



## Overview of State Paid Family Leave Laws

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Workers in New York who need time off to care for a newborn or ill family member can now take paid leave to manage such responsibilities, thanks to the New York Paid Family Leave (NYPFL) law which went into effect on January 1, 2018.

New York joins New Jersey, Rhode Island, Washington (effective 7/2020), the District of Columbia (effective 7/2020) and California to enact paid family leave legislation, supplementing the federal Family and Medical Leave Act (FMLA), under which leave for qualifying family and medical purposes are unpaid.

The following is a summary of PFL laws currently in effect as well as some of the proposed measures that are being considered.

**California** – Its pioneering 2004 law provides employees of all companies, regardless of size, up to six weeks of time off at partial pay to care for covered family members.<sup>1</sup> To qualify, the employee must have earned at least \$300 during the 12-month period preceding a claim and wages must have been subject to withholdings from California’s disability insurance program. Situations covered under the program include time off to bond with a newborn, adopted child, or foster child, and to care for a covered family member with a serious illness.

A new 2018 law increased the benefit amount for the approximately 18 million Californians covered under the program. Workers earning close to the minimum wage will now be paid 70% of their salary while higher paid<sup>2</sup> workers will receive 60% of their salary during the leave to a maximum of \$1,216 per week. The new law also eliminated a seven-day waiting period to receive benefits. California’s PFL program is funded through employee paycheck deductions.<sup>3</sup> It does not guarantee the protection of the employee’s job while he/she is on leave.

**New Jersey** – Effective since 2009, New Jersey’s PFL program grants up to six weeks leave at partial pay to employees who have worked at least 20 calendar weeks, or who earned at least \$8,400 during the 12-month period preceding a claim. Family leave can be used to bond with a new child within one year of the child’s birth or adoption, or to care for a family member<sup>4</sup> with a serious illness. The New Jersey program pays employees two-thirds of their average weekly wage, an amount based on earnings in the eight weeks immediately before a claim begins and is currently \$637 per week. A seven-day waiting period applies in New Jersey. However, new mothers who have been receiving state disability insurance

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<sup>1</sup> Includes a worker’s child, parent, grandparent, grandchild, sibling, spouse, registered domestic partner, parent of a worker’s spouse / domestic partner.

<sup>2</sup> Up to \$108,000 annually.

<sup>3</sup> Currently a single deduction of 1.0% of taxable wages per employee, per year to fund both the DI and PFL program, capped at \$1,149.67.

<sup>4</sup> Includes: a worker’s child under 19, or whose mental or physical impairment prevents him/her to care for self; parent; spouse; registered domestic partner; civil union partner.

benefits due to pregnancy and childbirth are exempted from the waiting period. New Jersey workers cover the cost of the PFL program through paycheck deductions.<sup>5</sup> The program does not offer job protection.

**New York** – With a few exceptions,<sup>6</sup> virtually all workers in New York are eligible for paid leave. Currently, employees can receive eight weeks paid time off at 50% of their weekly wage, an amount now capped at \$653. Over the next three years the duration of time off and the benefit rate will increase as follows:

- January 1, 2019 – 10 weeks at 55% of the employee’s average weekly wage
- January 1, 2020 – 10 weeks at 60% of the employee’s average weekly wage
- January 1, 2021 – 12 weeks at 67% of the employee’s average weekly wage

New York workers can take leave to bond with a new child within one year of the child’s birth or adoption, care for a family member<sup>7</sup> with a serious illness or to fulfill certain military family obligations. To be eligible, individuals must have worked for their employer for at least six consecutive months if working 20 or more hours per week, or 175 days (days do not need to be consecutive) if working less than 20 hours per week). Self-employed workers can opt-in to the PFL program, as well as unions that cover public workers, using the collective bargaining process. The New York PFL program is funded through employee paycheck deductions.<sup>8</sup> Employees are guaranteed the right to return to their job after taking family leave.

**Rhode Island** – Effective since 2014, the state’s PFL program grants up to four weeks of paid family leave to qualifying employees<sup>9</sup> who have paid into the state’s temporary disability and temporary caregiver insurance programs. Covered reasons for taking paid leave include a child’s birth, adoption, or foster care placement, and to care for a spouse, registered domestic partner, parent, parent-in-law, or a seriously ill child. There is no waiting period to use PFL benefits in Rhode Island whose program guarantees job protection for workers that take paid leave.

**Washington, D.C.** – The District of Columbia’s PFL program was signed into law in 2017 and becomes effective July 1, 2020. The program will offer eligible employees<sup>10</sup> paid time off to recover from a serious illness, to care for a seriously ill family member<sup>11</sup>, or to bond with a new child arriving either by birth, adoption or foster placement. The duration of benefits will depend on the reason for taking leave and the amount paid will depend on the employee’s earnings.

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<sup>5</sup> As of January 1, 2018, each worker contributes 0.09% of the taxable wage base, currently \$33,700. The maximum annual deduction is capped at \$30.33.

<sup>6</sup> Examples include: farm workers; employees of certain religious, educational and charitable organizations; independent contractors. A full list can be found at: <http://www.wcb.ny.gov/content/main/DisabilityBenefits/Employer/whoCovered.jsp>

<sup>7</sup> Includes a worker’s child; parent; parent in-law; spouse; grandchild; grandparent; domestic partner (New York’s definition of domestic partner is flexible and does not require registration).

<sup>8</sup> Currently 0.126% of wages, capped at \$67,907.84 for 2018. Maximum annual employee contribution for 2018 is \$85.56.

<sup>9</sup> Employee must have earned at least \$11,520 during the 12-month base period preceding the claim. Those not meeting this requirement will still be eligible if they: earned \$1,920 during at least one quarter of the base period; earned \$3,840 in taxable wages during the base period; had total taxable wages during the base period that were at least 1.5 times the employee’s earnings in the highest-paid quarter of the base period.

<sup>10</sup> Employees of nearly all private employers are eligible if, during some or all of the 52 weeks prior to the leave, they spend more than 50% of their time working for a covered employer in D.C., their work for a covered employer is based in D.C., or they spend a significant amount of their work time in D.C. and they spend less than 50% of work time for the employer in another location.

<sup>11</sup> Includes a worker’s child, stepchild, child of a domestic partner, parent, step parent, parent-in-law, spouse, grandparent, sibling, or registered domestic partner.

Employees will receive two weeks of paid leave to recover from a personal illness, six weeks to care for an ill family member, and eight weeks to bond with a new child. Employees earning 1.5 times the minimum wage will receive 90% of their average weekly wage. Those earning above the minimum wage will receive 90% of 150% of D.C.'s minimum wage, which will be \$15 per hour by the program's effective date in 2020. Weekly benefits will be capped at \$1,000 and there will be a seven-day waiting period to receive benefits. The District of Columbia will operate the PFL program, which will be funded through employer payroll taxes.<sup>12</sup>

**Washington State** – Washington first passed paid family leave legislation in 2007, but repeated budget shortfalls derailed implementation of the program. Last year, however, legislation was enacted to finally guarantee Washingtonians PFL benefits, beginning July 1, 2020. Eligible workers<sup>13</sup> can take paid time off to recover from a serious illness, or to care for a seriously ill family member.<sup>14</sup> The duration of paid time off will be available as follows:

- 12 weeks of family or medical leave.
- 14 weeks of family or medical leave if the employee is incapacitated because of a pregnancy or health condition.
- 16 weeks of combined family and medical leave.
- 18 weeks of combined family and medical leave if the employee is incapacitated because of a pregnancy or health condition.

Employers and employees will both fund Washington's PFL program through payroll deductions. Collection of premiums, which will be 0.4% of wages, will commence on January 1, 2019. Employees will pay 63% of premiums while employers will pay the remaining 37%. Self-employed workers who elect PFL coverage need pay only the employee share of premiums. Companies with fewer than 50 employees are exempt from paying the employer portion. Companies that offer leave benefits can opt-out of the program, provided that their benefits are on par with those offered by the state. There will be a seven-day waiting period to receive benefits, which will be capped at \$1,000 weekly. Additionally, employees are entitled to return to the same or equivalent job following paid leave and are guaranteed to receive the same employment benefits that they accrued prior to taking time off.

### **Pending Proposals**

Since the commencement of the 2018 state legislative session, paid family leave proposals have been introduced in several jurisdictions where they are currently pending:

- **Arizona** – Legislation introduced to require private employers with at least 50 employees to provide 12 work-weeks of leave.
- **Hawaii** – Multiple bills have been introduced to expand existing law and provide additional leave benefits for various family purposes.
- **Iowa** – Legislation introduced to provide 16 weeks paid family and medical leave during a 12-month period.
- **Maryland** – Vetoed PFL legislation in 2017, however, has since introduced the Paid Leave Compromise Act of 2018 to allow employees to accrue paid time off at a rate of one hour for every 30 hours worked.

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<sup>12</sup> Employers will contribute 0.62% of the wages of covered employees.

<sup>13</sup> All employees including public employees. Employee must have worked 820 hours to qualify.

<sup>14</sup> Includes a worker's child, grandchild, grandparent, parent, parent-in-law, sibling, spouse, or registered domestic partner.

- **Massachusetts** – A petition has been filed to create the Massachusetts Paid Family and Medical Leave Initiative. It would provide employees and self-employed individuals 16 weeks of paid family leave, 26 weeks of paid medical leave, or an aggregate of no more than 26 weeks of paid family and medical leave per year. If approved by the state’s Attorney General, the proposal could be presented to voters as a ballot initiative this November.
- **Missouri** – Legislation introduced to provide eight weeks of wage replacement for employees who take time off for family or medical reasons.
- **Nebraska** – Introduced the Paid Family Leave Insurance Act to grant eligible workers up to 12 weeks of paid leave.
- **Virginia** – Legislation introduced to require companies with 50 or more employees to provide up to 30 paid “caregiving leave” days annually. Separate legislation filed would require companies employing 15 or more full-time workers to provide each with 40 hours paid and family leave per year.

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