versus 13 percent of companies nationwide
- ▶ Thirty-seven percent offer paid paternity leave, versus 14 percent of companies nationwide
- ▶ Forty-seven percent offer paid adoption leave, versus 13 nationwide.⁸

Often because they have no alternative, two in five employed women take unpaid leave around the birth of a child.

Although maternity leave is a far more common benefit than paternity leave, men are advantaged because they are more likely than women to have access to paid vacation and sick

leave, which some employers let workers use after the birth a child.⁹ Just 43 percent of employed pregnant women are able to access some kind of paid leave around the birth of a child; most often they use paid sick leave (11 percent) and vacation leave (11 percent).¹⁰

In addition to paid leave, some states and companies provide their employees with short-term or temporary disability insurance that can be used for pregnancy disability and recovery from childbirth. The Bureau of Labor Statistics estimates that 39 percent of all private sector workers nationwide have access to short-term disability insurance benefits.¹¹ Eleven percent of employed women take disability leave around the birth of a child.¹²

Benefits of Parental Leave to Businesses

Research demonstrates that access to paid parental leave is good for business because it is directly tied to employee retention and increased productivity.¹³ In addition, when employees have access to paid leave, morale improves and employees show more loyalty toward the company.

Unpaid job-protected leave is also beneficial. The FMLA has been shown to have a positive impact on profitability and growth. In 2000, 90 percent of covered establishments reported that the FMLA had either a positive or neutral effect on profitability and growth.¹⁴ Of those covered establishments that experienced cost savings from the FMLA, 77 percent said decreased turnover was the number one reason for savings.¹⁵

Some businesses not covered by the FMLA have looked to the success of the program and adopted policies of their own. Since the FMLA was passed, there has been a significant increase in the number of employers not covered by the FMLA that offer their employees unpaid family and medical leave.¹⁶

Broader Approaches Needed

Millions of Americans do not have enough personal savings to fund their own leave, and most private businesses do not provide any paid parental leave. Thus parents are left to shoulder the economic burden alone.

There are alternatives to forcing families to cobble together solutions and risk poverty when they do. California's paid family leave program demonstrates that it is possible to provide benefits to new parents at a minimal cost. The state's paid family leave program costs employees less than \$2.25 per employee per month. Experts estimate that a paid family and medical leave proposal being considered in Illinois in 2005 would cost less than 60 cents a week per worker.

United States Lagging

The United States lags far behind the rest of the world in providing paid parental leave to new parents. A Harvard University study of 168 countries found that 163 guarantee paid leave to women in connection with childbirth, and 45 guarantee paid paternity or parental leave. The United States does not guarantee any leave. In fact, the U.S. and Australia are the only two industrialized countries that do not provide new parents with paid parental leave. However, Australian parents enjoy much more generous job-protection benefits than American moms and dads.¹⁶

Most high-income countries that offer paid leave for women provide 100 percent wage replacement for at least some portion of this leave. Of those countries that provide paid paternity leave, most also provide 100 percent wage replacement. More than half the countries that provide paid leave to new mothers offer at least 14 weeks of paid leave.¹⁷

International studies have shown that providing paid parental leave benefits helps keep parents in the workforce and significantly increases the likelihood of a return to the pre-birth job, in the same position. Within a year after childbirth, more than 60 percent of moms with paid maternity leave had returned to work at their old jobs, compared to only 50 percent of mothers without benefits.¹⁸ Wage replacement, not simply having time off work, increases the likelihood that women will work later into their pregnancies and return to work faster.¹⁹

Americans Supportive of Stronger Leave Policies

Surveys consistently find that Americans want to spend more time with their families and overwhelming numbers support paid parental or family and medical leave programs.

- ▶ Eighty-four percent of adults support expanding disability or unemployment insurance as a means of providing paid family and medical leave.²⁰
- ▶ Eighty-one percent of working women say that paid leave to care for a family member is somewhat or very important, yet only 42 percent of working women report that they have some type of paid leave to care for family members.²¹
- ▶ A majority of men define success as “being a great father and husband” (87 percent) and “raising happy, successful children” (85 percent).²²
- ▶ Eighty-two percent of employees age 18 to 34 support expanding the FMLA to provide paid leave.²³
- ▶ Younger Americans, women and men, are more likely to place the same priority on their job and family, rather than placing a higher priority on work over family.²⁴

Solutions Exist

Several states are leading the way with examples of policies that work. They have crafted

programs that provide paid family and medical leave benefits to new parents or that extend the scope of job-protected leave. While no state guarantees all its workers paid leave and job protection, many promising programs provide both paid leave benefits and additional job protection. They can serve as models.

Methodology

This report discusses federal and state laws that guarantee job protection to women and men who take a leave of absence from the job for family or medical reasons. Some state laws allow for a combined period of job-protected family and medical leave. Others separate parental leave and family leave from medical leave.

This report answers the following questions:

Private Sector Employees

Benefits

- ▶ Does the state guarantee workers access to paid family/parental leave?
- ▶ Does the state guarantee workers access to paid medical/maternity disability leave?
- ▶ Does the state have an At-Home Infant Care program designed to help low-income parents care for their infants?
- ▶ Does the state have a flexible sick leave program that allows workers to use accrued paid leave for family leave?

Job Protection

- ▶ Does the state guarantee more workers access to job-protected family/parental leave than the federal FMLA?
- ▶ Does the state guarantee more workers access to job-protected medical/maternity disability leave than the federal FMLA?
- ▶ Does the state provide workers with a longer period of job-protected time off than the federal FMLA?
- ▶ Does the state have its own laws providing job-protected leave?

State Employees

Benefits

- ▶ Does the state provide its employees with paid family and/or medical leave?

Job Protection

- ▶ Does the state provide its employees with a longer period of job-protected time off than the federal FMLA?

To answer these questions, the authors consulted a variety of sources:

- ▶ As part of its Campaign for Paid Leave Benefits, the National Partnership for Women & Families tracks state developments on paid family and medical leave laws and publishes this information annually in a State Round-Up. For information on which states guarantee leave to private sector workers, the authors relied on the most recent version of the State Round-Up (2004), that reviews state activities regarding access to paid family leave benefits and paid sick days.
- ▶ The authors consulted relevant state statutes, regulations and state web sites.
- ▶ For information about benefits provided by each of the 50 states to state employees, the authors primarily relied on the 2004 State Employee Benefits Survey published by Workplace Economics Inc. In cases where the National Partnership's State Round-Up included a state law governing state employees, the authors consulted the relevant state statute or regulation.

Authors awarded points to each state or entity based on the programs it makes available to private and state employees. As most employees work in the private sector, the point system favors laws that provide protection and benefits to private sector employees.

No state guarantees workers who are new parents both benefits and job protection after the birth of a child. But, in a variety of ways, states from California to South Carolina and Louisiana to Minnesota are creating programs to support new parents and their babies. A handful of states provide paid benefits to new parents. Others provide job protection to employees not covered by the FMLA because they work for small companies. These states provide real examples of policies that work.

Benefits Provided to Private Sector Employees

This report reviews three different, but overlapping, job protection and benefit programs to help new parents. It examines laws governing private sector employees as well as state laws, regulations and programs governing state employees. It is the most comprehensive assessment to date of state and federal measures governing access to paid and job-protected maternity and paternity leave.

Family Leave Benefits

25 points were awarded to each state with a program that provides paid parental leave to new parents caring for newborns, newly adopted children or newly placed foster children. Benefits may also cover taking leave to care for a spouse or partner with a maternity related disability. California is the first state to enact such a program; it took effect in July 2004. New parents in California can receive 55 to 60 percent of their income for up to six weeks of family leave.

Medical/Maternity Leave Benefits

20 points were awarded to each state with a program that provides paid medical leave for new birth moms placed on pregnancy disability leave (bed rest) and for recovery after childbirth. California, Hawaii, New Jersey, New York and Rhode Island have short-term disability programs that provide paid leave to women who are temporarily disabled due to pregnancy and for recovery after childbirth.

Flexible Sick Days

15 points were awarded to states that allow workers to use accrued paid leave to care for a new child or a spouse/partner with a maternity disability. Connecticut, Hawaii, Washington and Wisconsin allow employees to use their leave for either a new child or another family member. California received five points for adopting a law that permits employees to use leave to care for an ill family member such as a spouse or partner with a maternity related disability, but not to care for a healthy new infant.

At-Home Infant Care Benefits

15 points were awarded to states with At-Home Infant Care (AHIC) programs. (AHIC) programs provide eligible, lower-income working parents with some wage replacement to provide care for their newborns or newly adopted children. AHIC diminishes public and private costs of child care for families and states by offering an affordable alternative for those unable to find quality infant care or to those who wish to provide the care themselves. Minnesota and New Mexico currently have AHIC programs. Montana was awarded only five points for its AHIC program because its operation has been suspended due to a budgetary shortfall.

Expanded Job Protection for Family Leave

25 points were awarded to states that provide additional job protection, broader than that provided by the federal FMLA, to new parents caring for infants. Five states (Maine, Massachusetts, Minnesota, Oregon and Vermont) plus the District of Columbia provide additional job protection for new parents who work for businesses with fewer than 50 employees.

Expanded Job Protection for Medical/Maternity Leave

20 points were awarded to states that provide job protection to women for pregnancy-related disabilities and recovery from childbirth that is more expansive than the federal FMLA.

Thirteen states and the District of Columbia provide expanded job protection to female employees who become pregnant. The states are: California, Connecticut, Hawaii, Iowa, Louisiana, Maine, Massachusetts, Montana, New Hampshire, Oregon, South Carolina, Vermont and Washington.

Extended Length of Family and Medical Leave

20 points were awarded to states that give workers a longer period of job-protected leave to care for new babies or recover from maternity disability than the federal FMLA. Eight states (California, Connecticut, Louisiana, New Jersey, Oregon, Rhode Island, Tennessee and Washington) and the District of Columbia provide new parents with job-protected leave that is greater than the 12 weeks granted in the federal FMLA.

State Family Leave Laws

10 points were awarded to states that have their own family and medical leave laws addressing parental leave. These laws give state residents additional rights recognized under state law to ensure their access to job-protected leave after the birth or adoption of a child. Eleven states and the District of Columbia have their own family and medical leave laws addressing parental leave. The states are: California, Connecticut, Hawaii, Maine, Minnesota, New Jersey, Oregon, Rhode Island, Vermont, Washington and Wisconsin.

Benefits Provided to State Employees

Paid Family and Medical Leave Benefits

15 points were awarded to states that provide their own employees with paid family and/or medical leave that covers pregnancy disability and recovery from childbirth. These five states are California, Hawaii, Illinois, New Jersey and Ohio.

Extended Length of Family and Medical Leave

10 points were awarded to states that provide their own employees with more than 12 weeks of job-protected parental leave. Twenty-seven states and the District of Columbia provided this additional leave to state employees. The states are: Alaska, Arizona, California, Colorado, Connecticut, Florida, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Rhode Island, Tennessee, Utah, Vermont, Washington and Wisconsin.

A- Points Awarded

California 125

B+

Hawaii 90

Washington DC 85

Oregon 85

B

Connecticut 75

New Jersey 75

Washington 75

B-

Maine 65

Vermont 65

Minnesota 60

Rhode Island 60

C+

Massachusetts 55

Louisiana 50

C

Wisconsin 35

New Hampshire 30

New York 30

Tennessee 30

C-

Illinois 25

Montana 25

Ohio 25

D+

Iowa 20

South Carolina 20

D

New Mexico 15

D- Points Awarded

Alaska 10

Arizona 10

Colorado 10

Florida 10

Indiana 10

Kentucky 10

Michigan 10

North Dakota 10

Utah 10

F

Federal Government 0

Alabama 0

Arkansas 0

Delaware 0

Georgia 0

Idaho 0

Kansas 0

Maryland 0

Mississippi 0

Missouri 0

Nebraska 0

Nevada 0

North Carolina 0

Oklahoma 0

Pennsylvania 0

South Dakota 0

Texas 0

Virginia 0

West Virginia 0

Wyoming 0

REPORT CARD

FMLA and State Laws

The Family & Medical Leave Act (FMLA) protects private and public sector employees who need time off from work after the birth or adoption of a child, for pregnancy disability or to recover from childbirth. Many states have laws that are more expansive than the federal FMLA, or that intersect or complement the FMLA to provide private and state employees with additional benefits and/or job protection.

In 2003, the U.S. Supreme Court ruled that the federal FMLA covers state employees who need to take family leave. In *Nevada Department of Human Resources v. Hibbs*, a state employee from Nevada had been fired for taking family leave to care for his ailing wife. He was told that the FMLA did not cover state employees. The Supreme Court ruled that the FMLA did apply to state employees because it was a remedy for a long history of gender discrimination. In a 6-3 opinion written by Chief Justice William Rehnquist, the Supreme Court found:

“Stereotypes about women’s domestic roles are reinforced by parallel stereotypes presuming a lack of domestic responsibilities for men. Because employers continued to regard the family as the woman’s domain, they often denied men similar accommodations or discouraged them from taking leave. These mutually reinforcing stereotypes created a self-fulfilling cycle of discrimination that forced women to continue to assume the role of primary family caregiver, and fostered employers’ stereotypical views about women’s commitment to work and their value as employees. Those perceptions, in turn, Congress reasoned, lead to subtle discrimination that may be difficult to detect on a case-by-case basis.”²⁵

As a result of this ruling, there is no longer any doubt about whether state employees are entitled to take job-protected family leave under the FMLA. There is still debate, however, over whether the federal protections of the FMLA cover state workers who take time off from work to recover from their own illness, including pregnancy disability and recovery from childbirth.

Many state workers have a state right of action if they are denied leave because of state laws, regulations, or contracts that guarantee them the right to take parental leave. In this report, states receive points if they have programs in place that provide job protection and/or benefits to private sector employees who take maternity or paternity leave. State laws that protect state employees’ rights to take parental leave but provide no additional benefits beyond those in the federal FMLA receive no points but are still mentioned in the analysis below. Employers are required to comply with the relevant provisions of both state and local laws as well as the federal FMLA.

The Pregnancy Discrimination Act also protects employees. Passed in 1978, the law makes it illegal for employers to fire, refuse to hire, or deny a woman a promotion because she is pregnant. It also provides that an employer must treat a pregnant woman in the same manner as

it would treat any other employee who becomes sick or temporarily disabled. If the employer provides benefits such as paid sick days or disability, it must cover pregnancy related disability and recovery from childbirth.

Title VII of the Civil Rights Act expressly prohibits treating employees differently based on gender. While it is legal to have a program that grants women additional parental leave for pregnancy disability and recovery from childbirth, it is not legal to grant women and men different amounts of leave to care for an infant or newly adopted child. This report does not review the legality of individual programs.

ALABAMA

F

Private Sector Employees

Alabama has no laws guaranteeing job protection or benefits for new parents.

State Employees

Alabama state employees have no additional benefits beyond the federal FMLA.

ALASKA

D-

Private Sector Employees

Alaska has no laws guaranteeing job protection or benefits for new parents.

State Employees

Job-Protected Family and Medical Leave

Alaska's family leave law provides state and other public employees up to 18 weeks of unpaid job-protected leave every 24 months to care for a spouse with a serious health condition, a worker's own serious health condition (including pregnancy disability and recovery from childbirth) or to care for a newborn or newly adopted child.²⁶

ARIZONA

D-

Private Sector Employees

Arizona has no laws guaranteeing job protection or benefits for new parents.

State Employees

Job-Protected Family and Medical Leave

Arizona state employees are entitled to 12 weeks of unpaid job-protected family leave each year, which can be used to care for a newborn or newly adopted child, and up to 36 weeks of unpaid medical leave for an employee's own health condition, which can include pregnancy disability and recovery from childbirth.²⁷

ARKANSAS

F

Private Sector Employees

Arkansas has no laws guaranteeing job protection or benefits for new parents.

State Employees

Job-Protected Parental and Maternity Leave

Arkansas state employees may request a maximum six-month unpaid leave of absence for parental and maternity leave. The leave must be approved by the employee's agency director.²⁸

CALIFORNIA

A-

Private Sector Employees

Family and Parental Leave Benefits

California's law provides working parents up to six weeks of paid leave to care for a newborn, newly adopted child or foster care-placed child. The law also affords leave to care for a seriously ill family member, including a spouse or partner, who is temporarily disabled due

to pregnancy or who is recovering from childbirth. An expansion of California's State Disability Insurance program, the program provides partial wage replacement and is funded through employee payroll deductions. Employees cannot receive benefits under California's short-term disability program and the family leave program at the same time, but they can receive short-term disability and then be eligible for family leave benefits after recovery from childbirth. California's paid family leave law does not provide workers with any additional job protection.²⁹

Medical/Disability Leave Benefits

California's State Disability Insurance (SDI) covers nearly all private sector employees for non-work-related illness, injury, or a medically disabling condition resulting from pregnancy or childbirth. The SDI program is employee-funded and covers all California employees, including temporary and part-time employees, who pay into the disability fund. The SDI program covers most of California's workforce; currently, about 13 million of the state's 16 million employees are paying into this fund. The typical disability period for pregnant workers is up to four weeks before and six weeks after the birth of the child. Some state workers are entitled to SDI benefits as a result of collective bargaining. California's SDI program does not provide workers with any additional job protection when taking medical leave.³⁰

Flexible Use of Sick Days

California has a flexible sick leave law that entitles all workers who have access to sick leave the option of using it to care for a spouse or domestic partner who is temporarily disabled due to pregnancy or recovery from childbirth. While the law allows parents and their partners to use sick leave to care for a sick child, it does not require employers to let workers use their sick leave to care for a healthy newborn.³¹

Job-Protected Medical Leave

California's Fair Employment and Housing Act (FEHA) requires all private employers with five or more employees to provide up to four months of unpaid job-protected leave for pregnancy-related disability, regardless of the amount of time the woman has worked for the employer and the number of hours she has worked. Once an employee's pregnancy disability leave is over, she may request up to 12 additional weeks of leave to care for or bond with her baby immediately following pregnancy disability leave, if she meets the requirements of California's Family Rights Act (CFRA).³²

State Employees

Family and Medical Leave Benefits

Temporarily disabled state employees, including those disabled as a result of a pregnancy or recovering for childbirth, are eligible for up to 26 weeks of benefits. State employees who contribute to the State Disability Insurance Program are eligible for the same family and medical leave benefits as workers in the private sector.³³

Job-Protected Family and Medical Leave

State employees may be entitled to up to one year of unpaid maternity leave, paternity leave or adoption leave.³⁴

California state employees are also covered by California's Family Rights Act (CFRA), which mirrors the federal FMLA in its job-protections for family leave. California's Fair Employment and Housing Act (FEHA) requires all state employers with five or more employees to provide up to four months of unpaid job-protected leave for pregnancy-related disability, regardless of the amount of time the woman has worked for the employer and the number of hours she has worked. Once a state employee's pregnancy disability leave period is over, she may request up to 12 additional weeks of leave to care for or bond with her baby immediately following pregnancy disability leave, if the employee meets the requirements of California's Family Rights Act (CFRA).³⁵

COLORADO

D-

Private Sector Employees

Family and Medical Leave Job-Protection and Benefits

Colorado requires all employers providing paternity or maternity leave to employees for the birth of a child to offer equivalent benefits for the adoption of a child.³⁶

State Employees

Job-Protected Family and Medical Leave

Full-time state employees are entitled to a maximum of 520 hours, or 13 weeks, of family and medical leave per fiscal year. Family and medical leave is granted to qualifying employees for the birth and care of a child within one year of birth, adoption, or foster care placement. This leave can also be used to care for the serious health condition of a spouse who is temporarily disabled due to pregnancy or recovery from childbirth.³⁷

CONNECTICUT

B

Private Sector Employees

Flexible Use of Sick Days

Connecticut's flexible sick leave law entitles workers with access to sick leave to use up to two weeks of accumulated leave to care for a new baby or a seriously ill spouse who is temporarily disabled due to pregnancy or recovery from childbirth. The law covers women and men working at companies with at least 75 employees.³⁸

Job-Protected Family and Medical Leave

Connecticut employers with 75 or more employees must provide employees with 16 work-weeks of leave during any 24-month period for birth, adoption or placement of a foster child. State law also provides this leave for one's own serious illness, including a maternity-related disability, and/or to care for a spouse temporarily disabled as a result of pregnancy or childbirth.³⁹

Job-Protected Medical/Maternity Leave

Connecticut employers with three or more employees must grant employees a reasonable leave of absence for pregnancy-related disabilities.⁴⁰

State Employees

Job-Protected Family Leave

Permanent state employees are entitled to 24 weeks of unpaid leave in any two-year period for the birth or adoption of a child. This leave is also available to employees to recover from their own serious illness, including maternity disability, and/or to care for a spouse with a serious illness, including pregnancy disability and recovery from childbirth.⁴¹

Job-Protected Medical/Maternity Leave

Connecticut state employers with three or more workers must grant employees a reasonable leave of absence for pregnancy-related disabilities.⁴²

DELAWARE

F

Private Sector Employees

Delaware has no laws guaranteeing job protection or benefits for new parents.

State Employees

Delaware state employees have no additional benefits beyond the federal FMLA.

FLORIDA

D-

Private Sector Employees

Florida has no laws guaranteeing job protection or benefits for new parents.

State Employees

Job-Protected Family Leave

Florida state employees are entitled to a maximum of six months of unpaid parental or family leave to care for a newborn or newly adopted child, or to care for one's own or a spouse's pregnancy disability or recovery from childbirth.⁴³

GEORGIA

F

Private Sector Employees

Georgia has no laws guaranteeing job protection or benefits for new parents.

State Employees

Georgia state employees have no additional benefits beyond the federal FMLA.

HAWAII

B+

Private Sector Employees

Medical/Disability Leave Benefits

Any private sector employee who suffers a disability from pregnancy, termination of pregnancy, or recovery from childbirth is entitled to temporary disability benefits. The maximum benefit period is 26 weeks.⁴⁴ Employers in Hawaii are permitted to charge employees up to half the cost of the temporary disability insurance.

Flexible Use of Sick Days

Private and state employers with 100 or more employees must allow workers with accrued and available sick leave to use their paid sick days to care for a newborn or newly adopted child, or to care for a spouse with a pregnancy related disability or who is recovering from childbirth.⁴⁵

Job-Protected Medical Leave

All female employees are entitled to job-protected leave “for a reasonable period of time” determined by the employee’s physician, for disability due to pregnancy, childbirth or related medical conditions.⁴⁶

State Employees

Medical/Disability Leave Benefits

Any public employee who suffers a disability from pregnancy or recovery from childbirth is entitled to temporary disability benefits. The maximum benefit period is 26 weeks.⁴⁷

Job-Protected Family and Medical Leave

Hawaii state employees are entitled to one year of unpaid parental leave.⁴⁸

IDAHO

F

Private Sector Employees

Idaho has no laws guaranteeing job protection or benefits for new parents.

State Employees

All Idaho state employees are eligible for up to 12 weeks of job-protected family and/or medical leave.

ILLINOIS

C-

Private Sector Employees

Illinois has no laws guaranteeing job protection or benefits for new parents.

State Employees

Family and Medical Leave Benefits

State employees who are members of the state employees' group insurance program may be eligible for family and medical leave benefits. Eligible female state employees who pre-certify their pregnancy within the first trimester are entitled to three workweeks (15 days) of paid maternity leave. Eligible male state employees who pre-certify their spouse's pregnancy within the first trimester are entitled to two workweeks (10 days) of paid paternity leave. Eligible state employees who can show that a formal adoption process is underway are entitled to two workweeks (10 days) of paid adoption leave, with the leave beginning when the employee receives physical custody of the child.⁴⁹

Job-Protected Family Leave

Illinois state employees are entitled to one year of family leave to care for a newborn infant.⁵⁰

INDIANA

D-

Private Sector Employees

Indiana has no laws guaranteeing job protection or benefits for new parents.

State Employees

Job-Protected Medical/Maternity Leave

Indiana state employees disabled by pregnancy, childbirth or related medical conditions are entitled to up to one year of job-protected leave.⁵¹

IOWA

D+

Private Sector Employees

Job-Protected Medical/Maternity Leave

Iowa's Civil Rights Act of 1965 requires an employer with four or more employees to grant pregnant employees eight weeks of leave for pregnancy, childbirth or related medical conditions.⁵²

State Employees

Job-Protected Medical/Maternity Leave

Iowa's Civil Rights Act of 1965 requires state employers with four or more workers to grant pregnant employees eight weeks of leave for pregnancy, childbirth or related medical conditions.⁵³

Job-Protected Family Leave

State employees may request up to 12 months of unpaid leave. If this initial request is granted, employees can request an additional 12 months. The state appointing authority determines whether or not to award this leave.⁵⁴

KANSAS

F

Private Sector Employees

Kansas has no laws guaranteeing job protection or benefits for new parents.

State Employees

Job-Protected Family and Medical Leave

Kansas state employees may be granted unpaid leave, not to exceed one year, for illness or disability, including pregnancy, childbirth or related medical conditions. This leave also covers care for a family member with a serious health condition and care for a newborn, newly placed adopted or foster child. Probationary or conditional employees may also be granted leave without pay for up to 60 calendar days. The state appointing authority determines whether or not to award leave to an employee.⁵⁵

KENTUCKY

D-

Private Sector Employees

Adoption Leave Benefits

All employees who have recently adopted a child are entitled to six weeks of parental leave.⁵⁶

State Employees

Job-Protected Family Leave

Kentucky state employees are entitled to up to one year of parental leave.

LOUISIANA

C+

Private Sector Employees

Job-Protected Medical/Maternity Leave

Louisiana guarantees up to four months of short-term disability leave to employees who are temporarily disabled because of pregnancy, childbirth or related medical conditions.

Employers with more than 25 employees are covered by the law.⁵⁸

State Employees

Job-Protected Medical/Maternity Leave

Louisiana guarantees up to four months of short-term disability leave to state employees who are temporarily disabled because of pregnancy, childbirth or related medical conditions.

Employers with more than 25 employees are covered by the law.⁵⁹

MAINE

B-

Private Sector Employees

Job-Protected Family and Medical Leave

Private employers with at least 15 employees must grant a maximum of 10 consecutive weeks

of family and medical leave in any two-year period for the birth or adoption of a child under age 16 and for an employee’s serious health condition including pregnancy disability and recovery from childbirth.⁶⁰

State Employees

Job-Protected Family and Medical Leave

Maine state employees are entitled to one year of parental leave.⁶¹ Maine state employers with 25 or more employees must grant up to 10 consecutive weeks of family and medical leave in any two-year period for the birth or adoption of a child under age 16 and for an employee’s serious health condition including pregnancy disability and recovery from childbirth.⁶²

MARYLAND

F

Private Sector Employees

Adoption Leave Benefits

A private employer who provides “leave with pay” to an employee following the birth of a child must provide the same “leave with pay” to an employee following the adoption of a child.⁶³

State Employees

Maryland state employees have no additional benefits beyond the federal FMLA.

MASSACHUSETTS

C+

Private Sector Employees

Job-Protected Family and Maternity Leave

The Massachusetts Maternity Leave Act (MMLA) requires private sector employers with at least six employees to grant female employees up to eight weeks of maternity leave for childbirth or the adoption of a child under age 18 (or age 23, if the child is mentally or physically disabled).⁶⁴ The Massachusetts Commission against Discrimination recommends that all employers covered by the law give similar leave to all members of their workforce in order to avoid a legal challenge of gender discrimination.

State Employees

Job-Protected Family and Medical Leave

Full- and part-time Massachusetts state employees are entitled to up to one year of unpaid leave for the birth and care of a newborn, or newly placed child. This leave can also be used to care for one's own pregnancy disability and recovery from childbirth, and/or to care for a family member with a maternity-related disability.⁶⁵

The Massachusetts Maternity Leave Act (MMLA) requires all public sector employers to give female employees up to eight weeks of maternity leave for the birth of a child or adoption of a child under age 18 (or age 23, if the child is mentally or physically disabled).⁶⁶

MICHIGAN

D-

Private Sector Employees

Michigan has no laws guaranteeing job protection or benefits for new parents.

State Employees

Job-Protected Family Leave

Michigan state employees are entitled to 26 weeks of unpaid job-protected parental leave.⁶⁷

MINNESOTA

B-

Private Sector Employees

At-Home Infant Care (AHIC)

In the spring of 2004, Minnesota's AHIC program was re-established and signed into law. This program provides benefits to eligible, low-income parents to care for infants at home.⁶⁸

Job-Protected Family Leave

Private sector employers with at least 21 employees at one site must grant up to six weeks leave to an employee for the birth or adoption of a child.⁶⁹

State Employees

Job-Protected Family Leave

Minnesota state employees are entitled to up to six months of unpaid parental leave. The leave may be extended to a maximum of 12 months at the employer's discretion.⁷⁰

State employers with at least 21 employees at one site must grant up to six weeks leave to an employee for the birth or adoption of a child.⁷¹

MISSISSIPPI

F

Private Sector Employees

Mississippi has no laws guaranteeing job protection or benefits for new parents.

State Employees

Mississippi state employees have no additional benefits beyond the federal FMLA.

MISSOURI

F

Private Sector Employees

Missouri has no laws guaranteeing job protection or benefits for new parents.

State Employees

Missouri state employees have no additional benefits beyond the federal FMLA.

MONTANA

C-

Private Sector Employees

At-Home Infant Care (AHIC)

Montana's AHIC program was established in 2003, following a successful pilot program. It gives benefits to lower income parents who provide full time care for children under age two. Funding for the program must come from a specific appropriation to the General Appropriations Act or by budget amendment if funds become available from federal or private sources. To date, the program remains unfunded.⁷²

Job-Protected Medical/Maternity Leave

It is unlawful for any Montana employer with one or more employees to deny a female employee who is disabled as a result of pregnancy "a reasonable leave of absence" for such pregnancy.⁷³

State Employees

Job-Protected Medical/Maternity Leave

Montana state employees are permitted to take a reasonable leave of absence, not to exceed 15 days, immediately following the birth or placement of a child.⁷⁴

NEBRASKA

F

Private Sector Employees

Nebraska has no laws guaranteeing job protection or benefits for new parents.

State Employees

Nebraska state employees have no additional benefits beyond the federal FMLA.

NEVADA

F

Private Sector Employees

Nevada has no laws guaranteeing job protection or benefits for new parents.

State Employees

Nevada state employees have no additional benefits beyond the federal FMLA.

NEW HAMPSHIRE

C

Private Sector Employees

Job-Protected Medical/Maternity Leave

Private employers with six or more employees must allow a female employee to take time off from work for disability resulting from pregnancy, childbirth or related medical conditions.⁷⁵

State Employees

Job-Protected Medical/Maternity Leave

New Hampshire state employees are entitled to up to six months of unpaid maternity leave.⁷⁶

NEW JERSEY

B

Private Sector Employees

Medical/Disability Leave Benefits

Employees in New Jersey are entitled to short-term disability benefits if they are unable to work because of a non-job related sickness, including pregnancy and recovery from childbirth.⁷⁷ New Jersey's Temporary Disability Insurance program is funded by contributions from both employers and employees. The maximum length of benefits is 26 weeks.⁷⁸

Job-Protected Family Leave

The New Jersey Family Leave Act guarantees employees who work for employers with 50 or more workers up to 12 weeks of unpaid family leave in any 24-month period to care for a newborn, newly adopted, or newly placed foster child, or for a seriously ill spouse who is temporarily disabled as a result of pregnancy or recovery from childbirth.⁷⁹ This leave can be used in addition to job-protected medical leave under the Family & Medical Leave Act. Eligible birth mothers may be entitled to up to 12 weeks of parental leave after they have taken time off for a pregnancy disability and/or recovery from childbirth.

State Employees

Medical/Disability Leave Benefits

State employees in New Jersey are entitled to disability benefits if they are unable to work because of a non-job related sickness, including pregnancy and recovery from childbirth.⁸⁰ New Jersey's Temporary Disability Insurance program is funded by contributions from both employers and employees. The maximum length of benefits is 26 weeks.⁸¹

Job-Protected Family Leave

The New Jersey Family Leave Act guarantees state employees who work for employers with 50 or more workers up to 12 weeks of unpaid family leave in any 24-month period to care for a newborn or newly placed child, or for a seriously ill spouse who is temporarily disabled as a result of pregnancy or recovery from childbirth.⁸² This leave can be used in addition to job-protected medical leave under the Family & Medical Leave Act. Eligible birth mothers may be entitled to 12 weeks of parental leave after they have taken time off for a pregnancy disability and/or recovery from childbirth.

NEW MEXICO

D

Private Sector Employees

At-Home Infant Care (AHIC)

In the spring of 2004, New Mexico established an AHIC pilot program providing benefits to eligible lower income parents to care for their infants.⁸³

State Employees

New Mexico state employees have no additional benefits beyond the federal FMLA.

NEW YORK

C

Private Sector Employees

Medical/Disability Leave Benefits

Employees in New York are entitled to 26 weeks of leave for pregnancy disability and recovery from childbirth. The law covers all employers with one or more employees. New York's Temporary Disability Insurance program is funded by contributions from both employers and employees. The maximum leave is 26 weeks.⁸⁴

State Employees

Job-Protected Parental Leave

New York state employees are entitled to seven months of unpaid parental leave from the date of delivery.⁸⁵ The period of medical disability following delivery is included in this seven-month period. New York state employees may be granted up to two years of unpaid leave for pregnancy or childbirth.⁸⁶

NORTH CAROLINA

F

Private Sector Employees

North Carolina has no laws guaranteeing job protection or benefits for new parents.

State Employees

North Carolina state employees have no additional benefits beyond the federal FMLA.

NORTH DAKOTA

D-

Private Sector Employees

North Dakota has no laws guaranteeing job protection or benefits for new parents.

State Employees

Job-Protected Family Leave

North Dakota state employees can receive four months of unpaid parental leave during any 12-month period.⁸⁷

The North Dakota State Employees Family Leave Law provides state employees with similar benefits and coverage to those available under the federal FMLA.⁸⁸

OHIO

C-

Private Sector Employees

Ohio has no laws guaranteeing job protection or benefits for new parents.

State Employees

Parental Leave Benefits

Ohio state employees are entitled to six weeks of leave upon the birth or adoption of a child, including four weeks of benefits at 70 percent of the employee's regular rate of pay. These six weeks of parental leave count against the 12 weeks of leave provided by the FMLA.⁸⁹ Ohio state employees are also entitled to six months of unpaid parental leave.⁹⁰

Medical/Disability Leave Benefits

Ohio state employees are eligible for benefits at 70 percent of the employee's regular rate of pay for up to six months, and 50 percent of pay for up to an additional 18 months. These benefits apply to complications during pregnancy that require time off from work, and for six weeks after a vaginal birth or eight weeks after a Caesarean delivery if there are no additional complications.

OKLAHOMA

F

Private Sector Employees

Oklahoma has no laws guaranteeing job protection or benefits for new parents.

State Employees

Oklahoma state employees have no additional benefits beyond the federal FMLA.

OREGON

B+

Private Sector Employees

Job-Protected Family and Medical Leave

Private sector employers with 25 or more employees must provide workers with 12 weeks of unpaid family and medical leave within any one-year period. This leave can be used for one's own medical condition, including pregnancy disability and recovery from childbirth, as well as to care for a spouse with a serious health condition. If an employee uses this leave for her own pregnancy-related disability and/or recovery from childbirth, it is not counted against job-protected parental leave.⁹¹

Job-Protected Parental Leave

Employees that work for companies with 25 or more employees are entitled to 12 weeks of job-protected leave to care for an infant, newly adopted child or newly placed foster child under 18 years of age. The law further provides an additional 12 weeks to care for a child who is suffering from an illness, injury or condition that is not a serious health condition, but that requires home care within the same one-year period for a total of 24 weeks.⁹²

State Employees

Job-Protected Family and Medical Leave

State employers with 25 or more employees must provide workers with 12 weeks of unpaid family and medical leave within any one-year period. This leave can be used for one's own medical condition, including pregnancy disability and recovery from childbirth, as well to care for a spouse with a serious health condition. If an employee uses this leave for her own pregnancy-related disability and/or recovery from childbirth, it is not counted against job-protected parental leave.⁹³

Job-Protected Parental Leave

Oregon state employees are entitled to 12 weeks of job-protected leave to care for an infant, newly adopted child or newly placed foster child under 18 years of age. The law further provides the same leave to care for a child who is suffering from an illness, injury or condition that is not a serious health condition, but that requires home care within the same one-year period, for a total of 24 weeks.⁹⁴

PENNSYLVANIA

F

Private Sector Employees

Pennsylvania has no laws guaranteeing job protection or benefits for new parents.

State Employees

Job-Protected Parental Leave

Pennsylvania state employees who become parents through childbirth, formal adoption, or foster care placement may request up to six months of unpaid parental leave. The agency head determines whether or not to award leave to an employee.⁹⁵

RHODE ISLAND

B-

Private Sector Employees

Medical/Disability Leave Benefits

Private sector employees are entitled to up to 30 weeks of benefits for maternity disability if they have been medically certified as unable to work. Rhode Island's short-term disability program is financed by employee payroll tax deductions.

Job-Protected Parental Leave

Private employers with at least 50 workers are required to offer employees 13 weeks of parental leave in any two calendar years for childbirth or the adoption of a child age 16 or younger.⁹⁶

State Employees

Job-Protected Parental Leave

State employees are entitled to up to one year of job-protected parental leave.⁹⁷

SOUTH CAROLINA

D+

Private Sector Employees

Job-Protected Medical/Maternity Leave

South Carolina's Human Affairs law prohibits employers with 15 or more employees from terminating an employee who takes leave for a pregnancy disability or to recover from childbirth.⁹⁸

State Employees

Job-Protected Medical/Maternity Leave

South Carolina's Human Affairs law prohibits state employers with 15 or more employees from terminating an employee who takes leave for a pregnancy disability or to recover from childbirth.⁹⁹

SOUTH DAKOTA

F

Private Sector Employees

South Dakota has no laws guaranteeing job protection or benefits for new parents.

State Employees

South Dakota state employees have no additional benefits beyond the federal FMLA.

TENNESSEE

C

Private Sector Employees

Job-Protected Medical/Maternity Leave

In Tennessee, employers with 100 or more workers must provide female employees with four months of maternity leave for pregnancy, childbirth and nursing an infant if they have worked full-time for the company for at least 12 consecutive months.¹⁰⁰

State Employees

Job-Protected Medical/Maternity Leave

Female state employees are entitled to up to four months of job-protected leave for pregnancy, childbirth and nursing if they have worked full-time for at least 12 consecutive months. This four-month leave period includes leave required before and after the birth of a child.¹⁰¹ Female state employees who have worked for less than one year are entitled to up to 30 days of unpaid job-protected maternity leave following the birth of a child.

TEXAS

F

Private Sector Employees

Texas has no laws guaranteeing job protection or benefits for new parents.

State Employees

Job-Protected Parental Leave

Texas state employees are entitled to up to 12 weeks of parental leave for the birth of a child or for the adoption or foster care placement of a child younger than three.¹⁰²

UTAH

D-

Private Sector Employees

Utah has no laws guaranteeing job protection or benefits for new parents.

State Employees

Job-Protected Medical/Maternity Leave

Utah state employees may be granted up to 12 months of unpaid medical leave, including leave for pregnancy disability and recovery from childbirth, if a registered health practitioner certifies that the employee is temporarily disabled.¹⁰³

VERMONT

B-

Private Sector Employees

Job-Protected Parental and Medical Leave

Private sector employers with 10 or more workers must provide with up to 12 weeks of leave per year for an employee's pregnancy, to care for a newborn, or to care for a newly-adopted child under age 16 within the first year after placement. Leave can be used during pregnancy and after birth.¹⁰⁴

Private sector employees at companies with at least 15 employees are eligible to take 12 weeks of leave per year to care for a spouse or civil union partner with a maternity-related disability.¹⁰⁵

State Employees

Job-Protected Family Leave

State employees are entitled to four months of unpaid parental leave.

State employers who employ 10 or more workers must provide employees with up to 12 weeks of leave per year for an employee's pregnancy, to care for a newborn, or to care for a newly-adopted child under age 16 within the first year after placement. Leave can be used during pregnancy and after birth.¹⁰⁷

State employers with at least 15 employees must provide up to 12 weeks of leave per year to care for a spouse or civil union partner with a maternity-related disability.¹⁰⁸

VIRGINIA

F

Private Sector Employees

Virginia has no laws guaranteeing job protection or benefits for new parents.

State Employees

Virginia state employees have no additional benefits beyond the federal FMLA.

WASHINGTON

B

Private Sector Employees

Flexible Use of Sick Days

Employees who have any type of accrued paid leave can use it to care for a newborn or newly adopted child as well as a seriously ill family member, including a spouse with a pregnancy related disability or who is recovering from childbirth. Washington's law covers all employees regardless of employer size.¹⁰⁹

Job-Protected Medical/Maternity Leave

Employees in Washington are entitled to job protection for the period of disability due to pregnancy and childbirth. This law covers employers with eight or more employees.¹¹⁰

Employees in Washington are entitled to job-protected leave for sickness and temporary disability as a result of pregnancy or childbirth in addition to 12 weeks of family leave to care for a new child. The law covers employers with more than 100 workers, and employees who work a minimum of 35 hours a week.¹¹¹

State Employees

Job-Protected Medical/Maternity Leave

Washington state employees are entitled to job-protected leave for sickness and temporary disability as a result of pregnancy or childbirth in addition to 12 weeks of federal family leave. The law covers employers with more than 100 employees and employees who work a minimum of 35 hours a week.¹¹²

Job-Protected Parental Leave

Washington state employees are entitled to six months of unpaid parental leave to care for a newborn, newly adopted child or newly placed foster child if they have worked for the state for 12 months and for at least 1250 hours.¹¹³

WEST VIRGINIA

F

Private Sector Employees

West Virginia has no laws guaranteeing job protection or benefits for new parents.

State Employees

West Virginia state employees have no additional benefits beyond the federal FMLA.

WISCONSIN

C

Private Sector Employees

Flexible Use of Sick Days

Employees who have any type of accrued paid leave can use it to care for a newborn or newly adopted child as well as a seriously ill family member, including a spouse with a pregnancy-related disability or who is recovering from childbirth. The law covers employers with 50 or more workers.¹¹⁴

State Employees

Job-Protected Family Leave

Wisconsin state employees are entitled to six months of unpaid parental leave.¹¹⁵

WYOMING

F

Private Sector Employees

Wyoming has no laws guaranteeing job protection or benefits for new parents.

State Employees

Wyoming state employees have no additional benefits beyond the federal FMLA.

DISTRICT OF COLUMBIA B+

Private Sector Employees

Job-Protected Family Leave

Employers with 20 or more workers must grant up to 16 weeks of family leave during any 24-month period to care for a newborn, newly adopted child or newly placed foster child. The law also protects workers caring for a family member, relative or domestic partner who is temporarily disabled due to pregnancy or is recovering from childbirth. The family leave must be taken within the first year of the child's birth or placement in the home.¹¹⁶

Job-Protected Medical Leave

Employers with 20 or more employees must grant up to 16 weeks of medical leave in a 24-month period for a serious health condition including pregnancy disability and recovery from childbirth. This medical leave is separate from the 16 weeks of job-protected leave guaranteed under the family leave provisions of the D.C. law.¹¹⁷

City Employees

Job-Protected Family Leave

All city employers within the Washington, D.C. city limits must grant up to 16 weeks of family leave during any 24-month period for the care of a newborn, newly adopted child or newly placed foster child. The law also protects workers caring for a family member, relative or domestic partner who is temporarily disabled due to pregnancy or recovery from childbirth. The family leave must be taken within the first year of the child's birth or placement in the home.¹¹⁸

Job-Protected Medical/Maternity Leave

All city employers within the Washington, D.C. city limits must grant up to 16 weeks of medical leave in a 24-month period to address a serious health condition including pregnancy disability and recovery from childbirth. This medical leave is separate from the 16 weeks of job-protected leave guaranteed under the family leave provisions of the D.C. law.¹¹⁹

FEDERAL GOVERNMENT F

Private Sector Employees

The Family & Medical Leave Act and the Pregnancy Discrimination Act provide job protection

and protection from gender discrimination to new mothers and fathers.

Federal Employees

Federal employees have no additional benefits beyond the federal FMLA.

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Disclaimer

The text, citations and data for this report are, to the best of the author's knowledge, current as of the printing date of *Expecting Better: A State-by-State Analysis of Parental Leave Programs*. This report does not constitute legal advice. Individuals and organizations should consult their own legal counsel for legal advice.

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State by State Comparison

Paid Leave for Private Sector Employees

	Family Leave Benefits	Medical/ Maternity Leave Benefits	Flexible Sick Days
Alabama			
Alaska			
Arizona			
Arkansas			
California	●	●	*
Colorado			
Connecticut			●
Delaware			
Florida			
Georgia			
Hawaii		●	●
Idaho			
Illinois			
Indiana			
Iowa			
Kansas			
Kentucky			
Louisiana			
Maine			
Maryland			
Massachusetts			
Michigan			
Minnesota			
Mississippi			
Missouri			
Montana			
Nebraska			
Nevada			
New Hampshire			
New Jersey		●	
New Mexico			
New York		●	
North Carolina			
North Dakota			
Ohio			
Oklahoma			
Oregon			
Pennsylvania			
Rhode Island		●	
South Carolina			
South Dakota			
Tennessee			
Texas			
Utah			
Vermont			
Virginia			
Washington			●
West Virginia			
Wisconsin			●
Wyoming			
District of Columbia			
Federal Employees			

*California has a flexible sick leave law that entitles all workers that have access to sick leave to use it to care for a seriously ill spouse or partner temporarily disabled due to pregnancy or recovery from childbirth but not to care for a newborn. See California Labor Code 233.

** To date, Montana's AHIC program remains unfunded.

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