



Designing a State-Based Social Insurance Program for Paid Family and Medical Leave

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Preface

ABOUT THE CHAPTER

This chapter explores policy options for states seeking to develop a paid family and medical leave program. It was developed during a year of deliberations by a Working Group of 13 experts on child and family policy, poverty and inequality, social policy, and tax law, representing a variety of perspectives and fields of expertise. It is part of a larger Study Panel project on Universal Family Care. While addressed primarily to state policymakers, the report may also interest federal policymakers, administrators, and advocacy organizations, as well as workers, families, business owners, and others directly affected by the sometimes competing needs to earn income and care for themselves and/or their families.

Early Child Care and Education / Paid Family and Medical Leave Working Group

Heidi Hartmann*
Chair

President and CEO, Institute for Women's Policy Research;
Economist in Residence, American University; MacArthur Fellow

Indivar Dutta-Gupta*▲

Co-Executive Director, Economic Security and Opportunity Initiative,
Georgetown Center on Poverty and Inequality

Kathryn Edwards*

Associate Economist, RAND Corporation;
Professor, Pardee RAND Graduate School

Joan Entmacher*

Senior Fellow, National Academy of Social Insurance

Jocelyn Frye

Senior Fellow, Center for American Progress

Jeffrey Hayes*

Program Director, Job Quality and Income Security, Institute for Women's Policy Research

Elaine Maag

Principal Research Associate, Urban-Brookings Tax Policy Center, The Urban Institute

Aparna Mathur*

Resident Scholar, Economic Policy, American Enterprise Institute;
Co-Director, AEI-Brookings Project on Paid Family and Medical Leave

Michelle McCready

Chief of Policy, Child Care Aware of America

Ray Pepin

Temporary Disability Insurance (TDI) Administrator,
Rhode Island Department of Labor & Training

Erik Rettig

Senior Manager, SMB/Economic Policy, Intuit

Christopher Ruhm*

Professor of Public Policy and Economics, University of Virginia

Marci Ybarra

Associate Professor, School of Social Service Administration, University of Chicago

* *Member, National Academy of Social Insurance*

▲ *Board Member, National Academy of Social Insurance*

Project Staff

Benjamin W. Veghte, Study Panel Director

Vice President for Policy
National Academy of Social Insurance
(until June 2018)

Caregiving Policy Consultant
National Academy of Social Insurance
(July 2018 – June 2019)

Alexandra L. Bradley

Lead Policy Analyst, Health and Caregiving
National Academy of Social Insurance
(until November 2018)

Caregiving Policy Consultant
National Academy of Social Insurance
(December 2018 – June 2019)

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TABLE OF CONTENTS

Preface	69
Executive Summary	75
I. Introduction	76
II. The Landscape of Paid Family and Medical Leave Policies in the United States	92
III. Policy Options for State Paid Family and Medical Leave Programs	108
IV. Key Policy Design Elements and Considerations	116
V. Integration and Implementation Considerations	126
VI. Conclusion	132

EXECUTIVE SUMMARY

At some point during their lives, virtually all workers will need time away from work to care for a loved one and/or cope with a health problem of their own. While this need for time off is nearly universal, a significant share of workers in the United States currently lacks access to any kind of guaranteed leave to provide or receive care. Thus, many workers are forced to choose between caring for themselves or a loved one and losing wages or even their job. Paid leave benefits are also highly inequitably distributed; workers who earn more, work for large employers, or hold white-collar jobs are much more likely to have access to paid family and/or medical leave.

This chapter describes how, in the absence of a national policy, states have stepped up as critical leaders in advancing paid family and medical leave (PFML) programs. To date, ten jurisdictions have adopted some form of paid leave policy (CA, CT, DC, HI, MA, NJ, NY, PR, RI, WA). The experiences of these states can offer valuable lessons for future programs. In particular, states have learned the importance of providing sufficient wage replacement rates to permit lower-wage workers to actually use the benefits, conducting robust education and outreach campaigns to inform the public about the program, and simplifying the administrative burden of applying for benefits for both applicants and administrators.

Next, the chapter discusses three policy options for states interested in developing a paid family and medical leave program:

- 1. Universal, contributory social insurance program, exclusive state fund**—Throughout their careers, all workers contribute to a state social insurance fund—out of which all benefits are paid—in return for an earned benefit should a PFML need arise.
- 2. Contributory social insurance program with regulated private options**—Employers are required to offer a certain level and type of coverage and to comply with specified anti-discrimination and other consumer protections. Employers are free to choose between utilizing the state fund, self-insuring, and/ or purchasing a private plan for coverage.
- 3. Employer mandate**—Employers are obligated to provide paid leave benefits directly to their workers, either by self-insuring or by purchasing private coverage.

After choosing a model for the program, policymakers must determine other important design features, including eligibility requirements, qualifying events, the definition of family, benefit design, and job protection. There are also factors surrounding program implementation and integration to consider, such as program administration, education and outreach, evaluation, integration with other state policy mechanisms, coordination with existing employee benefit plans, and coverage for self-employed workers. Ultimately, however, absent a robust national program, states can substantially improve quality of life and financial security for workers and their families by implementing well designed paid family and medical leave programs.

Section I.

INTRODUCTION

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At some point during their lives, virtually all workers will need time away from work to care for a loved one and/or cope with a health problem of their own. While this need for time off is nearly universal, a significant share of workers in the United States currently lacks access to any kind of guaranteed leave to provide or receive care, and particularly to the types of financial support—such as wage replacement—that would make such leave possible. As a result, many workers are forced to choose between caring for themselves or a loved one and losing wages or even their job.

The current landscape of family and medical leave policies in the United States leaves substantial gaps in workplace supports for family caregiving and personal medical needs. The Family and Medical Leave Act of 1993 (FMLA) provides many U.S. workers

with access to *unpaid*, job-protected time off to provide or receive care. Under this law, a worker is eligible for 12 weeks of unpaid leave in the event of the birth, adoption, or foster placement of a child; the serious health condition of a close family member; a worker's own serious health condition; or the military deployment of a worker's spouse, child, or parent.¹ Family members of qualified veterans, reservists, and active duty military personnel may also take up to 26 weeks of leave from their jobs to care for the military member or veteran who is injured or ill under the Military Caregiver Leave extension of the FMLA.² This legislation undeniably marked a significant shift in U.S. work-family policy, but the coverage remains insufficient for a substantial portion of the workforce. Due to restrictive eligibility requirements, roughly 40 percent of workers are excluded entirely

¹ Family and Medical Leave Act of 1993, Pub. L. No. 103-3, 107 Stat. 6 (1993), <https://www.law.cornell.edu/uscode/text/29/chapter-28>.

² U.S. Department of Labor, Wage and Hour Division, "Fact Sheet #28M(b): Military Caregiver Leave for a Veteran under the Family and Medical Leave Act," n.d., <https://www.dol.gov/whd/regs/compliance/whdfs28mb.pdf>.

from FMLA coverage, and even those who are covered often cannot afford time away from work without any compensation.³ As many families across the nation struggle with economic insecurity, and as workers increasingly juggle work and caregiving responsibilities, paid family and medical leave is being offered or discussed in a growing number of states and by an increasing number of employers across the country.

The United States is the only industrialized country—and one of only a handful of countries across the world—without a national program offering workers some form of paid caregiving leave. Only 17 percent of civilian workers have paid caregiving leave coverage through an employer-provided benefit.⁴ Similarly, no national policy provides or mandates that workers be paid for time off to address their own health-related issues. Although paid sick leave is more common than paid family leave, coverage remains far from universal:

The U.S. is the only industrialized country with no national program offering workers some form of paid caregiving leave.

among civilian workers, 74 percent have access to paid sick leave,⁵ 39 percent have access to short-term disability insurance benefits, and 34 percent have access to long-term disability insurance.⁶ Access to paid leave benefits is also unequally distributed across the workforce. Only 8 percent of the lowest-earning quartile has access to paid family leave,⁷ and only 19 percent has access to short-term disability insurance;⁸ for workers in the highest-earning quartile, those numbers jump to 28 percent⁹ and 54 percent,¹⁰ respectively. Coverage also varies by employer size: the larger the employer, the more likely its employees are to have access to paid family leave¹¹ and temporary disability insurance.¹²

³ Jacob Alex Klerman, Kelly Daley, and Alyssa Pozniak, “Family and Medical Leave in 2012: Technical Report,” Cambridge, MA: Abt Associates, Revised April 2014, <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>.

⁴ Bureau of Labor Statistics, “Table 32. Leave Benefits: Access, Civilian Workers, March 2018,” U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table32a.htm>.

⁵ Ibid.

⁶ Bureau of Labor Statistics, “Table 16. Insurance Benefits: Access, Participation, and Take-Up Rates, Civilian Workers, March 2018,” U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table16a.htm>.

⁷ Bureau of Labor Statistics, “Table 32. Leave Benefits: Access, Civilian Workers, March 2018,” U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table32a.htm>.

⁸ Bureau of Labor Statistics, “Table 16. Insurance Benefits: Access, Participation, and Take-Up Rates, Civilian Workers, March 2018,” U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table16a.htm>.

⁹ Bureau of Labor Statistics, “Table 32. Leave Benefits: Access, Civilian Workers, March 2018,” U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table32a.htm>.

¹⁰ Bureau of Labor Statistics, “Table 16. Insurance Benefits: Access, Participation, and Take-Up Rates, Civilian Workers, March 2018,” U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table16a.htm>.

¹¹ Bureau of Labor Statistics, “Table 32. Leave Benefits: Access, Civilian Workers, March 2018,” U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table32a.htm>.

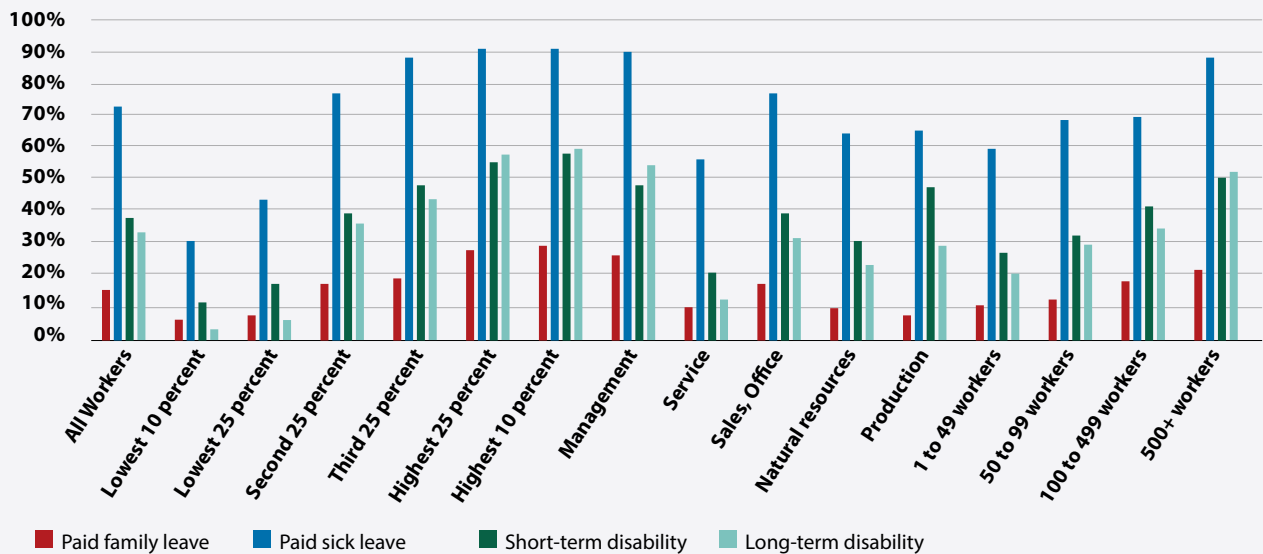
¹² Bureau of Labor Statistics, “Table 16. Insurance Benefits: Access, Participation, and Take-Up Rates, Civilian Workers, March 2018,” U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table16a.htm>.

Occupational disparities exist as well. For example, nearly 1 in 3 workers in the fields of finance and management have access to employer-provided paid family leave, while that proportion is closer to 1 in 20 for workers in the construction and hospitality industries (see Figure 1).¹³

Proposals to implement universal paid family and medical leave programs have been gaining traction at both the state and federal level. Paid family and medical leave refers to a program that incorporates both paid medical leave—also known as temporary or short-term disability insurance—and paid family leave—where workers can take time to provide care for a family member

or loved one. (See text box on p. 91: Paid Leave Terminology.) Although this report chapter focuses on options for state-level paid leave policies, many of the issues discussed are also integral to the design of a federal paid leave policy. Several states have already implemented their own paid family and medical leave programs (see Section II of this chapter), and others are starting up or passing new laws that establish such programs. A number of employers are also voluntarily offering paid leave to employees, (see text box on p. 90: Employer-Provided Paid Family and Medical Leave) although low-wage workers frequently receive little or no benefit under these programs. Limiting paid leave to full-time or higher-earning

FIGURE 1: Employer-Provided Paid Leave Benefits: Civilian Workers



Source: Bureau of Labor Statistics, “Table 32. Leave benefits: Access, civilian workers, March 2018,” U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table32a.htm>; Bureau of Labor Statistics, “Table 16. Insurance benefits: Access, participation, and take-up rates, civilian workers, March 2018,” U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table16a.htm>.

¹³ Bureau of Labor Statistics, “Table 32. Leave Benefits: Access, Civilian Workers, March 2018,” U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table32a.htm>.



employees may exclude those who need the benefit the most; workers with the greatest need—such as people with disabilities¹⁴ or mothers with young children¹⁵—are more likely to hold part-time and/or lower-wage positions.

A universal program offers a promising avenue for workers to access these critical benefits regardless of their income, industry, job title, gender, or family composition. But programs must be carefully designed to ensure that policy choices do not unduly or unwittingly exclude many of the workers most in need of protection and coverage.

This chapter describes the variety of design options available to policymakers considering a paid leave policy and discusses the effects of different options on the equity, efficiency, affordability, and adequacy of a new (or updated) paid family and medical leave program.

Several states have implemented paid family and medical leave programs, and others are starting up new programs.

¹⁴ Kali Grant, T.J. Sutcliffe, Indivar Dutta-Gupta, and Casey Goldvale, “Security and Stability: Paid Family and Medical Leave and Its Importance to People with Disabilities and Their Families,” Georgetown Center on Poverty and Inequality and The Arc, Creative Commons, 2017, <http://www.thearc.org/file/public-policy-document/Paid-Leave-Report.pdf>.

¹⁵ Women’s Bureau: U.S. Department of Labor, “Working Mothers Issue Brief,” 2016, https://www.dol.gov/wb/resources/WB_WorkingMothers_508_FinalJune13.pdf.

Paid Leave Terminology

Paid Family Leave provides workers with paid time off to care for a loved one. Qualifying events typically include the birth, adoption, or foster placement of a child; the need to care for a loved one with a serious health condition; and, in some cases, contingencies surrounding the military deployment of a close family member. Some employers voluntarily offer paid family leave to some or all employees and pay the costs of that coverage out of pocket (i.e., self-insure). Several states have developed family leave insurance programs for workers, typically funded through employee payroll contributions.

Paid Medical Leave (or Short-Term or Temporary Disability Insurance) compensates workers for lost wages in the event of a longer-term health condition that is not related to work. Common conditions include pregnancy, long-term illness, or recovery from a surgical procedure. Paid medical leave typically provides partial wage replacement for up to a designated number of weeks, but some employers do offer total wage replacement throughout the leave period. Currently, coverage for paid medical leave, including temporary disability insurance (TDI), may be funded either by a public state-level program or by private coverage purchased by the employer or employee. Eligibility for benefits is typically determined by the state administrative agency or private plan provider, which may limit employer influence on the coverage decision and give workers a right to appeal benefit denials. Benefits often begin after a brief waiting period (e.g., one week) and, in some cases, decrease over the

duration of leave (i.e., workers may receive a high portion of wages for a designated period, followed by lower wage replacement for subsequent days/weeks).

In addition to paid family and medical leave, there are several other ways in which workers can receive wage replacement and medical benefits in case of inability to work for health reasons:

Paid Sick Days provide workers with paid time off to address acute personal health or safety needs. Employers generally fund and manage sick leave programs directly, either voluntarily or as a result of a state- or local-level mandate. Particularly for state or locally mandated programs, employees can typically use paid sick days for short-term, non-work-related illnesses and injuries; medical appointments; and accessing services or care related to domestic violence, sexual assault or abuse, or stalking. Some programs and employer policies permit workers to use paid sick days to attend to a family member with one of these acute needs. Workers typically accrue sick leave based on hours worked, and employers usually impose relatively strict limits on workers' ability to accrue sick days. Some employers, however, permit workers to accrue relatively high numbers of sick days, sometimes allowing leave to be carried over from year to year. These more generous benefits can support longer periods of leave for serious health conditions or events such as childbirth.

Long-Term Disability Insurance provides cash benefits in the event of an illness or injury that is expected to impede a worker's ability to remain

gainfully employed, either permanently or for a substantial period of time (i.e., years). In addition to the coverage available to all eligible workers through the Social Security Disability Insurance program, some employers offer private long-term disability insurance coverage as a benefit, and some workers purchase private coverage directly.

Workers' Compensation helps compensate for lost wages and pays medical expenses associated with an injury or illness that occurs on the job. Coverage is funded by employers, except for three states where

employers and employees contribute towards premium costs. Employers typically decide whether to obtain coverage through a private carrier plan, self-insuring, or a state Workers' Compensation insurance fund. Workers' Compensation coverage is required by law in all states except Texas, where coverage is voluntary. While there is consistency among central features of Workers' Compensation programs, benefits, program administration, eligibility requirements, and other program design features vary tremendously across the country.

The Changing Nature of Work and Family Life

The dynamics of work and family life in the U.S. have changed substantially over the past several decades, and national policy has been slow to adapt to this shifting reality. The vast majority of children are now growing up in households where every parent is working,¹⁶ and nearly one in three children lives in a single-parent household.¹⁷ Women also now make up a substantial proportion of the workforce.¹⁸ Most of today's families need all parents' earnings to make ends meet; 64 percent of mothers bring in at least

The vast majority of children live in households where every parent is working.

one quarter of family earnings, including 41 percent who bring in half or more, and the proportional contributions of low-income mothers and women of color to family earnings are even higher.¹⁹

Since the mid-20th century, the proportion of women in the workforce has increased

¹⁶ Eileen Patten, "How American Parents Balance Work and Family Life When Both Work," Pew Research Center, 2015, <http://www.pewresearch.org/fact-tank/2015/11/04/how-american-parents-balance-work-and-family-life-when-both-work/>.

¹⁷ Authors' calculations based on November 2017 data from the Current Population Survey, available at: U.S. Census Bureau, "Historical Families Tables, 2017, <https://www.census.gov/data/tables/time-series/demo/families/families.html>.

¹⁸ Bureau of Labor Statistics, "Table 5. Employment Status of the Population by Sex, Marital Status, and Presence and Age of Own Children under 18, 2015-2016 Annual Averages," U.S. Department of Labor, 2018, <https://www.bls.gov/news.release/famee.t05.htm>.

¹⁹ Sarah Jane Glynn, "Breadwinning Mothers Continue to be the U.S. Norm," Center for American Progress, May 10, 2019, <https://www.americanprogress.org/issues/women/reports/2019/05/10/469739/breadwinning-mothers-continue-u-s-norm/>.



substantially, from roughly 34 percent in 1950 to about 57 percent in 2015.²⁰ At the same time, women still often retain the primary caregiving responsibilities for children, family members with disabilities and/or chronic illnesses, and aging family members.²¹ As a result, working women often suffer stagnated earnings, heightened barriers to professional growth, and employer discrimination. Men are also—and increasingly—confronting the financial consequences of caregiving, as

they become more involved in providing care, desire to spend more time with their children,²² and face stigma in the workplace.²³ As a result of these changing workplace and gender dynamics, most families have no one to provide full-time care for a child and/or family member when needed. Without access to paid leave, family income and financial security suffer regardless of who takes time off to provide or receive care.

²⁰ Mitra Toossi and Teresa L. Morisi, “Women in the Workforce Before, During, and After the Great Recession,” U.S. Department of Labor, Bureau of Labor Statistics, 2017, <https://www.bls.gov/spotlight/2017/women-in-the-workforce-before-during-and-after-the-great-recession/pdf/women-in-the-workforce-before-during-and-after-the-great-recession.pdf>.

²¹ Richard Schulz and Jill Eden (Eds.), *Families Caring for an Aging America*, Committee on Family Caregiving for Older Adults; Board on Health Care Services; Health and Medicine Division; National Academies of Sciences, Engineering, and Medicine (Washington, DC: National Academies Press, 2016), https://www.ncbi.nlm.nih.gov/books/NBK396401/pdf/Bookshelf_NBK396401.pdf.

²² Kim Parker and Wendy Wang, “How Mothers and Fathers Spend Their Time,” Chapter 4 of *Modern Parenthood: Roles of Moms and Dads Converge as They Balance Work and Family* (Washington, DC: Pew Research Center, 2013), http://assets.pewresearch.org/wp-content/uploads/sites/3/2013/03/FINAL_modern_parenthood_03-2013.pdf.

²³ Joseph A. Vandello, Vanessa E. Hettinger, Jennifer K. Bosson, and Jasmine Siddiqi, “When Equal Isn’t Really Equal: The Masculine Dilemma of Seeking Work Flexibility,” *Journal of Social Issues*, vol. 69, no. 2, 2013.

However, the need for caregiving has not disappeared—and will not—simply because the number of stay-at-home caregivers has decreased. In fact, families are coping with a variety of care needs. Many modern families extend well beyond the scope of the “nuclear” household. Workers are providing care for a broad range of family members, from spouses, children, and parents; to extended family members such as grandparents, siblings, aunts, uncles, and cousins; to “chosen family” and others in their extended communities.²⁴ The Baby Boomer generation is also aging at a rapid pace, and the number of caregivers available for each senior is in steady decline.²⁵ As of 2010, there were roughly seven potential caregivers (defined as people aged 45-64) for each person aged 80 or older; that ratio is projected to drop to 4:1 by 2030 and 3:1 by 2050.²⁶ Roughly 1 in 6 working adults is already providing care for a family member over the age of 65. Some adults leave the workforce altogether because they cannot manage the competing demands

Roughly 1 in 6 working adults is providing care for a family member over age 65.

of work and caregiving. Additionally, almost a quarter of these family eldercare providers also have children.²⁷ While family caregiving leave-taking currently comprises a smaller portion of FMLA claims than personal medical leave (which accounts for over half of claims), family caregiving claims do not lag far behind new child bonding claims (18 versus 21 percent of claims in a given 12-month period, respectively),²⁸ demonstrating the importance of covering caregiving beyond new parenthood.

Impact of Paid Leave on Economic Security, Health, and Child Development

Research in the United States²⁹ and across OECD nations³⁰ has found that access to paid

²⁴ Jacqueline L. Angel and Richard A. Settersten, “What Changing American Families Mean for Aging Policies,” *Public Policy & Aging Report*, vol. 25, no. 3, 2015, doi: 10.1093/ppar/prv011.

²⁵ Nina Dastur, Indivar Dutta-Gupta, Laura Tatum, Peter Edelman, Kali Grant, and Casey Goldvale, “Building the Caring Economy: Workforce Investments to Expand Access to Affordable, High-Quality Early and Long-Term Care,” Georgetown Center on Poverty and Inequality, Creative Commons, 2017, http://www.georgetownpoverty.org/wp-content/uploads/2017/05/Building-the-caring-economy_hi-res.pdf.

²⁶ Donald Redfoot, Lynn Feinberg, and Ari Houser, “The Aging of the Baby Boom and the Growing Care Gap: A Look at Future Declines in the Availability of Family Caregivers,” AARP Public Policy Institute, Insight on the Issues 85, 2013, http://www.aarp.org/content/dam/aarp/research/public_policy_institute/ltc/2013/baby-boom-and-the-growing-care-gap-insight-AARP-ppi-ltc.pdf.

²⁷ U.S. Department of Labor, *Navigating the Demands of Work and Eldercare*, (Washington, DC, 2016), http://digitalcommons.ilr.cornell.edu/key_workplace/1602.

²⁸ Jacob Alex Klerman, Kelly Daley, and Alyssa Pozniak, “Family and Medical Leave in 2012: Technical Report,” Abt Associates, 2014, <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>.

²⁹ Charles L. Baum and Christopher J. Ruhm, “The Effects of Paid Family Leave in California on Labor Market Outcomes,” *Journal of Policy Analysis and Management*, vol. 35, no. 2, 2016; Nuno Mota, “Parental Leave Assistance and Long-Term Effects on Female Labor Supply,” 2015, https://nabreufa.expressions.syr.edu/wp-content/uploads/2014/09/NM_Paid_Leave_01-26-15.pdf.

³⁰ Becky Pettit and Jennifer Hook, “The Structure of Women’s Employment in Comparative Perspective,” *Social Forces*, vol. 84, no. 2, 2005; Jane Waldfogel, Higuchi Yoshio, and Abe Masahiro, “Family Leave Policies and Women’s Retention after Childbirth: Evidence from the United States, Britain, and Japan,” *Journal of Population Economics*, vol. 12, no. 4, 1999; WORLD Policy Analysis Center, “A Review of the Evidence on the Length of Paid Family and Medical Leave. Policy Brief,” 2018, <https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Length%20Paid%20Family%20and%20Medical%20Leave.pdf>.

leave increases maternal workforce attachment after giving birth, reduces poverty for households with children,³¹ and may also be associated with increased earnings for mothers.³² Access to paid parental leave for new fathers has been demonstrated to increase women's employment³³ and future earnings.³⁴ Paid medical leave can help workers with disabilities avoid income loss, separation from the workforce, or unwanted reductions in hours.³⁵ Workers who experience a serious medical incident are also more likely to return to work when paid leave is available,³⁶ though further research is needed on the long-term effects of paid medical leave.

Additionally, as the Baby Boomer generation ages, the demand for family caregivers who can provide support to their parents and other aging loved ones will grow. As the challenges of balancing work and caregiving responsibilities mount, many workers—particularly women, people of color, and low-wage workers, who may have more care

responsibilities and less access to paid family leave—risk negative economic outcomes, such as lost earnings, undesired shifts from full- to part-time work, or being pushed out of the workplace altogether. One study found that women over the age of 50 who left the labor force early to care for an elder suffered forgone wages averaging \$142,693 and reductions in lifetime Social Security benefits averaging \$131,351; for men, forgone wages and Social Security benefits averaged \$89,107 and \$144,609, respectively.³⁷

Access to paid leave increases maternal workforce attachment after giving birth and reduces poverty for households with children.

In addition to the financial benefits for workers and their families, access to paid parental leave has been associated with

³¹ Laurie C. Maldonado and Rense Nieuwenhuis, "Family Policies and Single Parent Poverty in 18 OECD Countries, 1978–2008," *Community, Work & Family*, vol. 18, no. 4, 2015.

³² WORLD Policy Analysis Center "Policy Brief: A Review of the Evidence on the Length of Paid Family and Medical Leave," 2018, <https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Length%20Paid%20Family%20and%20Medical%20Leave.pdf>.

³³ Mohammad Amin, Asif Islam, and Alena Sakhonchik, "Does Paternity Leave Matter for Female Employment in Developing Economies? Evidence from Firm Data," The World Bank Group, Policy Research Working Paper 7588, 2016, <http://documents.worldbank.org/curated/en/124221468196762078/pdf/WPS7588.pdf>.

³⁴ Elly-Ann Johansson, "The Effect of Own and Spousal Parental Leave on Earnings," Institute for Labour Market Policy Evaluation, Working Paper 2010:4, March 2010, <https://www.ifau.se/globalassets/pdf/se/2010/wp10-4-The-effect-of-own-and-spousal-parental-leave-on-earnings.pdf>.

³⁵ Kali Grant, T.J. Sutcliffe, Indivar Dutta-Gupta, and Casey Goldvale, "Security and Stability: Paid Family and Medical Leave and its Importance to People with Disabilities and their Families," Georgetown Center on Poverty and Inequality and The Arc, Creative Commons, 2017, <http://www.thearc.org/file/public-policy-document/Paid-Leave-Report.pdf>.

³⁶ Alison Earle, John Z. Ayanian, and Jody Heymann, "Work Resumption after Newly Diagnosed Coronary Heart Disease: Findings on the Importance of Paid Leave," *Journal of Women's Health*, vol. 15, no. 4, May 2006.

³⁷ MetLife Mature Market Institute, *The MetLife Study of Caregiving Costs to Working Caregivers: Double Jeopardy for Baby Boomers Caring for Their Parents*, (New York: MetLife, 2011), <http://www.caregiving.org/wp-content/uploads/2011/06/mmi-caregiving-costs-working-caregivers.pdf>.

positive health outcomes for both children and parents. Research reveals that paid parental leave is correlated with substantial reductions in mortality for infants and young children; this effect increases as the duration of benefits is extended.³⁸ Infants whose parents have access to paid parental leave are more likely to be breastfed³⁹ and to receive vaccinations according to the medically recommended schedule.⁴⁰ Recent research suggests that access to paid leave may play a role in reducing physical abuse and maltreatment of young children.⁴¹ New mothers also benefit from the time to recover and bond with their infants; women with more generous leave benefits showed decreased depressive symptoms and higher overall health status after childbirth compared to those who took shorter leaves.⁴² Additionally, paid leave is correlated with

higher participation in preventive health screenings and care, both for workers themselves and for their dependent children.⁴³

Access to paid parental leave has been associated with positive health outcomes for both children and parents.

To date, few studies have examined the effects of paid leave on adult loved ones and older children with care needs. The available literature does suggest that health outcomes for sick older children and aging individuals alike are improved with support from family members.⁴⁴ One recent study on paid family leave in California found that the program is correlated with an 11 percent relative decline in nursing home utilization among seniors.⁴⁵

³⁸ Christopher J. Ruhm, "Parental Leave and Child Health," *Journal of Health Economics*, vol. 19, no. 6, 2000, <https://pdfs.semanticscholar.org/4d10/696ad848f316382f65b2f85b43442acf51e3.pdf>; Maya Rossin-Slater, "The Effects of Maternity Leave on Children's Birth and Infant Health Outcomes in the United States," *Journal of Health Economics*, vol. 30, no. 2, 2011.

³⁹ Rui Huang and Muzhe Yang, "Paid Maternity Leave and Breastfeeding Practice Before and After California's Implementation of the Nation's First Paid Family Leave Program," *Economics & Human Biology*, vol. 16, no. 1, 2015; Eileen Appelbaum and Ruth Milkman, *Leaves that Pay: Employer and Worker Experiences with Paid Family Leave in California*, (Washington, DC: Center for Economic and Policy Research, 2011), <http://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>.

⁴⁰ Lawrence Berger, Jennifer Hill, and Jane Waldfogel, "Maternity Leave, Early Maternal Employment and Child Health and Development in the US," *The Economic Journal*, vol. 115, no. 501, 2005.

⁴¹ Joanne Klevens, Feijun Luo, Likang Xu, Cora Peterson, and Natasha E. Lutzman, "Paid Family Leave's Effect on Hospital Admissions for Pediatric Abusive Head Trauma," *Injury Prevention*, vol. 22, no. 6, 2016.

⁴² Pinka Chatterji and Sara Markowitz, "Family Leave After Childbirth and the Mental Health of New Mothers," *The Journal of Mental Health Policy and Economics*, vol. 15, 2012; Rada K. Dagher, Patricia M. McGovern, and Bryan E. Dowd, "Maternity Leave Duration and Postpartum Mental and Physical Health: Implications for Leave Policies," *Journal of Health Politics, Policy, and Law*, 2013, Doi: 10.1215/03616878-2416247. <http://jhpl.dukejournals.org/content/early/2013/11/27/03616878-2416247.abstract>.

⁴³ Liz Ben-Ishai, Zoe Ziliak Michel, and Alex Wang, "Paid Leave Necessary for an Ounce of Prevention: Paid Leave and Access to Preventive Care," Center for Law and Social Policy (CLASP), 2017, <https://www.clasp.org/sites/default/files/publications/2017/04/PreventiveHealthPaidLeave.pdf>.

⁴⁴ See literature review in: Jody Heymann, Hye Jin Rho, John Schmitt, and Alison Earle, "Contagion Nation: A Comparison of Paid Sick Day Policies in 22 Countries," Center for Economic Policy Research, 2009, cepr.net/publications/reports/contagion-nation.

⁴⁵ Kanika Arora and Douglas A. Wolf, "Does Paid Family Leave Reduce Nursing Home Use? The California Experience," *Journal of Policy Analysis and Management*, vol. 37, no. 1, 2017, <https://doi.org/10.1002/pam.22038>.



Impact of Paid Leave on Business and the Economy

Paid leave's effects on the economy as a whole represent an important metric by which to gauge the policy's success. To date there is little evidence that paid leave has any negative impact on business or the economy. Research on the existing programs in California,⁴⁶ Rhode Island,⁴⁷ and New Jersey⁴⁸ demonstrates no substantial negative impact on business. To

the contrary: employers report benefits from paid leave including improved employee retention (particularly among women), morale, engagement, and productivity.⁴⁹

Although some have suggested that businesses below a certain number of employees should be exempt from paying contributions into a state-level paid leave program, a national poll of small businesses found that a substantial majority supported

⁴⁶ Ruth Milkman and Eileen Appelbaum, *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy*, (Ithaca, NY: ILR Press, 2013), <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1090&context=books>.

⁴⁷ Ann Bartel, Maya Rossin-Slater, Christopher Ruhm, and Jane Waldfogel, "Assessing Rhode Island's Temporary Caregiver Insurance Act: Insights from a Survey of Employers," U.S. Department of Labor, Chief Evaluation Office, 2016, https://www.dol.gov/asp/evaluation/completed-studies/AssessingRhodeIslandTemporaryCaregiverInsuranceAct_InsightsFromSurveyOfEmployers.pdf.

⁴⁸ Miriam Ramirez, "The Impact of Paid Family Leave on New Jersey Businesses," New Jersey Business and Industry Association and Bloustein School of Planning and Public Policy at Rutgers, The State University of New Jersey, MPP AFE Presentation, Fall 2012, <http://bloustein.rutgers.edu/wp-content/uploads/2012/03/Ramirez.pdf>.

⁴⁹ Eileen Appelbaum and Ruth Milkman, "Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California," Center for Economic and Policy Research, 2011, <http://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>; Trish Stroman, Wendy Woods, Gabrielle Fitzgerald, Shalini Unnikrishnan, and Liz Bird, "Why Paid Family Leave Is Good for Business," The Boston Consulting Group, 2017, <http://media-publications.bcg.com/BCG-Why-Paid-Family-Leave-Is-Good-Business-Feb-2017-Revised.pdf>; Ernst & Young LLP, "Viewpoints on Paid Family and Medical Leave: Findings from a Survey of U.S. Employers and Employees," 2017, [https://www.ey.com/Publication/vwLUAssets/EY-viewpoints-on-paid-family-and-medical-leave/\\$FILE/EY-viewpoints-on-paid-family-and-medical-leave.pdf](https://www.ey.com/Publication/vwLUAssets/EY-viewpoints-on-paid-family-and-medical-leave/$FILE/EY-viewpoints-on-paid-family-and-medical-leave.pdf).



a social insurance model for paid leave, particularly when the program is financed by shared costs between employees and their employers.⁵⁰ This is in part because a universal paid leave program can help to level the playing field between larger companies and small businesses, who often want to provide such benefits to their employees and understand the value of paid leave benefits, but simply cannot afford the financial shock of paying fully out of pocket. A social insurance program that spreads costs widely across all workers and/or employers in a state (or country) can offer a more predictable and affordable option than self-insurance.

Survey research has also found widespread support among small- and medium-sized businesses for state-level paid family leave programs. A representative sample of employers from New Jersey and New York

found that over 60 percent of small- and medium-sized employers—those with 10-19 or 20-49 employees, respectively—supported their states' paid family leave programs. Only about 15 percent of businesses in both states expressed opposition.⁵¹ Additionally, an early analysis of Rhode Island's program found that two-thirds of small business employees reported experiencing no impact from a coworker's leave, while their employers adjusted in ways generally comparable to larger employers.⁵²

It is important to note that research from the United States that assesses the effects of paid leave policies on business practices and outcomes has been limited. Current state paid leave policies offer relatively modest benefits in terms of wage replacement and—for paid family leave—duration (between 4 and 6 weeks, although some newer state programs

⁵⁰ Small Business Majority and Center for American Progress, "Opinion Survey: Small Businesses Support Paid Family Leave Programs," March 2017, <http://www.smallbusinessmajority.org/sites/default/files/research-reports/033017-paid-leave-poll.pdf>.

⁵¹ Ann Bartel, Maya Rossin-Slater, Christopher Ruhm and Jane Waldfogel, "Employer Attitudes to Paid Family Leave," 2017, https://web.stanford.edu/~mrossin/Bartel_et_al_EmployerAttitudesReport_Aug2017.pdf.

⁵² Ann Bartel, Maya Rossin-Slater, Christopher J. Ruhm and Jane Waldfogel, "Assessing Rhode Island's Temporary Caregiver Insurance Act: Insights from a Survey of Employers," U.S. Department of Labor, Chief Evaluation Office, 2016, www.dol.gov/asp/evaluation/completedstudies/AssessingRhodeIslandTemporaryCaregiverInsuranceAct_InsightsFromSurveyOfEmployers.pdf.

Research has found widespread support among small- and medium-sized businesses for state-level paid family leave programs.

will offer leaves up to 12 weeks). Furthermore, they are funded either exclusively by employees or by shared contributions from employers and employees. These factors limit the cost of these programs for employers, as well as their broader impact on the economy. A paid family and medical leave program funded entirely by employers,⁵³ or an employer mandate,⁵⁴ might affect businesses more than current programs. Employers might seek to offset these effects by reducing wages, especially for employees perceived to be the most likely program users.⁵⁵ Successful implementation of new state-level programs should include funding and a plan for program evaluation to shed light on these issues.⁵⁶

⁵³ As of June 2019, Washington, DC has passed—but not yet implemented—an employer-funded social insurance program for paid family and medical leave.

⁵⁴ Hawaii has an employer mandate for paid medical leave (TDI) only. There has been little research evaluating this policy and its effects on businesses, the workforce, or the economy.

⁵⁵ Jonathan Gruber, “The Incidence of Mandated Maternity Benefits,” *The American Economic Review*, vol. 84, no. 3, 1994, <https://www.jstor.org/stable/2118071>.

⁵⁶ Analysis of employer attitudes and outcomes resulting from the recently implemented paid leave program in New York state and the ordinance mandating employers to finance increased paid leave benefits in the city of San Francisco is already underway. [Jane Waldfogel, “Paid Family and Medical Leave: Evidence from Employers. Symposium on Paid Family and Medical Leave,” Federal Reserve Bank of Boston, January 22, 2018.] Studies of programs with different funding mechanisms and/or benefit levels will be particularly revealing; these include programs in the District of Columbia (fully employer-funded) and Washington State (longer duration of leave and jointly funded between employees and employers).

Employer-Provided Paid Family and Medical Leave

Employers have long been aware that a generous employee benefits package can play a significant role in recruiting and retaining talented workers. Many high-road businesses are already offering paid family and medical leave to their employees. Recently, some employers have expanded benefits by increasing the generosity of benefit duration and/or by offering benefits to a broader range of their employees.⁵⁷ The generosity of those benefits varies by employer, but it is worth examining the range of what employers are already offering when considering what could be appropriate versus excessively burdensome on employers when designing a state or federal program.

■ **Leave duration:** The duration of voluntary paid leave benefits varies substantially across employers and type of leave. Most companies that provide paid leave limit its duration to 4 to 20 weeks; birth mothers sometimes may extend their leaves by combining paid medical and parental

leave allowances.⁵⁸ The Bill & Melinda Gates Foundation offers employees unlimited time off for a personal health issue.⁵⁹ Etsy provides 26 weeks of paid parental leave; after the first 8 weeks, leave may be spread over the first two years following the birth or adoption of a child, offering added flexibility to new parents.⁶⁰

■ **Wage replacement:** While not all companies are fully transparent regarding their wage replacement rate policies, a notable and growing number of employers offer paid parental leave, and in some cases also family caregiving leave, at 100 percent wage replacement, just as they would for vacation or sick leave (e.g., Discovery Communications,⁶¹ Ernst & Young LLP,⁶² and Microsoft⁶³). A recent survey of major U.S. employers shows that employers generally offer somewhere in the range of 60-100 percent wage replacement for paid medical leave. Some employers have tiered structures

⁵⁷ National Partnership for Women & Families, "Leading on Leave: Companies with New or Expanded Paid Leave Policies (2015-2018)," April 2018, <http://www.nationalpartnership.org/research-library/work-family/paid-leave/new-and-expanded-employer-paid-family-leave-policies.pdf>.

⁵⁸ Ibid.

⁵⁹ Bill & Melinda Gates Foundation, "Benefits," <https://www.gatesfoundation.org/Careers/Benefits>.

⁶⁰ Juliet Gorman, "Strong Families, Strong Business: A Step Forward in Parental Leave at Etsy," March 15, 2016, <https://blog.etsy.com/news/2016/strong-families-strong-business-a-step-forward-in-parental-leave-at-etsy/>.

⁶¹ Discovery Communications, "Discovery Communications Announces Significant Enhancement of U.S. Employee Paid Leave Policy For New Parents and Caregivers," Silver Spring, MD, September 15, 2016, <https://corporate.discovery.com/discovery-newsroom/discovery-communications-announces-significant-enhancement-of-u-s-employee-paid-leave-policy-for-new-parents-and-caregivers/>.

⁶² Ernst & Young LLP, "EY's Paid Parental Leave Policy in US Increased to 16 Weeks for New Moms and Dads," April 13, 2016, <https://www.prnewswire.com/news-releases/eys-paid-parental-leave-policy-in-us-increased-to-16-weeks-for-new-moms-and-dads-300250716.html>.

⁶³ Kathleen Hogan, "The Employee Experience at Microsoft: Aligning Benefits to Our Culture," August 15, 2015, <https://blogs.microsoft.com/blog/2015/08/05/the-employee-experience-at-microsoft-aligning-benefits-to-our-culture/>.

where workers with longer tenures at the organization receive higher wage replacement rates.⁶⁴

■ **Qualifying events:** Qualifying events triggering a paid family leave benefit vary widely across employers. Many firms offer paid leave only for new parents, often with more generous benefits for new mothers than for new fathers.⁶⁵ Other companies provide paid leave for a wider range of family care needs, such as a close family member's serious health condition or bereavement following the death of a loved one. For example, Deloitte now offers 16 weeks of fully paid family caregiving leave.⁶⁶ As of 2019, General Mills provides 2 weeks of paid family caregiving leave and 4 weeks of bereavement leave upon the death of an immediate family member.⁶⁷

■ **Inclusiveness across employees:** As with many benefits, employers may offer different paid leave benefits to different groups of workers. For example, at Netflix, salaried employees are offered up to a year of unlimited paid parental leave, but hourly employees are offered just 12 to 16 weeks (depending on their department).⁶⁸ Other companies offer benefits more equitably; for example, eBay provides 24 weeks of paid maternity leave and 12 weeks of paid parental, family caregiving, and medical leave to all employees working over 20 hours a week, regardless of whether they are salaried or hourly workers.⁶⁹

⁶⁴ PL+US, "Paid Family Leave Policies at Top US Employers," <http://paidleave.us/topemployerpolicies/>.

⁶⁵ National Partnership for Women & Families, "Leading on Leave: Companies with New or Expanded Paid Leave Policies (2015-2018)," April 2018, <http://www.nationalpartnership.org/research-library/work-family/paid-leave/new-and-expanded-employer-paid-family-leave-policies.pdf>.

⁶⁶ Deloitte, "Press Release: Deloitte Announces 16 Weeks of Paid Family Leave Time for Caregiving," September 8, 2016, <https://www2.deloitte.com/us/en/pages/about-deloitte/articles/press-releases/deloitte-announces-sixteen-weeks-of-fully-paid-family-leave-time-for-caregiving.html>.

⁶⁷ General Mills, "General Mills Announces Expanded U.S. Benefits Plan to Support Employees at All Life Stages," August 29, 2018, <https://www.generalmills.com/en/News/NewsReleases/Library/2018/July/Expanded-US-benefits-aug29>.

⁶⁸ National Partnership for Women & Families, "Leading on Leave: Companies with New or Expanded Paid Leave Policies (2015-2018)," April 2018, <http://www.nationalpartnership.org/research-library/work-family/paid-leave/new-and-expanded-employer-paid-family-leave-policies.pdf>.

⁶⁹ Kathryn Vasel, "eBay to Give New Moms 6 Months of Paid Leave," *CNN Money*, December 4, 2015, <http://money.cnn.com/2015/12/04/pf/jobs/ebay-increased-parental-benefits/index.html>.

Section II.

**THE LANDSCAPE OF
PAID FAMILY AND
MEDICAL LEAVE
POLICIES IN THE
UNITED STATES**

NATIONAL
ACADEMY
OF SOCIAL
INSURANCE



The United States lacks many family-friendly employment policies that characterize peer nations, including national paid leave. Several bills have been introduced in Congress that offer varying approaches to a national paid family and medical leave program, and Congressional support for such a program at the federal level has been steadily growing,⁷⁰ but none has yet passed either chamber of Congress.⁷¹

In the current absence of any large-scale national policy, states have stepped up as critical leaders in advancing paid family and medical leave programs. These programs are summarized in Table 1. A timeline of state-level PML and/or PFL programs is presented in Figure 2. The maximum duration of leave benefits varies considerably across states, as illustrated in Figures 3 and 4.

⁷⁰ The Family and Medical Insurance Leave (FAMILY) Act (S. 337/H.R. 947) would create a national paid family and medical leave social insurance program offering up to 12 weeks of leave for any event covered under the FMLA. As of June 2019, the bill has 34 cosponsors in the Senate and 189 cosponsors in the House. [For more information, see: National Partnership for Women and Families, “The Family and Medical Insurance Leave (FAMILY) Act: Fact Sheet,” 2019, <http://www.nationalpartnership.org/research-library/work-family/paid-leave/family-act-fact-sheet.pdf>.]

The New Parents Act of 2019 (S. 920) would offer parents of a new child the option to pull forward a portion of their Social Security benefits to use for paid parental leave after the birth or adoption of a child. Parents may elect to take up to three months (benefit selections must be in monthly increments) of parental leave upon the birth or adoption of a child against their future retirement benefits. [116th Congress, 1st Sess., S.920 - New Parents Act of 2019, <https://www.congress.gov/bill/116th-congress/senate-bill/920/text>.]

⁷¹ The Tax Cuts and Jobs Act of 2017 includes a business tax credit for employers who voluntarily offer paid family and medical leave to all qualifying full-time employees; part-time employees can be offered benefits on a pro-rated basis. This credit gives employers an incentive to offer paid leave voluntarily to their employees earning under \$72,000 per year. It does not provide universal paid family and medical leave.

TABLE 1: Key Features of Existing Paid Family and Medical Leave Programs

Jurisdiction	Architecture and Funding		Administrative Agency	Contributions		Length of Leave Available		Wage Replacement	Eligibility Requirements
	Paid Medical Leave (PML)	Paid Family Leave (PFL)		PML	PFL	PML	PFL		
California	Social insurance with limited employer opt outs;	Funded through employee payroll tax	California Employment Development Department	Employee: 1.0% of the first \$118,371 in earnings;	Up to 6 weeks	Up to 52 weeks	Up to 6 weeks	70% of worker's average weekly wage (AWW) for workers earning at least \$929 but < 1/3 of state average quarterly wage (AQW);	Earned at least \$300 in 12-month base period* Self-employed workers may opt in to the program Some public sector employees are covered
	Funded through employee payroll tax								
New Jersey	Social insurance with regulated employer opt outs;	Funded through employee / employer payroll tax;	New Jersey Department of Labor and Workforce Development	Employee: 0.17% on the first \$34,400 in earnings; New employees: 0.5%; All other employees: experience rated, maximum wage base = \$34,400	Up to 6 weeks in 2019; up to 12 weeks in 2020	Up to 26 weeks	Up to 6 weeks in 2019; up to 12 weeks in 2020	67%, weekly max of \$650, in 2019; 85%, maximum benefit of 70% of the statewide AWW, in 2020	Earned at least \$8,600 in base year** OR Earned at least \$172 per week for a minimum of 20 weeks Private and public sector employees are covered, with some exceptions for government employers
	Funded through employee / employer payroll tax;								
Rhode Island	Social insurance with regulated employer opt outs;	Funded through employee / employer payroll tax;	Rhode Island Department of Labor and Workforce Development	Employee: 1.1% of the first \$71,000 in earnings	Up to 6 weeks in 2019; up to 12 weeks in 2020	Up to 30 weeks	Up to 4 weeks	60%, with a weekly maximum of \$852 plus dependent benefits	Earned at least \$12,600 in base or alternate base period*** OR Earned at least \$4,200 in base period & at least \$2,100 in one quarter & have total base period earnings of at least 150% of highest quarter's earnings Some public sector employees are covered
	Funded through employee payroll tax								

Jurisdiction	Architecture and Funding		Administrative Agency	Contributions		Length of Leave Available		Wage Replacement	Eligibility Requirements
	Paid Medical Leave (PML)	Paid Family Leave (PFL)		PML	PFL	PML	PFL		
New York	Hybrid social insurance program with regulated private options;	SHybrid social insurance program with regulated private options;							<p>For medical leave: Worked at least four weeks for a covered employer OR Work for an employer who provides voluntary coverage OR Work at least 40 hours per week for one employer as a domestic or personal employee for a minimum of 30 days in a calendar year</p> <p>For family leave: Currently employed by a covered employer & worked at least 26 consecutive weeks for a covered employer OR Worked at least 175 days for a covered employer if part-time</p> <p>Self-employed workers may opt in to the program</p> <p>Certain public employers can opt in to both PML and PFL; state government, some public employers, and workers represented by an employee organization can opt in to PFL only</p>
	Funded through employee / employer payroll tax; Employers must provide coverage either through private insurance or the state plan, or request approval to self-insure; Employers may waive the employee contribution to fully fund coverage	Funded through employee payroll tax; Employers may opt to cover full cost of PFL for employees; Employers must provide coverage either through private insurance or the state plan, or request approval to self-insure approval to self-insure	New York State Workers' Compensation Board	Employee: 0.5% of wages paid, up to \$0.60 per week Employer: all additional costs	Employee: 0.126% of employee's weekly wage up to the state AWW	Up to 26 weeks	Up to 10 weeks in 2019; up to 12 weeks in 2021	<p>PML: 50%, with a weekly maximum of \$170;</p> <p>PFL: 55% up to cap of 55% of state AWW in 2019; 60% up to cap of 60% of state AWW in 2020; 67% up to a cap of 67% of state AWW in 2021</p>	

Jurisdiction	Architecture and Funding		Administrative Agency	Contributions		Length of Leave Available		Wage Replacement	Eligibility Requirements
	Paid Medical Leave (PML)	Paid Family Leave (PFL)		PML	PFL	PML	PFL		
Hawaii	Employer mandate	n/a	Hawaii Department of Labor and Industrial Relations	Employee: up to 0.5% of weekly wages, up to \$5.44 Employer: all additional costs	n/a	Up to 26 weeks	58%, with a weekly maximum of \$632	Worked at least 20 hours per week for at least 14 weeks AND Earned at least \$400 in the 52 weeks prior to the claim date AND Be in current employment	
District of Columbia (Enacted 2017, effective July 2019 (premiums) / July 2020 (benefits))	Social insurance with exclusive state fund; Funded through employer payroll tax		District of Columbia Department of Employment Services	Employer: 0.62% of the annual salary of each covered employee	Up to 8 weeks of parental leave & up to 6 weeks of family care-giving leave; No more than 8 weeks of total leave in a 52-week period	Up to 2 weeks	For workers with weekly earnings <150% of D.C. min wage (\$795 in 2019), 90% of AWW; For workers with weekly earnings >150% of D.C. min wage, 90% of earnings up to 150% of D.C. min wage, plus 50% of earnings above this threshold, with weekly max of \$1,000	Worked more than 50% of the time for a covered employer in DC AND Worked for a covered employer for at least some time in last 52 weeks, OR Self-employment with self-employment income for work performed more than 50% of the time in DC AND Opted into paid leave program & paid appropriate taxes into system Employees of the District and federal governments are not covered, nor are employees of any other entity that the District cannot tax	

Jurisdiction	Architecture and Funding		Administrative Agency	Contributions		Length of Leave Available		Wage Replacement	Eligibility Requirements
	Paid Medical Leave (PML)	Paid Family Leave (PFL)		PML	PFL	PML	PFL		
<p>Washington State (Enacted 2017, effective 2019 (premiums) / January 2020 (benefits))</p>	<p>Paid Medical Leave (PML)</p> <p>Social insurance with limited employer opt outs;</p> <p>Funded through an employee / employer payroll tax</p>	<p>Paid Family Leave (PFL)</p>	<p>Washington State Employment Security Department</p>	<p>0.4% of wages, with a minimum of 37.5% paid for by employers and the remaining amount, up to 62.5%, by employees</p> <p>Employers with fewer than 50 workers are not required to pay the employer portion, but receive special incentives and offsets if they do</p>	<p>Up to 12 weeks; OR up to 14 weeks for serious pregnancy-related complications resulting in incapacity</p>	<p>Up to 12 weeks; Combined family/medical leave may not exceed 16 weeks, or 18 weeks in case of serious pregnancy-related complication</p>	<p>For workers with earnings <50% of statewide AWW, 90% of worker's AWW;</p> <p>For workers earning over 50% of statewide AWW, 90% AWW up to 50% of state-wide AWW, plus 50% of employee's AWW for all earnings above 50% of statewide AWW, with weekly max of \$1,000, to be adjusted annually to equal 90% of state AWW</p>	<p>Worked at least four out of five completed quarters prior to application</p> <p>AND</p> <p>Must have worked for at least 820 hours in the qualifying period</p> <p>Self-employed workers may opt in to the program if they have worked at least 820 hours in the qualifying period</p>	

Jurisdiction	Architecture and Funding		Administrative Agency	Contributions		Length of Leave Available		Wage Replacement	Eligibility Requirements
	Paid Medical Leave (PML)	Paid Family Leave (PFL)		PML	PFL	PML	PFL		
<p>Massachusetts (Enacted 2018, effective July 2019 (premiums)/ 2021 (benefits))</p>	<p>Social insurance with limited employer opt outs; Funded through an employee / employer payroll tax</p>		<p>Massachusetts Executive Office of Labor and Workforce Development</p>	<p>0.63% of wages Employees: 100% of the PFL premium and up to 40% of the PML premium from employee wages Employers: at least 60% of the PML premium; Employers may opt to pay for some or all of the remaining cost of PML and/or PFL coverage if desired Employers with fewer than 25 workers are not required to pay the employer portion</p>	<p>Up to 12 weeks for family leave; Up to 26 weeks to care for a covered service member; Combined family/medical leave may not exceed 26 weeks, with 2 extra weeks in the case of serious pregnancy complications</p>	<p>Up to 20 weeks; Combined family/medical leave may not exceed 26 weeks</p>	<p>Up to 12 weeks; Combined family/medical may not exceed 12 weeks (14 for serious pregnancy complications); Compensation will be capped at 60 times the hourly minimum wage.</p>	<p>For workers with earnings < 50% of statewide average weekly wage (AWW), 80% of worker's AWW; For workers earning > 50% of statewide AWW, 80% of the employee's AWW up to 50% of the statewide AWW, plus 50% of the employee's AWW over 50% of state AWW; Weekly maximum benefit: \$850, to be adjusted annually to equal 64% of state AWW</p>	<p>Employee must be financially eligible for state unemployment insurance coverage: As of 2018, \$4,700 in the last 4 completed calendar quarters and at least 30 times the weekly unemployment benefit amount that the employee would be eligible to collect Private sector and state government employees are covered Self-employed workers and local governments may opt in to the program</p>
<p>Connecticut (Enacted 2019, effective 2021 (premiums)/ 2022 (benefits))</p>	<p>Social insurance with limited employer opt outs; Funded through an employee payroll tax</p>		<p>Paid Family and Medical Leave Insurance Authority; Department of Revenue Services; Department of Labor</p>	<p>0.5% of wages up to Social Security cap</p>	<p>Up to 12 weeks; Combined family/medical may not exceed 12 weeks (14 for serious pregnancy complications); Compensation will be capped at 60 times the hourly minimum wage.</p>	<p>95% of weekly earnings up to 40 hours of minimum wage earnings; plus 60% of earnings above minimum wage up to 40 hours/week. The total weekly compensation will be capped at 60 times the hourly minimum wage.</p>	<p>Employee must earn at least \$2325 in the highest earning quarter within the base period (four of the five most recently completed quarters). Self-employed workers may opt in to the program for an initial period of three years.</p>		

*In California, the base period covers 12 months and is divided into four consecutive quarters. The base period includes wages subject to state disability insurance (SDI) taxes that were paid approximately 5 to 18 months before the claim began. The base period does not include wages paid at the time the claim begins. If a claim begins on or after January 1, 2018:

- January, February, or March, the base period is the 12 months ending last September 30.
- April, May, or June, the base period is the 12 months ending last December 31.
- July, August, or September, the base period is the 12 months ending last March 31.
- October, November, or December, the base period is the 12 months ending last June 30.

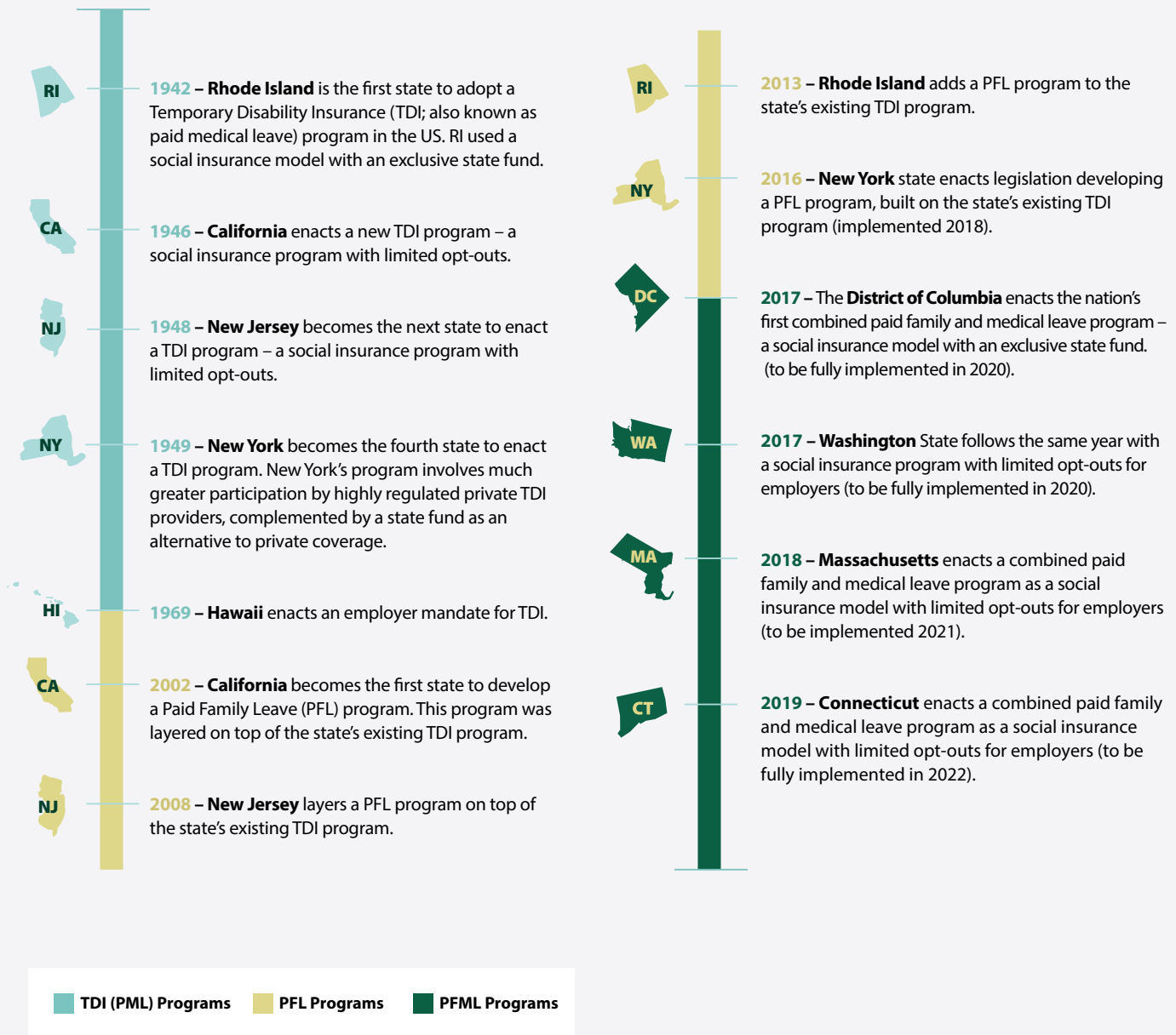
** In New Jersey, the base year is defined as the first four of the last five completed calendar quarters before the worker files a claim.

*** In Rhode Island, the base period is defined as the first four of the last five completed calendar quarters before the starting date of a new claim. If an individual is not eligible due to insufficient earnings using the base period, the state will recalculate earnings from an alternate base period consisting of the last four completed calendar quarters before the starting date of a claim. While the same earnings requirements must be met to qualify for this alternate base period, it allows for wage replacement to be set based on more recent earnings when the employee might have been earning higher wages that would permit them to qualify for benefits.

Sources:

The Commonwealth of Massachusetts, House Bill No. 4640, 2018, <https://www.jacksonlewis.com/sites/default/files/docs/H4640.pdf>; District of Columbia, "Universal Paid Leave Amendment Act of 2016," D.C. Act 21-264, 2016, <https://code.dccouncil.us/dc/council/laws/21-264.html>; New York State Paid Family Leave, New York State Paid Family Leave: Employer Facts, 2017, https://www.ny.gov/sites/ny.gov/files/atoms/files/PaidFamilyLeave_BusinessOwnerFactSheet.pdf; New York State Workers' Compensation Board, "Disability Benefits: (Off-the-Job Injury or Illness)," 2019, <http://www.wcb.ny.gov/content/main/DisabilityBenefits/Employer/introToLaw.jsp>; State of California, "2019 UI, ETT, and SDI Rates," Sacramento, CA: State of California Employment Development Department, 2019, https://www.edd.ca.gov/Payroll_Taxes/Rates_and_Withholding.htm#Rates.; State of California, "FAQs – Paid Family Leave (PFL) Benefits," Sacramento, CA: State of California Employment Development Department, 2018, https://www.edd.ca.gov/Disability/FAQ_PFL_Benefits.htm; State of California, "Calculating Benefit Payment Amounts," Sacramento, CA: State of California Employment Development Department, 2019, https://www.edd.ca.gov/disability/Calculating_DL_Benefit_Payment_Amounts.htm; State of Connecticut, Senate Bill 0001, "An Act Concerning Paid Family and Medical Leave," 2019, https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=SB-0001; State of Hawaii, "2019 Maximum Weekly Wage Base and Maximum Weekly Benefit Amount," Honolulu, HI: State of Hawaii Disability Compensation Division, 2018, <http://labor.hawaii.gov/dcd/files/2018/11/2019wagebase.pdf>; State of Hawaii, "About Temporary Disability Insurance," Honolulu, HI: State of Hawaii Disability Compensation Division, 2019, <http://labor.hawaii.gov/dcd/home/about-tdi/>; State of New Jersey, "FAQ: Temporary Disability Insurance," Trenton, NJ: Division of Temporary Disability and Family Leave Insurance, State of New Jersey Department of Labor and Workforce Development, 2019, <https://myleavebenefits.nj.gov/labor/myleavebenefits/help/faq/tdi.shtml>; State of New Jersey, "Division of Employer Accounts 2019 Rates," Trenton, NJ: Division of Temporary Disability and Family Leave Insurance, State of New Jersey Department of Labor and Workforce Development, 2019, <https://www.nj.gov/labor/ea/rates/ea2019.html>; State of Rhode Island, "Temporary Disability Insurance/Temporary Caregiver Insurance," Providence, RI: Rhode Island Department of Labor and Training, 2019, <http://www.dlt.ri.gov/tdi/tdifaqs.htm>; State of Washington, S.B. 5975, 65th Leg., 3rd Special Session, 2017, <http://lawfilesexternal.wa.gov/biennium/2017-18/Pdf/Bills/Senate%20Passed%20Legislature/5975-S.PL.pdf>.

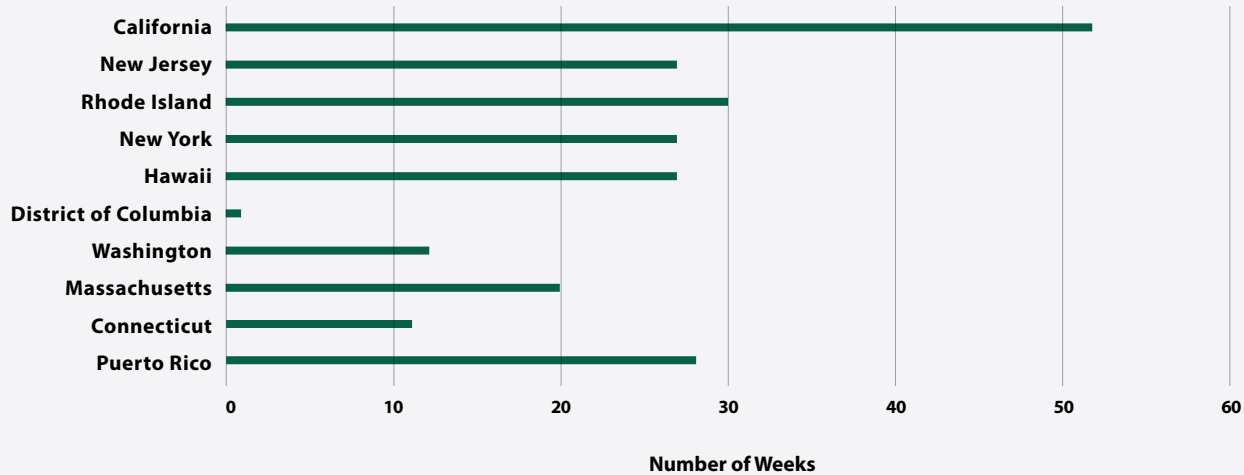
FIGURE 2: A Timeline of State Paid Family and Medical Leave Programs



Sources: Sarah Jane Glynn, Alexandra L. Bradley, and Benjamin W. Veghte, "Paid Family and Medical Leave Programs: State Pathways and Design Options," Washington, DC: National Academy of Social Insurance, 2017, <https://www.nasi.org/research/2017/paid-family-medical-leave-programs-state-pathways-design>; The Commonwealth of Massachusetts, House Bill No. 4640, 2018, <https://www.jacksonlewis.com/sites/default/files/docs/H4640.pdf>; State of Connecticut, Senate Bill 0001, "An Act Concerning Paid Family and Medical Leave," 2019, <https://www.cga.ct.gov/2019/amd/S/pdf/2019SB-00001-R005A-AMD.pdf>.



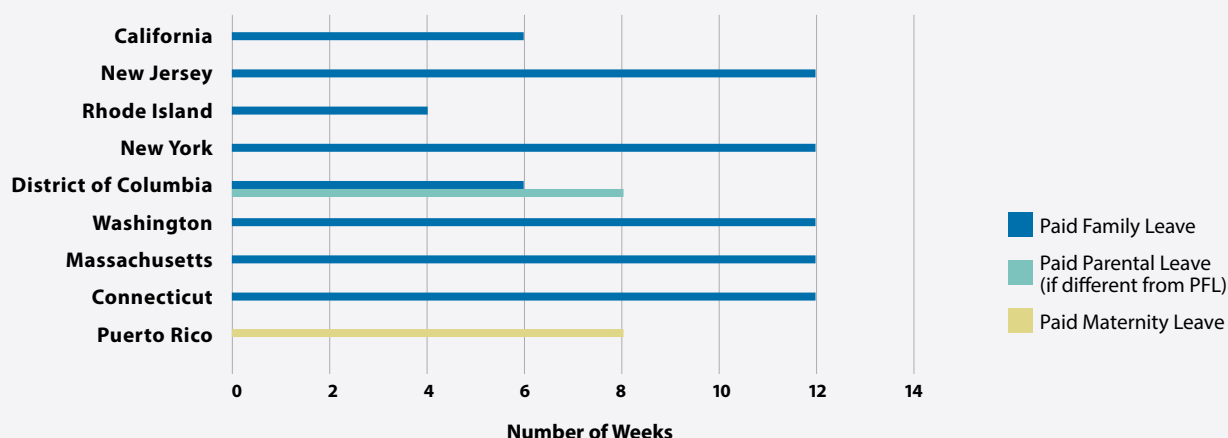
FIGURE 3: Maximum Duration (in weeks) of Paid Medical Leave, by State



Sources: The Commonwealth of Massachusetts, House Bill No. 4640, 2018, <https://www.jacksonlewis.com/sites/default/files/docs/H4640.pdf>; District of Columbia, “Universal Paid Leave Amendment Act of 2016,” D.C. Act 21-264, 2016, <https://code.dccouncil.us/dc/council/laws/21-264.html>; New York State Workers’ Compensation Board, “Disability Benefits: (Off-the-Job Injury or Illness),” 2019, <http://www.wcb.ny.gov/content/main/DisabilityBenefits/Employer/introToLaw.jsp>; State of California, “FAQs – Disability Insurance (DI) Benefits,” Sacramento, CA: State of California Employment Development Department, 2018, https://www.edd.ca.gov/Disability/FAQ_DI_Benefits.htm; State of Hawaii, “About Temporary Disability Insurance,” Honolulu, HI: State of Hawaii Disability Compensation Division, 2019, <http://labor.hawaii.gov/dcd/home/about-tdi/>; State of New Jersey, “FAQ: Temporary Disability Insurance,” Trenton, NJ: Division of Temporary Disability and Family Leave Insurance, State of New Jersey Department of Labor and Workforce Development, 2019, <https://myleavebenefits.nj.gov/labor/myleavebenefits/help/faq/tdi.shtml>; State of Rhode Island, “Temporary Disability Insurance/Temporary Caregiver Insurance,” Providence, RI: Rhode Island Department of Labor and Training, 2019, <http://www.dlt.ri.gov/tdi/tdifaqs.htm>; State of Washington, S.B. 5975, 65th Leg., 3rd Special Session, 2017, <http://lawfilesexternal.wa.gov/biennium/2017-18/Pdf/Bills/Senate%20Passed%20Legislature/5975-S.PL.pdf>; State of Connecticut, Senate Bill 0001, “An Act Concerning Paid Family and Medical Leave,” 2019, <https://www.cga.ct.gov/2019/amd/S/pdf/2019SB-0001-R00SA-AMD.pdf>; Society for Human Resource Management, “An Overview of Puerto Rico Employment Law,” 2018, <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/overview-puerto-rico-law.aspx>.

Note: In Washington and Connecticut, workers may be eligible for up to 14 weeks of paid medical leave in the event of serious pregnancy complications.

FIGURE 4: Maximum Duration (in weeks) of Paid Family Leave, by State



Sources: The Commonwealth of Massachusetts, House Bill No. 4640, 2018, <https://www.jacksonlewis.com/sites/default/files/docs/H4640.pdf>; District of Columbia, Universal Paid Leave Amendment Act of 2016, D.C. Act 21-264, 2016, <https://code.dccouncil.us/dc/council/laws/21-264.html>; New York State Paid Family Leave, "New York State Paid Family Leave: Employer Facts," 2017, https://www.ny.gov/sites/ny.gov/files/atoms/files/PaidFamilyLeave_BusinessOwnerFactSheet.pdf; State of California, "FAQs – Paid Family Leave (PFL) Benefits," Sacramento, CA: State of California Employment Development Department, 2018, https://www.edd.ca.gov/Disability/FAQ_PFL_Benefits.htm; State of New Jersey, "FAQ: Temporary Disability Insurance," Trenton, NJ: Division of Temporary Disability and Family Leave Insurance, State of New Jersey Department of Labor and Workforce Development, 2019, <https://myleavebenefits.nj.gov/labor/myleavebenefits/help/faq/tdi.shtml>; State of Rhode Island, "Temporary Disability Insurance/Temporary Caregiver Insurance," Providence, RI: Rhode Island Department of Labor and Training, 2019, <http://www.dlt.ri.gov/tdi/tdifaqs.htm>; State of Washington, S.B. 5975, 65th Leg., 3rd Special Session, 2017, <http://lawfilesexternal.wa.gov/biennium/2017-18/Pdf/Bills/Senate%20Passed%20Legislature/5975-S.PL.pdf>; State of Connecticut, Senate Bill 0001, "An Act Concerning Paid Family and Medical Leave," 2019, <https://www.cga.ct.gov/2019/amd/S/pdf/2019SB-00001-R00SA-AMD.pdf>; Society for Human Resource Management, "An Overview of Puerto Rico Employment Law," 2018, <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/overview-puerto-rico-law.aspx>.

Note: The maximum duration of leave in New Jersey is 6 weeks in 2019 but will increase to 12 weeks in 2020. The maximum duration of leave in New York is 10 weeks as of 2019, but that period will increase annually until reaching a maximum of 12 weeks by 2021. The District of Columbia offers longer leave for new parents (8 weeks) than for other family caregiving needs (6 weeks). In Massachusetts, workers may be eligible for up to 26 weeks of paid family leave in the event of an illness or injury that arises from a close family member's military service. The social insurance program in Puerto Rico is available only to women after the birth or adoption of a child; it does not provide any other type of parental or family leave. The state of Hawaii is not included in this figure because it does not offer paid family leave.

Five states and Puerto Rico have longstanding temporary disability insurance (TDI) programs that cover paid medical leave. Four of these have added paid family leave coverage over the past two decades, and Puerto Rico has required 8 weeks of paid leave for mothers following the birth or adoption of a child since 1942. As of June 2019, another four jurisdictions are in the process of implementing new paid family and medical leave programs. A brief overview of these existing paid leave programs in the United States is provided below. For full descriptions

of the broader range of structural design and financing options that a state could utilize in developing a paid family and medical leave program, see Section IV: Overview of Key Design Elements and Considerations.

California was the first state to add paid family leave to its longstanding TDI program (also known as paid medical leave) in 2002. This social insurance program is funded by a payroll tax on employees, though limited options for employer self-insurance are permitted under certain strict conditions.

The program allows workers to take up to 52 weeks of paid medical leave⁷² and up to 6 weeks of paid family leave in a 12-month period.⁷³

New Jersey added paid family leave to its longstanding TDI program in 2008. As in California, this is principally a social insurance program, though employers may self-insure or provide coverage through a private carrier. The TDI program affords workers up to 26 weeks of paid medical leave in a 12-month period, funded by a shared employee-employer payroll tax. The paid family leave policy, which is funded entirely by a payroll tax levied on employees, currently offers up to 6 weeks of leave in a 12-month period, though the maximum leave period benefit will expand to 12 weeks as of July 1, 2020.⁷⁴

Rhode Island extended its existing TDI program to offer paid family leave in 2013. This social insurance model is financed entirely by an employee payroll tax. Rhode Island uses a social insurance model with an exclusive state fund—that is, a public, pooled fund that covers every eligible worker in the state. Employers have no option to self-insure or obtain other private coverage. The program allows workers to take up to 30 weeks of paid medical leave and up to 4 weeks of paid family leave

(limited to 30 weeks total of paid family and/or medical leave per year) within a 52-week period.⁷⁵

New York extended its TDI program to include paid family leave in 2018. Its paid family and medical leave program is similar to a traditional social insurance program, but it allows employers a substantial amount of choice in how benefits are delivered. Employers can choose to purchase a competitive state fund insurance plan, buy a highly regulated private market policy, or self-insure. Paid medical leave is funded through shared employee-employer payroll contributions, where employers are permitted to charge workers for a portion of their premiums for coverage and then are required to cover the remaining share. Workers pay the full premium amount for paid family leave, and these payroll contributions are community rated. Workers are currently entitled to up to 26 weeks of paid medical leave and up to 10 weeks of family leave, which will increase to 12 weeks by 2021 (limited to a total of 26 weeks of paid family and/or medical leave in a 52-week period).⁷⁶

Hawaii has an employer mandate that entitles workers to up to 26 weeks of paid medical leave. Employers are permitted

⁷² State of California, “About Disability Insurance (DI),” Sacramento, CA: State of California Employment Development Department, 2019, https://www.edd.ca.gov/Disability/About_DI.htm.

⁷³ Ibid.

⁷⁴ State of New Jersey, “Temporary Disability Insurance,” 2019, <https://nj.gov/labor/tdi/tdihome.html>; State of New Jersey, “Family Leave Insurance,” 2019, <https://myleavebenefits.nj.gov/labor/myleavebenefits/worker/fli/index.shtml>.

⁷⁵ State of Rhode Island, “Temporary Disability Insurance/Temporary Caregiver Insurance,” Rhode Island Department of Labor and Training, 2019, <http://www.dlt.ri.gov/tdi/tdifaqs.htm>.

⁷⁶ State of New York, S. 6406C, Part SS, 239th Legislature, Reg. Sess., 2016.



to charge workers for a portion of their premiums for coverage.⁷⁷ Employers can choose a private insurance company to provide the benefits or can self-insure. The state has no provision for paid family leave.⁷⁸

Puerto Rico's longstanding TDI program, which follows a social insurance model, offers up to 26 weeks of paid medical leave. Employers and employees share the cost of the payroll tax, but, with state Department of Labor approval, employers can purchase private short-term disability insurance in lieu of participating in

the state program. Under a 1942 law, employers in Puerto Rico are required to provide up to 8 weeks of leave at full pay to mothers after the birth or adoption of a child.⁷⁹

The **District of Columbia** enacted a paid family and medical leave social insurance program as one integrated program in 2017, to become fully effective in July 2020. The system will be funded through an employer payroll tax and is designed as an exclusive state fund. Workers are eligible for up to 2 weeks of paid medical leave, 8 weeks of paid parental leave, and 6 weeks of

⁷⁷ State of Hawaii: Disability Compensation Division, "About Temporary Disability Insurance," 2019, <http://labor.hawaii.gov/dcd/home/about-tdi/>.

⁷⁸ In 2017, Hawaii adopted the "Kūpuna Caregivers Program," which helps workers remain in the workforce while they care for an aging family member. Caregivers can receive financial assistance to cover some of the costs, up to a daily maximum, of professional services and supports required by the care recipient (e.g., adult day care, transportation, respite care, etc.). This program will be discussed further in Chapter 3: Long-Term Services and Supports. While the Kūpuna Caregivers Program provides financial assistance and relief to workers caring for an aging family member, it is not a paid family leave program, because benefits may be remitted only to a qualified service provider—not directly to working family caregivers. [For more information, see: <http://www.care4kupuna.com/>.]

⁷⁹ Society for Human Resource Management, "An Overview of Puerto Rico Employment Law," 2018, <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/overview-puerto-rico-law.aspx>.

paid family caregiving leave (limited to 8 weeks of paid family and/or medical leave total in any 52-week period).⁸⁰

Washington State adopted a combined paid family and medical leave program in 2017. This social insurance program, funded by a payroll tax on employers and employees, will take full effect in 2020. Employers have limited opportunities to choose private coverage. Workers are eligible for up to 12 weeks of paid medical leave (14 weeks in the case of serious pregnancy-related complications) and up to 12 weeks of paid family leave (limited to 16 weeks of paid family and/or medical leave total in any given year, or 18 weeks in the case of serious pregnancy complications).⁸¹

Massachusetts chose a social insurance model for its combined paid family and medical leave program, though employers may self-insure or provide coverage through a private carrier if they meet or exceed the benefits provided under the state program. Enacted in 2018, and scheduled to become fully effective in 2021, the program will be funded through a payroll tax on employees. Employers are permitted to deduct from wages up to 100 percent of paid family leave contributions and up to 40 percent of paid medical leave contributions. Workers can take as many as 12 weeks of paid family leave, 20 weeks of paid medical leave, and 26 weeks of leave to provide care for a family member experiencing a serious injury or illness arising from service in the military (limited to 26 weeks total leave per year).⁸²

Connecticut adopted a combined paid family and medical leave program in 2019. The social insurance program, funded by a payroll tax on employees, will take full effect in 2022. Employers may apply to self-insure if they exceed the state program's generosity and meet strict requirements surrounding employee rights and protections. Workers are eligible for up to 12 weeks of paid medical leave (14 weeks in the event of serious pregnancy complications) and up to 12 weeks of paid family leave (limited to 12 weeks total, or 14 weeks for serious pregnancy complications, in a 12-month period).⁸³

The city of **San Francisco** adopted a Paid Parental Leave Ordinance (PPLO) in 2016, which since 2018 has required employers with 20 or more employees to provide supplemental compensation to workers who are receiving benefits for bonding with a new child via California's Paid Family Leave (PFL) program.⁸⁴ Under the ordinance, many workers in San Francisco receive 100 percent of their usual wages; the ordinance requires employers to pay the difference between the California PFL benefit amount (currently between 60 percent and 70 percent of a worker's usual wages, up to a cap of \$1252/week in 2019) and the employee's typical full weekly wages (capped at the ordinance's weekly maximum benefit level, which is \$2087/week in 2019), for up to the full 6 weeks of leave to which new parents are entitled in the state.⁸⁵

⁸⁰ District of Columbia, D.C. Law 21-264, "Universal Paid Leave Amendment Act of 2016."

⁸¹ State of Washington, Senate Bill 5975, 65th Leg., 3rd Special Sess., 2017.

⁸² Commonwealth of Massachusetts, House 4640 §29, 190th Gen. Court, Reg. Sess., 2018.

⁸³ State of Connecticut, Senate Bill 0001, "An Act Concerning Paid Family and Medical Leave," 2019, <https://www.cga.ct.gov/2019/amd/S/pdf/2019SB-00001-R00SA-AMD.pdf>.

⁸⁴ San Francisco Paid Sick Leave Ordinance, Administrative Code Chapter 12W.8(a), 2018, <https://sfgov.org/olse/paid-parental-leave-ordinance>

⁸⁵ Office of Labor Standards Enforcement, City and County of San Francisco, "Paid Parental Leave Ordinance," 2018, <https://sfgov.org/olse/paid-parental-leave-ordinance>.

Early Lessons from State Paid Family and Medical Leave Programs

Because jurisdictions have adopted a range of different design elements in their paid leave programs, they serve as laboratories for others considering the adoption of paid leave. New programs can benefit from some of the lessons learned in existing programs—namely, that to make take-up feasible for all workers, particularly those from low-income and disadvantaged backgrounds, programs need to offer higher and more progressive wage replacement and make significant investments in education and outreach.

California: At the program's original wage replacement rate of 55 percent, many workers could not afford to take leave. In 2013, fewer than 4 percent of PFL claimants earned less than \$12,000 per year, while nearly 21 percent of claimants earned over \$84,000 per year.⁸⁶ In response to concerns about benefit inadequacy, the state raised its wage replacement rate in 2016 to between 60 and 70 percent of earnings, with lower-earning employees receiving a higher percentage of their typical wages.⁸⁷

New Jersey: Early research on New Jersey's PFL program suggested that the state has struggled with education and public promotion, at least in part due to a lack of funding for and investment in outreach about the program, which has led to disparities in knowledge of the PFL program's existence. After three years of implementation, over 60 percent of surveyed individuals said they had never heard of the program. Knowledge of the program was particularly low among residents who are young (aged 18-29), Black, and lower-income.⁸⁸ In 2017, the state rolled out new computer systems and outreach information for employees and employers. In 2019, the state enacted updates to its program to enhance accessibility for lower-wage workers and better meet the needs of all workers: namely, the wage replacement rate for lower-income workers will increase to 85 percent, job protection will be expanded to workers in smaller businesses, and the duration of family leave will increase to 12 weeks. The law also allocated \$1.2 million for an education and outreach campaign, at least half of which must go to community-based organizations.⁸⁹

⁸⁶ Brie Lindsey and Daphne Hunt, "California's Paid Family Leave Program. Ten Years After the Program's Implementation, Who Has Benefited and What Has Been Learned?," The California Senate Office of Research, 2014, <https://sor.senate.ca.gov/sites/sor.senate.ca.gov/files/Californias%20Paid%20Family%20Leave%20Program.pdf>.

⁸⁷ California Assembly Bill 908, 2016. For more information, see: <https://www.sequoia.com/2017/09/california-state-disability-paid-family-leave-program-benefits-increase-2018/>.

⁸⁸ Linda Houser and Karen White, "Awareness of New Jersey's Family Leave Insurance Program Is Low, Even as Public Support Remains High and Need Persists," Rutgers Center for Women and Work: Issue Brief, 2012, http://njtimetocare.com/sites/default/files/03_New%20Jersey%20Family%20Leave%20Insurance-%20A%20CWW%20Issue%20Brief.pdf.

⁸⁹ State of New Jersey, Senate No. 2528, 218th Legislature, 2019, <https://legiscan.com/NJ/text/S2528/id/1794451>.



Rhode Island: Rhode Island made a concerted effort to streamline its application process. In a survey of beneficiaries, over two-thirds of applicants reported being satisfied or very satisfied with the application process, and over half received their first benefit check

within two weeks of applying.⁹⁰ Much like in New Jersey, Rhode Island reported that knowledge of the program was much lower among those with lower income and education and non-White populations, as well as among older workers and those who work for smaller employers.⁹¹

⁹⁰ Barbara E Silver, Helen Mederer, and Emilija Djurdjevic, “Launching the Rhode Island Temporary Caregiver Insurance Program (TCI): Employee Experiences One Year Later,” University of Rhode Island, 2016, https://www.dol.gov/wb/media/RI_paid_leave_report.pdf.

⁹¹ Ibid.

Section III.

**POLICY OPTIONS
FOR STATE PAID
FAMILY AND
MEDICAL LEAVE
PROGRAMS**

NATIONAL
ACADEMY
OF SOCIAL
INSURANCE



States seeking to establish a program for paid family and medical leave may choose from three principal design options: a universal, contributory social insurance program; a hybrid social insurance program with regulated private options; and an employer mandate. What follows is a description of each design, noting which states have adopted it and why, and summarizing their experiences to date. Funding options and their suitability for each design choice are explained thereafter. The discussion of each design option concludes with an analysis of its implications for fiscal sustainability, program stability, political feasibility, administrative simplicity, and effects on workers and employers.

Option 1. Universal, contributory social insurance program, exclusive state fund

A universal, contributory model is a classic social insurance program design. Other programs at the national level (e.g., Social Security) that have used this model for decades offer valuable experience. It is also the prevailing design choice among the vast majority of paid leave programs in industrialized nations across the world.⁹²

With this policy option, workers contribute to an exclusive state social insurance fund throughout their careers in return for an earned benefit should the need arise. Social Security and Unemployment Insurance operate in similar fashion, and Rhode Island and the District of Columbia (effective 2020) use an exclusive state fund approach for their PFML programs.

Universal, contributory social insurance is the prevailing design choice for paid leave programs across the world.

Financing: Social insurance programs are traditionally financed through payroll contributions paid by workers and/or their employers. However, payroll contributions could be supplemented with general revenues or an earmarked tax, particularly for expenses such as administrative costs; infrastructure and technological startup, maintenance, and improvement; and program evaluation.

⁹² Laura Addati, Naomi Cassirer, and Katherine Gilchrist, *Maternity and Paternity at Work: Law and Practice Across the World*, (Geneva, Switzerland: International Labour Organization, 2014), http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_242615/lang--en/index.htm.

Policy Assessment: Option 1. Universal, contributory social insurance program, exclusive state fund

Fiscal sustainability: Using dedicated payroll taxes to fund a program makes it highly sustainable from a fiscal standpoint, as the funding stream is likely to be relatively consistent from year to year. As benefit amounts fluctuate over time, due to inflation or other causes, states may need periodically to adjust their tax rates and/or the wage base subject to taxation. Social Security has made such adjustments many times during its eight-decade history.

Program stability: Like all insurance plans, a universal social insurance program is designed to provide stability by sharing costs and benefits as broadly as possible. A state's entire workforce comprises a large pool of funders and beneficiaries, thus reducing the likelihood of dramatic swings from year to year.

Political feasibility: The vast majority of states with programs in place have adopted a universal contributory social insurance model, as have the majority of parental leave programs in other countries with advanced economies.⁹³ This experience suggests that this model is very politically feasible.

Administrative simplicity: State and federal governments have decades of experience administering social insurance programs, including Social Security, Unemployment Insurance, and Medicare, among others. A new state paid leave program could readily draw upon the administrative processes and structures developed in those well-established programs, making program

management relatively straightforward. From an administrative standpoint, the simplest option would be an exclusive state fund. Allowing employers to opt out of the state fund by self-insuring or purchasing private coverage would increase complexity for state administrators, who then would be required to both manage the state fund and monitor compliance by employers who chose alternate coverage options. States may consider putting a surcharge on employers who opt for private coverage or self-insurance to compensate for the costs of the additional administrative burden associated with monitoring these programs.

Effect on workers: Although universal contributory paid leave social insurance programs reduce workers' take-home pay, these reductions are typically quite low. Additionally, workers who obtain paid leave from a state program (as opposed to a self-insured employer program) are typically spared the need to reveal highly personal details of their family or personal health circumstances to their employers.

Effect on employers: Most existing state paid leave programs are financed entirely by employee payroll taxes. In those states where employers share in the contributions, they typically pay very modest costs. State-managed programs may also save employers the time and money required to administer paid leave benefits themselves, which is particularly challenging for small businesses and the self-employed.

⁹³ Laura Addati, Naomi Cassirer, and Katherine Gilchrist, *Maternity and Paternity at Work: Law and Practice Across the World*, (Geneva, Switzerland: International Labour Organization, 2014), http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_242615/lang--en/index.htm.

Option 2. Contributory social insurance program with regulated private options

A contributory social insurance program with regulated private options requires employers to offer a certain level and type of coverage, and to comply with specified anti-discrimination and other consumer and employment law protections. In this model, state law would set a minimum required benefit level and a maximum permissible employee contribution, and would regulate both benefit provision and enforcement to ensure employees are receiving the insurance and employment protections the law requires. As long as the program meets these requirements, employers are free to choose how to provide coverage. They can purchase private insurance coverage, participate in the state social insurance fund, or self-insure. State Workers' Compensation programs frequently offer flexibility of this sort.⁹⁴

Two variants of this approach exist in the United States:

■ **State fund with limited private options:** **California, New Jersey, Washington** State (effective 2020), **Massachusetts** (effective 2021), and **Connecticut** (effective 2022) have adopted a *state fund with limited private options*. The vast majority of employers participate in the state fund. If employers meet certain regulatory

requirements, they are permitted to use self-insurance and/or a private plan to provide equal or greater benefits.

■ **Hybrid social insurance program with regulated private options:** The state of **New York** has adopted a *hybrid social insurance* model for its paid leave program.⁹⁵ Employers can choose between purchasing private insurance coverage, participating in the state social insurance fund, or self-insuring, as long as they offer the statutorily prescribed level and type of coverage and comply with anti-discrimination and other consumer protections.

Financing: As with a an exclusive state fund social insurance program, a contributory paid leave program with regulated private options could be funded in whole or in part by employee payroll contributions. Depending on the model selected by the employer, these funds would be channeled to the private plan provider, the state fund, or an employer-managed self-insurance pool. Employers could make their program more generous to workers by waiving some or all of the required employee contributions and/or offering benefits above and beyond the state-mandated levels.

⁹⁴ Christopher McLaren and David Maddy, "Workers' Compensation: Benefits, Coverage, and Costs: Sources, Methods, and State Summaries," Washington, DC: National Academy of Social Insurance, 2017, <https://www.nasi.org/research/2017/sources-methods-workers-compensation-2015-data>.

⁹⁵ Sarah Jane Glynn, Alexandra L. Bradley, and Benjamin W. Veghte, "Paid Family and Medical Leave Programs: State Pathways and Design Options," Washington, DC: National Academy of Social Insurance, 2017, <https://www.nasi.org/research/2017/paid-family-medical-leave-programs-state-pathways-design>.

Policy Assessment: Option 2. Contributory social insurance program with regulated private options

Fiscal sustainability: Like other programs that rely on payroll taxes for funding, this design option is likely to be quite sustainable from a fiscal standpoint. However, the flexibility inherent in this model presents more fiscal risk than the exclusive state fund model. For states with limited options for private coverage (versus the robust, highly regulated, competitive market in New York state), employers whose employees were disproportionately women of childbearing age and/or older workers—that is, who might be expected to avail themselves of paid leave benefits more than those from other demographics—might opt into the state fund for administrative or cost reasons. This in turn might require increasing the funding required for the state program relative to other program models, though such a model might decrease funding needs in other areas (e.g., claims processing and determination, since this is conducted to some degree by private carriers).

Program stability: For decades, many state Workers' Compensation programs have used a hybrid social insurance model. New York's long-standing TDI program and more recent PFL program likewise employ this design. These experiences suggest that a hybrid paid leave model might be similarly stable over time. Employers' ability to choose among different providers in states with more limited and less robustly regulated private options might lead to concentrations of certain employee groups in one program type, however, with the potential of destabilizing the overall program framework.

Political feasibility: State Workers' Compensation programs throughout the U.S. have used a hybrid design for many decades. As recently as 2018, New York adopted this model for its paid family leave program.

Increasing employer options while simultaneously ensuring workers' access to state-protected benefits would likely prove popular selling points and render the enactment of such a model politically feasible.

Administrative simplicity: Administering a contributory paid leave program with regulated private options would be complex for the state administrative agency and employers. A state agency would be required both to administer the state fund and to monitor compliance among the private plans and self-insured employers. Employers would be responsible for choosing among a plethora of available options, as they do currently with health insurance and other benefits.

Effect on workers: A contributory system with private options could very closely resemble an exclusive state fund program for workers, since contributions would be deducted from their pay as with any other standard employment benefit. Absent appropriate state regulation, workers might face discrimination based on their perceived level of "risk" to employers. To mitigate this hazard, states could require private plans to use community rating, where everyone contributes at the same rate or level, rather than experience rating, where rates are set based on the actual or perceived risk of an individual or group.

Effect on employers: Giving employers choice in how to provide paid leave for employees increases employers' flexibility, but also requires them to spend time and effort determining which type of plan best meets their needs. Small businesses in particular might find it challenging to research fully the available options.



Option 3. Employer mandate

An employer mandate model would simply impose a state-mandated requirement for employers to provide a meaningful number of weeks or months of paid leave coverage and benefits directly to their workers. Hawaii is the only state to adopt this option for its paid medical leave program; to date no state has enacted an employer mandate for paid family leave. Outside the United States, an employer mandate has been adopted principally by less affluent, emerging economies, often with limited enforcement.⁹⁶ As with the hybrid social insurance model, employers could elect to exceed the required coverage.

Funding: In this model, the employer typically funds benefits either by self-insuring or by purchasing a paid leave insurance policy. Depending on the language of the legal mandate, employees may be required to contribute as well. Any monitoring or enforcement of the mandate would require funding from general revenues or an earmarked tax on employers, employees, and/or some other broad-based source, such as a sales tax.

Hawaii requires employers to provide paid medical leave, but no state has an employer mandate for paid family leave.

⁹⁶ Laura Addati, Naomi Cassirer, and Katherine Gilchrist, *Maternity and Paternity at Work: Law and Practice Across the World*, (Geneva, Switzerland: International Labour Organization, 2014), http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_242615/lang--en/index.htm.

Policy Assessment: Option 3. Employer mandate

Fiscal sustainability: Predicting the employer mandate's fiscal sustainability is difficult. Any governmental monitoring and enforcement of the mandate would require funding from general revenues or an earmarked tax. Regardless of whether the employer chooses to self-insure or to purchase private insurance coverage, the availability of paid leave benefits depends heavily on each employer's long-term solvency. Because private insurance coverage would reduce administrative requirements for employers, and perhaps cost less as well, the sustainability of an employer mandate would depend on a strong private market for such coverage. An employer mandate may also impose disproportionate burdens on small businesses and employers whose labor force is heavily dependent on workers who are statistically more likely to use paid family and/or medical leave.

Program stability: It is difficult to assess the stability of an employer mandate model for paid leave. Any state that enacted such a policy would need to monitor employer compliance with the policy as well as whether or not the appropriate receipt of benefits was achieved in order to determine whether or not the program was stable.

Political feasibility: Because no state has adopted an employer mandate for paid family and medical leave, the political feasibility of enacting such a model is uncertain.

Presumably, some employers would prefer to control every aspect of the paid leave policy applicable to their employees. Other businesses might wish to outsource all or part of the administrative burden to a governmental or private agency. Concentrating full control of paid leave in the employer's hands might deter some workers from using the benefits out of concern for privacy and/or discrimination.

Administrative simplicity: An employer mandate standing alone would require little or no governmental administration. But absent some monitoring mechanism, employers could simply ignore the mandate. In order to ensure that employees have access to the leave the mandate requires, some government administrative effort would be necessary. In addition, employers would bear significant administrative responsibility for making eligibility determinations, maintaining records, and demonstrating compliance with the law.

Effect on workers: Requiring employers to shoulder the costs of providing paid family and medical leave brings unique policy challenges for workers and, in some cases, unintended consequences. International research has suggested that employer mandates for paid parental leave may lead to employment discrimination against women, though employee contributions to financing coverage may temper that effect.⁹⁷ If employers are funding the entirety of paid

⁹⁷ Laura Addati, Naomi Cassirer, and Katherine Gilchrist, *Maternity and Paternity at Work: Law and Practice Across the World*, (Geneva, Switzerland: International Labour Organization, 2014), http://www.ilo.org/global/publications/ilo-bookstore/orderonline/books/WCMS_242615/lang--en/index.htm.

leave for their workers, it may be appropriate that workers serve longer in their jobs before becoming eligible for benefits. Such requirements might force employees who anticipate a need to use paid leave to remain in jobs longer than is optimal. Conversely, workers perceived as “high risk” for requiring paid leave (e.g., women of childbearing age, individuals with disabilities, older workers) might confront discrimination in hiring, wages, or working conditions from employers seeking to minimize their paid leave costs. An employer mandate model would also make it all but impossible for self-employed workers to participate in the program, leaving out a substantial portion of the workforce, and would raise questions regarding whether

and how other nonstandard workers (e.g., temporary workers) would be covered.

Effect on employers: An employer mandate imposes higher and less predictable costs on employers than does a social insurance. Accordingly, employers might choose to avoid opening or expanding operations in a state with such a mandate. These considerations might be particularly salient for small businesses and/or for firms in industries that rely heavily on workers who are or are perceived to be more likely to use paid leave. To the extent that such perceptions are accurate, the impact of an employer mandate might be to deny benefits to the very workers who need them most.



Section IV.

KEY POLICY DESIGN ELEMENTS AND CONSIDERATIONS

NATIONAL
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Choosing a paid leave model is only the first step for states seeking to adopt such a policy. Thereafter, policymakers must determine other important features, including eligibility requirements, qualifying events (circumstances that trigger worker eligibility for paid leave), the definition of family, benefit design, and job protection.

Eligibility Requirements

What work history and/or earnings levels are prerequisites for worker eligibility?

Requiring lengthy job tenure and/or high wage levels reduces access to paid leave, particularly for younger and lower-income workers, who often have shorter and more

Requiring lengthy job tenure and/or high wage levels reduces access to paid leave for younger and lower-income workers.

fragmented work histories. For example, under the FMLA, only employees who have worked for their current employer for at least 1,250 hours in the last 12 months are eligible for leave. As a result, the policy covers only about 60 percent of U.S. workers.⁹⁸ By contrast, in California, where workers are eligible for coverage if they earned at least

⁹⁸ Jacob Alex Klerman, Kelly Daley, and Alyssa Pozniak, "Family and Medical Leave in 2012: Technical Report," Cambridge, MA: Abt Associates, 2012, <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>.

\$300 during the base period, nearly all private sector workers are covered.⁹⁹

To determine eligibility, states typically designate a base period of employment, and then require workers to demonstrate a certain number of hours worked and/or wages earned during that period. Predicating eligibility on continuous tenure with a single employer may lead workers to remain in suboptimal jobs solely in order to ensure access to paid leave. This so-called “job lock” may result in workers clinging to lower-wage positions, perhaps with poor or even hazardous working conditions, that may not draw upon all their skills—with predictable negative consequences for individuals, employers, and the economy as a whole. By contrast, basing eligibility on a minimum earnings level could extend benefits to workers with sporadic employment histories—including self-employed, part-time, temporary, seasonal, and “gig economy” workers—as long as the earnings threshold is not set at too high a dollar amount. The vast majority of existing state policies have made their paid leave benefits portable by allowing workers to combine earnings and/or job tenure periods across multiple places of employment in order to meet the eligibility criteria.¹⁰⁰ Linking eligibility to earnings may also be easier to administer, as states typically already have mechanisms in place to track earnings but not hours worked.

Is eligibility based on where you work or where you live? To date, state paid leave laws have tied eligibility to the location of the individual’s job, rather than residence. The reasons for this choice include:

- Making paid leave consistent with other employment-related social insurance programs, such as Workers’ Compensation, and preventing conflicting eligibility issues across state lines
- Ensuring that, even if they live in different states, employees who work for the same employer have access to the same benefits
- In employer contribution models, reducing employers’ reporting and payroll deduction complexities, as well as avoiding the need for state administrators to locate and collect contributions from out-of-state employers that employ state residents
- Potentially helping to attract new talent to in-state employers

Alternatively, basing eligibility on a worker’s state of residence might advance other policy priorities, including:

- Facilitating access to benefits for self-employed workers, who may have no formal workplace
- Potentially attracting new residents to the state

⁹⁹ Authors’ calculations based on 2016 data estimating 17.9 million workers covered under the California State Disability Insurance law and total employment in that year of 18.1 million workers. [See: Employment Development Department, State of California, “State Disability Insurance Program: Fact Sheet,” 2016, http://www.edd.ca.gov/pdf_pub_ctr/de8714c.pdf; Employment Development Department, State of California, “Labor Market Information: Historical Labor Force Data: Employment – 2016,” accessed June 13, 2018, <http://www.labormarketinfo.edd.ca.gov/cgi/dataanalysis/areaselection.asp?tablename=labforce>.]

¹⁰⁰ For a more comprehensive discussion of this topic, see: Molly Weston Williams, Sherry Leiwant, and Julie Kashen, “Paid Family and Medical Leave & Nonstandard Employees,” *Constructing 21st Century Rights for a Changing Workforce: A Policy Brief Series: Brief 2*, New York: A Better Balance, 2019, <https://www.abetterbalance.org/resources/report-constructing-21st-century-rights-for-a-changing-workforce-a-policy-brief-series-brief-2/>.



Qualifying Events

When may a worker take paid leave? Most paid leave programs in the United States permit workers to use leave for some or all of the following:

- The birth, adoption, or foster placement of a child
- Providing care for a family member or loved one in the event of a serious health-related need, including one related to a physical or mental illness, injury, disability, or medical condition, or a safety concern such as domestic violence, sexual assault or abuse, and/or stalking
- Receiving care for an employee's own serious health-related needs—including

those related to a physical or mental illness, injury, disability, or medical condition—or to access services and supports related to domestic violence, sexual assault or abuse, and/or stalking

- Deployment or notification of impending deployment of a close family member on active military service

Definition of Family

Who is considered a qualifying family member for the purpose of taking leave? States define the term “family member” differently under their paid family leave policies. To date, these definitions typically include some or all of the following relationships: spouse, child, parent, domestic

partner, grandparent, grandchild, or sibling.¹⁰¹ A state might define the term more broadly to include any person, regardless of biological or legal ties, with whom the employee had a significant personal bond akin to that traditionally associated with a family relationship, as is the case in New Jersey's recent amendment to its PFL law and Connecticut's recently passed PFML law.¹⁰² This expanded definition would benefit workers whose primary relationships are with "chosen family," which is especially common among people with disabilities and the LGBTQ+ community.¹⁰³ As household composition in the United States becomes more diverse, broadening the definition of family member could help ensure access to paid leave benefits for those who need it most.

Expanding the definition of family would benefit people with disabilities and the LGBTQ+ community.

Benefit Design

Duration: How much time can a worker take off to provide or receive care? Different jurisdictions have adopted a wide range of leave duration periods. At the national level,

the FMLA offers workers up to 12 weeks of unpaid leave for all purposes that qualify under the statute. By contrast, many states provide different periods of leave for each qualifying event. The duration of paid medical leave ranges from 2 weeks in the District of Columbia (effective in 2020) to 52 weeks in California. For paid family leave, workers may take 4 weeks in Rhode Island but 12 weeks in New York (as of 2021), Washington (as of 2020), Massachusetts (as of 2021), and Connecticut (effective 2022) (see Figures 3 and 4).¹⁰⁴ International policies typically offer longer leave periods, particularly for new parents: many countries provide 6, 12, or even 18 months of paid leave to workers upon the birth or adoption of a child.¹⁰⁵

To date, every state paid family leave program permits workers to take leave intermittently, as the need arises. Some states require workers to take leave in 8-hour increments, while others do not specify any minimum leave duration. This flexibility is not necessarily applicable, however, to the paid medical leave programs in those same states, which often are subject to much more restrictive criteria, including waiting periods in some cases.

Policymakers face many—sometimes competing—considerations when determining the duration of paid leave benefits. Research

¹⁰¹ National Partnership for Women and Families, "State Paid Family and Medical Leave Insurance Laws: February 2018," 2018, <http://www.nationalpartnership.org/research-library/work-family/paid-leave/state-paid-family-leave-laws.pdf>

¹⁰² A Better Balance, "Overview of Paid Family & Medical Leave Laws in the United States," 2019, <https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/>.

¹⁰³ Katherine Gallagher Robbins, Laura E. Durso, Frank J. Bewkes, and Eliza Schultz, "People Need Paid Leave Policies That Cover Chosen Family," Center for American Progress, 2017, <https://cdn.americanprogress.org/content/uploads/2017/10/26135206/UnmetCaregivingNeed-brief.pdf>.

¹⁰⁴ Sarah Jane Glynn, Alexandra L. Bradley, and Benjamin W. Veghte, "Paid Family and Medical Leave Programs: State Pathways and Design Options," Washington, DC: National Academy of Social Insurance, 2017, <https://www.nasi.org/research/2017/paid-family-medical-leave-programs-state-pathways-design>.

¹⁰⁵ Gretchen Livingston, "Among 41 Nations, U.S. Is the Outlier When It Comes to Paid Parental Leave," Pew Research Center, 2016, <http://www.pewresearch.org/fact-tank/2016/09/26/u-s-lacks-mandated-paid-parental-leave/>.

offers some guidance regarding the health and employment effects of varying leave durations, especially for maternity leave. Medical evidence suggests that at least 4 to 6 weeks to recover physically from vaginal childbirth, and up to 8 weeks is required for cesarean deliveries.¹⁰⁶ Other studies reveal that new mothers experience an increase in depressive symptoms and lower overall health status when they take fewer than 8 weeks of leave.¹⁰⁷ Some studies have concluded that maternal return to work before 12 weeks after giving birth has a negative effect on breastfeeding, timely

immunizations, child behavioral outcomes,¹⁰⁸ and infant mortality.¹⁰⁹ Additionally, the American Academy of Pediatrics,¹¹⁰ the World Health Organization,¹¹¹ and other public health organizations recommend that infants be breastfed exclusively for the first six months of life. Achieving that goal can be challenging when mothers are back at work. Women's wages may also be affected by maternity leave. While moderate leave periods have a neutral or positive effect on women's earnings, maternity leave in excess of six months seems to have a negative impact on maternal wages.¹¹²

¹⁰⁶ Amy Raub et al., "Paid Parental Leave: A Detailed Look at Approaches Across OECD Countries," WORLD Policy Analysis Center, 2018, https://www.worldpolicycenter.org/sites/default/files/WORLD%20Report%20-%20Parental%20Leave%20OECD%20Country%20Approaches_0.pdf.

¹⁰⁷ P. Chatterji and S. Markowitz, "Family Leave After Childbirth and the Mental Health of New Mothers," *The Journal of Mental Health Policy and Economics*, vol. 15, 2012, <https://www.ncbi.nlm.nih.gov/pubmed/22813939>.

¹⁰⁸ Lawrence M. Berger, Jennifer Hill, and Jane Waldfogel, "Maternity Leave, Early Maternal Employment and Child Health and Development in the US," *The Economic Journal*, vol. 115, no. 501, 2005, <https://www.jstor.org/stable/3590462>.

¹⁰⁹ Maya Rossin, "The Effects of Maternity Leave on Children's Birth and Infant Health Outcomes in the United States," *Journal of Health Economics*, vol. 30, no. 2, 2011, <https://www.ncbi.nlm.nih.gov/pubmed/21300415>.

¹¹⁰ American Academy of Pediatrics, "AAP Reaffirms Breastfeeding Guidelines," 2012, <https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/aap-reaffirms-breastfeeding-guidelines.aspx>.

¹¹¹ World Health Organization, "Exclusive Breastfeeding for Six Months Best for Babies Everywhere," 2011, http://www.who.int/mediacentre/news/statements/2011/breastfeeding_20110115/en/.

¹¹² Christopher J. Ruhm, "The Economic Consequences of Parental Leave Mandates: Lessons from Europe," *The Quarterly Journal of Economics*, vol. 113, no. 1, 1998.



Wage Replacement Rate: The wage replacement rate is the percentage of a worker's wages paid out as benefits. Some countries' programs provide workers their full standard pay for the entirety of their leave. State programs in the U.S. require only that workers receive part of their typical wages while on leave.

The appropriate duration of medical leave is often more variable and less robustly researched, regardless of whether the health condition needing treatment is the worker's own or a family member's. Medical events such as a heart attack can often require a minimum of four weeks of recovery time, while severe illnesses such as cancer can require up to six months of treatment, depending on the severity of the individual case and the physical demands of the employee's job.¹¹³ Additionally, regardless of the amount of leave permitted by law, medical providers typically determine what is considered the "medically appropriate" duration of leave for a worker's or family member's medical needs, which can mean that workers will experience limits on the duration of leave for which they are eligible depending on their relevant medical condition. An employee may or may not be capable of returning to work, performing so-called "light duty" tasks, and/or working part-time while receiving treatment for a severe medical condition. States might address this complex set of considerations by offering a range of leave periods for different circumstances.

Wage replacement: How much compensation will workers receive while on leave? When deciding how much to pay workers while they

are on leave, states typically consider two important factors. First, states choose whether to set a single wage replacement rate for all workers regardless of income, or to replace a higher share of wages for lower earners. Second, states determine the level at which to cap weekly benefits. A state might choose to support longer leaves for certain qualifying events (e.g., a serious personal medical need) by varying the wage replacement rate over time. For example, a worker might receive a high wage replacement rate in the early weeks of leave, followed by a lower rate after a certain point. Some private insurance plans follow this "stepwise" model. A new paid leave program should also specify whether paid leave benefits constitute taxable income under state law, as well as whether benefits are counted when determining eligibility for means-tested benefits (e.g., WIC, SNAP).

Setting an appropriate wage replacement rate is essential to ensure that workers at all income levels can afford to take paid leave. The first state paid leave programs established flat wage replacement rates, ranging from 55 to 67 percent of earnings (CA, NJ, RI). In practice, these programs showed that many low-wage workers could not afford the income reduction and thus did not use paid leave (see text box on

¹¹³ WORLD Policy Analysis Center, "A Review of the Evidence on the Length of Paid Family and Medical Leave. Policy Brief," 2018, <https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Length%20Paid%20Family%20and%20Medical%20Leave.pdf>.



p.106, *Early Lessons from State Paid Family and Medical Leave Programs*).

In spite of concerns that higher benefit levels might disincentivize return to work, particularly for new mothers, a recent study of California's administrative data found that there was no adverse effect of higher benefits on women's labor market outcomes. In fact, research has shown that there was a small positive effect on the labor force attachment of new mothers over the two years immediately following the period of paid leave.¹¹⁴

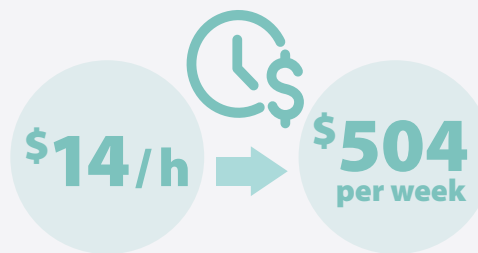
More recent paid leave programs (DC, WA, MA, CT) have adopted a graduated wage replacement approach. These four states will provide a

higher wage replacement rate up to a certain percentage of the state's average weekly wage (AWW) or the minimum wage, and a lower rate of wage replacement for all earnings above that amount, up to a weekly benefit cap. For example, workers in the District of Columbia with weekly earnings below 150 percent of the minimum wage will receive 90 percent of their AWW. Any earnings above 150 percent of the District's minimum wage will be replaced at a rate of 50 percent of the worker's AWW, with a weekly benefit cap of \$1,000.¹¹⁵ As of 2018, California adopted a graduated wage replacement rate: the lowest-income workers receive a higher proportion of their income (70 percent) than the highest earners (60 percent).

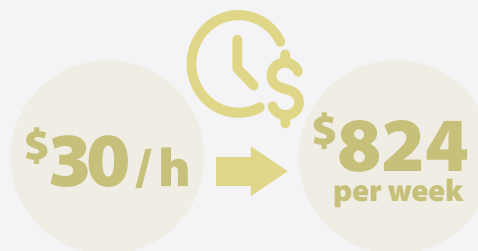
¹¹⁴ Sarah Bana, Kelly Bedard, and Maya Rossin-Slater, "The Impacts of Paid Family Leave Benefits: Regression Kink Evidence from California Administrative Data," IZA Discussion Paper No. 11381, IZA Institute of Labor Economics, 2018.

¹¹⁵ Sarah Jane Glynn, Alexandra L. Bradley, and Benjamin W. Veghte, "Paid Family and Medical Leave Programs: State Pathways and Design Options," Washington, DC: National Academy of Social Insurance, 2017, <https://www.nasi.org/research/2017/paid-family-medical-leave-programs-state-pathways-design>.

For a full-time worker earning **\$14/hour** in the District of Columbia, average weekly wages are \$560. During a PFML claim period, **that worker would earn \$504 per week in benefits.**



For a full-time worker earning **\$30/hour** in the District of Columbia, average weekly wages are \$1,200. During a PFML claim period, **that worker would earn \$824 per week in benefits.**¹¹⁶



Workers employed at companies that voluntarily offer paid family and/or medical leave benefits can often receive full (100 percent) wage replacement for the duration of their leave. However, access to voluntary employer-provided benefits is highly concentrated among workers near the top of the income spectrum. A state might consider adopting full wage replacement for all workers, but the cost of any such program, along with concerns about misuse or fraud, might render that option politically unfeasible.

States could consider making paid leave more widely accessible by providing some form of monetary bonus to families with particularly high levels of need. A dependency allowance, for example, could boost the compensation of

workers who need to take time off due to illness but also have dependents in the home.¹¹⁷

Some countries pay all workers, regardless of income, a flat rate for paid leave. To date no state has adopted this approach. In order to enact such a program, policymakers would need carefully to calibrate the benefit amount to ensure it could support workers and their families during difficult circumstances. Periodic cost-of-living adjustments would likely be required.

Job Protection

Is the worker's job guaranteed after they return from paid leave? Job protection is a key issue for policymakers considering any type of paid

¹¹⁶ Authors' calculations. The DC minimum wage will increase to \$14/hour effective July 1, 2019. The calculations for this example are determined based on this imminent minimum wage adjustment.

¹¹⁷ For example, Rhode Island's dependency allowance for temporary disability leave offers the greater of either \$10 per week or an additional 7 percent of weekly benefits for up to five dependents, who are defined as children under the age of 18 or adult children with disabilities who are incapable of independently earning wages. [Rhode Island Department of Labor and Training, "Common TDI References and Terms," <http://www.dlt.ri.gov/tdi/commonref.htm#7>.]



leave program. Guaranteeing workers the right to return to their positions after taking leave is particularly important for low-income families, who often may not have the financial reserves to adequately weather a family member's job loss. By definition, paid leave is designed to fill a temporary gap in employment, not compensate for a permanent job loss. The federal FMLA provides job-protected leave, but, as discussed earlier, roughly 40 percent of the workforce is ineligible for FMLA benefits. Several states have passed laws designed to expand access to job protection coverage for workers taking family or medical leave.¹¹⁸ Some states have separate laws that expand job protection beyond FMLA qualifications (e.g., NJ, DC), while others have incorporated job protection into their paid leave laws (NY and RI for PFL only, MA and CT for both

PFML and PFL). Tying job protection to a state's paid leave law can help to prevent gaps in coverage between who is covered for paid leave benefits and who is eligible for job protection. Policymakers in states without this expanded FMLA coverage should consider including job protection directly in any new paid leave program.

Providing job-protected leave is particularly important for low-income families.

¹¹⁸ National Partnership for Women and Families, "State Paid Family and Medical Leave Insurance Laws: February 2019," 2019, <http://www.nationalpartnership.org/research-library/work-family/paid-leave/state-paid-family-leave-laws.pdf>.

Section V.

INTEGRATION AND IMPLEMENTATION CONSIDERATIONS

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Once a state has selected and refined the design of a new paid leave program, policymakers will face a number of issues surrounding the program's execution. These include matters of program administration, education and outreach, evaluation, integration with other state policy mechanisms, and coordination with existing employee benefit plans, among others.

Program Administration

Like every state program, a new paid leave plan will require management. An effective paid leave administration must perform at least three key functions: (1) determining eligibility, which requires finding that the worker or the worker's covered family member or loved one has experienced a qualifying event, and ensuring that the worker meets any work history and/or earnings requirements; (2) calculating the duration of leave and amount of compensation to which the

employee is entitled; and (3) giving the worker an opportunity to appeal the denial of a claim or the amount of weekly benefits. If a state permits employers to self-insure and/or purchase private market coverage, administering the program must also include monitoring and enforcing compliance with regulations governing those options. States will need to guard against hiring discrimination and/or wrongful claim denial, particularly when an employer self-insures, against workers who may be perceived as more likely to use paid leave and thus be burdensome and costly (e.g., younger women, people with disabilities, older adults).

State PFML programs should guard against hiring discrimination and/or wrongful claim denial.

Program funding must cover the costs of program start-up, maintenance, and development. While it will always be necessary (and important) to build up sufficient staff and infrastructural capacity to address the various responsibilities that come with managing a new program, it can be especially efficient and cost-effective to build upon existing processes, procedures, and resources, rather than to start from scratch. States with existing paid leave policies have located their program administration either in the state's employment/labor agency—where the state's Unemployment Insurance program is housed—or in the state's Workers' Compensation administration. The former would be better suited to administer an exclusive state fund social insurance program, while the latter might work more effectively for a model with regulated private options, as these agencies frequently already monitor private carriers and/or self-insuring employers.

At present, the four states that have implemented paid family leave (California, New Jersey, Rhode Island, and New York) added those benefits to existing temporary disability insurance (TDI) programs; both sets of benefits are managed by the same government agency.¹¹⁹ Future states will have no existing TDI infrastructure upon which to build, and may elect to create an entirely new agency to administer paid leave. The four newest jurisdictions (DC, WA, MA, and CT) have all developed new administrative agencies to implement their programs. Regardless of the option chosen, however, states should capitalize on existing infrastructure, particularly when state agencies already collect a substantial portion of the data needed to manage a paid family and medical leave program. Wherever a state paid leave program is housed, collaboration will doubtless be required with the state's tax collection authority, among others.

¹¹⁹ Sarah Jane Glynn, Alexandra L. Bradley, and Benjamin W. Veghte, "Paid Family and Medical Leave Programs: State Pathways and Design Options," Washington, DC: National Academy of Social Insurance, 2017, <https://www.nasi.org/research/2017/paid-family-medical-leave-programs-state-pathways-design>.



Education and outreach

An effective paid leave policy requires significant education and outreach to workers and employers. Policymakers should include adequate funding for this function in the program's budget from the beginning. Absent a comprehensive effort, a state program could mirror the early experience of states such as California, where many employees—especially low-wage workers—were not aware that a paid leave program existed. Employers, too, must be educated about the program's existence, scope, and funding mechanisms, as well as any new reporting or administrative obligations.

To ensure that all affected parties are aware of the new program, a state might consider dedicating staff members or recruiting community volunteers to conduct outreach efforts, particularly in the months leading up to the program's full implementation. The state administrative agency could engage stakeholder groups and local government officials to determine the best avenues for widespread communication and education. In addition, the state should coordinate education on the paid leave program with enrollment in and access points to other social services and benefits (including federally qualifying health centers, Medicaid, WIC, SNAP, and TANF, among others) and state lawmakers should consider including

legislative language to ensure sufficient cooperation and coordination. Employers might also be encouraged to share educational materials directly with their employees through posters, digital messages, and other channels of communication.

Program evaluation

Ongoing assessment of the paid leave program is critical to its long-term success. Researchers from academic and other external institutions can often be a resource for this process, but the program's administration should provide data and other assistance as needed. Ideally, data should be collected before the program takes effect, in order to establish a baseline for comparison. Among other metrics, evaluators should assess labor force attachment, employee retention, child health and development outcomes, productivity and morale, impact on businesses, knowledge of the availability of the program, and patterns of leave-taking among different demographic groups (for example, by gender, race, socio-economic status, and type of job).¹²⁰

Interaction with employer plans

Although most workers in the United States have no access to paid leave of any type, certain employers do provide paid family leave and/or temporary disability benefits.

¹²⁰ For examples of state paid leave program evaluations, see: Charles L. Baum and Christopher J. Ruhm, "The Effects of Paid Family Leave in California on Labor Market Outcomes," *Journal of Policy Analysis and Management*, vol. 35, no. 2, 2016; Ruth Milkman and Eileen Appelbaum, *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy*, (Ithaca, NY: ILR Press, 2013), <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1090&context=books>; Ann Bartel, Maya Rossin-Slater, Christopher Ruhm, and Jane Waldfogel, "Assessing Rhode Island's Temporary Caregiver Insurance Act: Insights from a Survey of Employers," 2016, https://www.dol.gov/asp/evaluation/completed-studies/AssessingRhodeIslandTemporaryCaregiverInsuranceAct_InsightsFromSurveyOfEmployers.pdf; Nuno Mota, "Parental Leave Assistance and Long-Term Effects on Female Labor Supply," 2015, https://nabreufa.expressions.syr.edu/wp-content/uploads/2014/09/NM_Paid_Leave_01-26-15.pdf.

In these circumstances, the state program will need to coordinate carefully with the existing employer plans. In the case of a social insurance fund or state-run program, employers could be permitted to require their employees to exhaust leave provided under the state program before tapping into employer-provided benefits. State program administrators should ensure that employers retain the ability to provide benefits that are more generous than those available under the state plan if they so desire.

A state PFML program will need to coordinate carefully with existing employer plans.

Some states that elect to design their program as a social insurance or state-funded program may also consider permitting employers to opt out of the state-run program and instead choose to either self-insure or provide coverage available through the private market. There are a few factors to consider when determining whether or not to allow employers to opt out of the state program. First, in order to maintain equity in access to paid leave coverage, any law permitting private options should stipulate that employers must provide coverage equal to or greater than what is available through the state plan. Second, it is important that the law protects equal access to the program by stipulating that all employees eligible under

the state program would receive benefits under the employer-provided coverage. Many private employers do currently offer paid leave to some of their workers, but that coverage is often not equally available to all employees. While 28 percent of workers in the highest earnings quartile have access to paid family leave and 54 percent have access to temporary disability coverage, those numbers drop to 8 percent and 18 percent, respectively, for workers in the lowest earnings quartile.¹²¹ Finally, it is important that states that choose to allow employers to provide private coverage and/or to self-insure also provide coverage immediately for workers who change jobs, regardless of which method of coverage their new employer has chosen. States should also consider the increased administrative capacity that would be required to monitor and enforce compliance among employers who opt out of state coverage, in addition to the staff already necessary to run the state plan.

Coverage of self-employed workers

State paid leave programs may address self-employed workers in one of three ways: provide full, automatic coverage; permit workers to opt into the program; or exclude them from the program entirely. Several states (CA, NY, DC, WA, MA, CT) allow self-employed workers to opt into the program. While this policy decision advances individuals' freedom of choice, it also poses certain risks. First is the likelihood of selection bias. Because workers are more likely to opt into a program whose benefits they anticipate

¹²¹ Bureau of Labor Statistics, "Table 32. Leave Benefits: Access, Civilian Workers, March 2018," U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table32a.htm>; Bureau of Labor Statistics, "Table 16. Insurance Benefits: Access, Participation, and Take-Up Rates, Civilian Workers, March 2018," U.S. Department of Labor, 2019, <https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table16a.htm>.



needing—soon—the stability of the program’s funding may be jeopardized. Further, education and outreach efforts may be complicated by the need to ensure that self-employed workers understand the costs, benefits, and mechanisms to access paid leave benefits. A state might categorically exclude self-employed workers, which would reduce administrative complexity but also raise concerns about inequitable treatment of workers in similar situations.

To avoid these problems, a state could automatically cover all self-employed workers in the program. This policy choice would both reduce administrative complexity and increase equity across types of workers. For programs funded in part or

in whole by employer contributions, states would need to determine how to collect the employer-equivalent share of contributions for self-employed workers. In that case, states could potentially supplement the employer portion through general revenues or require employers to contribute a percentage of all payments made to independent contractors to the paid leave fund.¹²² Alternatively, self-employed workers could be required to pay both the employer and employee share of contributions, as is currently the case for Social Security. However, this model places a significant (and, for lower-income workers, unmanageable) financial burden on the self-employed and independent contractors.

¹²² Massachusetts’ program will require such payments, for example, but only for businesses where self-employed workers make up more than half of the workforce. Workers in these businesses will be covered automatically and be required to pay the employee contribution. [Molly Weston Williamson, Sherry Leiwant, and Julie Kashen, “Constructing 21st Century Rights for a Changing Workforce: A Policy Brief Series; Brief 1: Paid Family and Medical Leave & Self-Employment,” 2019, <https://www.abetterbalance.org/resources/report-constructing-21st-century-rights-for-a-changingworkforce-a-policy-brief-series/>.]

Section VI.

CONCLUSION



As human beings, workers inevitably will get sick and need time to recover. As family members, workers will have loved ones who need care. At some point, then, virtually every worker will need time away from work to provide or receive care. However, the United States stands virtually alone among nations across the world in failing to give workers the tools required to address these universal human needs. The Family and Medical Leave Act offers only unpaid leave and leaves roughly 40 percent of the workforce without access even to this inadequate benefit. In the absence of a federal program, states have begun to implement their own paid family and medical leave policies. To date, eight states plus the District of Columbia and Puerto Rico have adopted some form of paid family and/or medical leave legislation. Universal, contributory social insurance is

the prevailing design choice for state paid leave programs. Policymakers and advocates interested in developing new paid leave policies will benefit from the growing body of research into the experiences of these existing state-level—and international—programs.

This chapter examines several options for designing a paid leave program, and considers each model from the perspective of fiscal, administrative, and political sustainability, among other concerns. Policymakers seeking to provide paid leave benefits for their constituents will need to weigh all these considerations—and more. In the interim, however, the country continues to bear the burden of the cost of doing nothing. Workers, families, and employers—large and small—all are waiting for action.

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