



Paid Family Leave and UI Eligibility

National Unemployment Insurance
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OVERVIEW

- What is the state of the law at the federal level?
 - Brief history of Federal Paid Family Leave
 - Federal Family Benefits in Place
 - UI Benefits & Family Leave
 - Proposed Federal Paid Family Leave
- What is the state of the law at the state level?



Paid Family Leave at a Federal Level

- What is the current state of the law?
 - No paid family leave



Photo courtesy of zeroweeks.com.



History – The Clinton Era

- 1999: After Family & Medical Leave Act, Clinton wants to find a way for States to use UI to provide pay for leave following birth or adoption of a child
- 2000: DOL publishes regulations allowing states to use their unemployment systems to provide benefits to parents taking unpaid leave under FMLA or other unpaid leave for the birth or adoption of a child
- Only 15 states introduced legislation; none passed



History – The Bush Era

- 2002: After a challenge in court alleging the regulations controverted purpose of UI system, Bush directed DOL to investigate the legality of the regulations
 - Conclusion: the regulations were contrary to unemployment because intended recipients are **not “available to work”**
- 2003: Regulations repealed



History – The Obama Era

- 2015: Obama started with federal employees
 - Directed federal agencies to **advance** employees up to 240 hours (six weeks) of sick leave for birth or adoption of a child or other sick leave eligible uses
- But employees are required to repay any sick time advanced to them, except in circumstances of disability retirement or death



Can employees claim unemployment benefits while out of work on family leave?

- No
- To claim unemployment, workers must be:
 - Able to work
 - Available to work

20 C.F.R. § 604.1



Voluntary Termination: Compelling Family Circumstances

- Typically, workers who quit are ineligible for unemployment benefits, unless there is “good cause”
- Unemployment Insurance Modernization Act: federal government offered states financial incentives to expand unemployment programs
 - 25 states consider “compelling family circumstances,” or caring for a sick or disabled family member, good cause
 - Protects workers who are separated from work – even if quit – for reasons related to absences caused by family circumstances



Trump's Proposed Paid Family Leave

- Status: proposed in Trump's 2018 Budget
- Reason For Leave: birth or adoption of child
- Eligible Individuals: new mothers & fathers
- Length: 6 weeks
- Benefit: TBD-presumably state determination of unemployment benefit
- Funding: state unemployment insurance



Proposed FAMILY Act

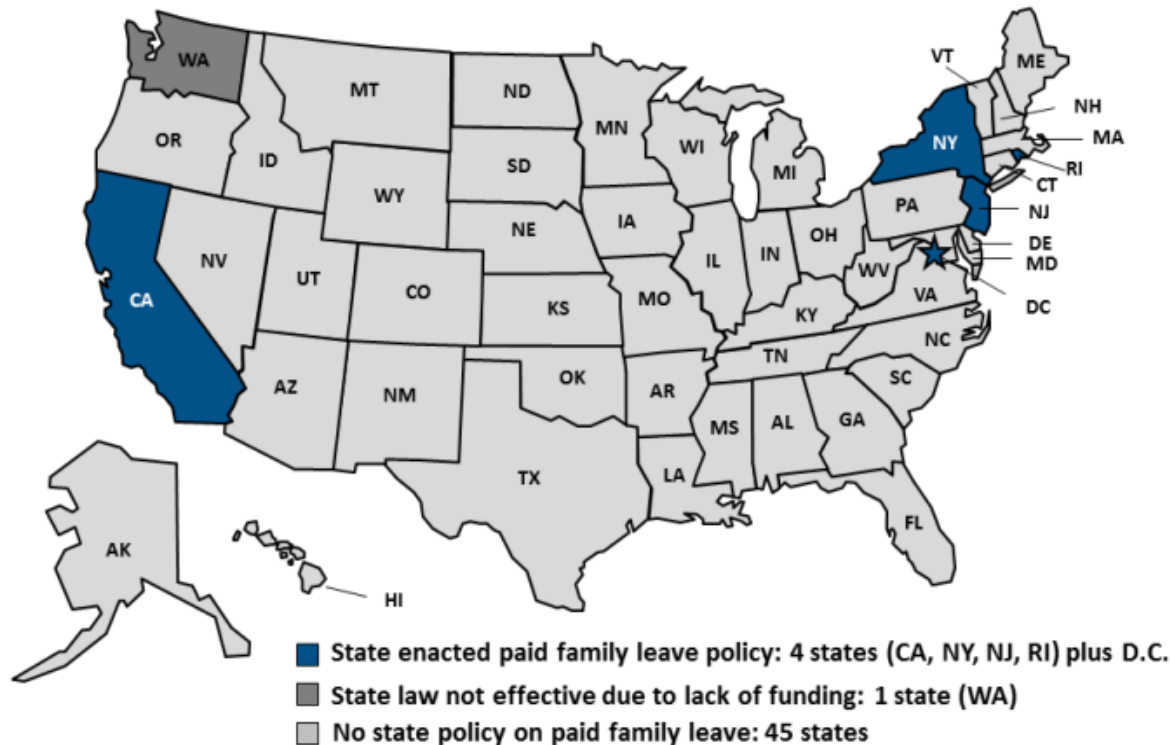
- Status: reintroduced February 7, 2017
- Reason For Leave:
 1. Birth or adoption of a new child
 2. Serious illness of immediate family member
 3. Worker's own medical condition
 4. Care for injured service member or exigencies arising from deployment of service member;
- Family: child, spouse, domestic partner, parent
- Length: 12 weeks
- Benefit: At least 2/3 of pay, capped at \$1,000/week
- Funding: “Federal Family and Medical Leave Insurance Fund,” funded by payroll tax (employee & employer)



Paid Family Leave at a State Level

Figure 1

State Policies on Paid Family Leave, 2017



NOTE: New York law takes effect in 2018. D.C. law takes effect in 2020.

SOURCE: National Partnership for Women and Families. State Paid Family Leave Insurance Law. February 2017.



STATES

CA

DC*

NJ

NY*

RI

WA*

State Paid Family Leave

	Length	Funding Family Leave
CA	6 weeks family care	Employee payroll tax
DC	8 weeks parental leave; 6 weeks family care	Employer tax
NJ	6 weeks family care	Employee payroll tax
NY	8 weeks (2018) 10 weeks (2019) 12 weeks (2021)	Employee payroll tax
RI	4 weeks family care	Employee payroll tax

California

Status	Enacted 2002, effective 2004. Expanded 2016, effective 2018.
Reason for Leave	<ol style="list-style-type: none">1. Bond with new child (birth, adoption, foster)2. Care for family member with serious health condition3. Care for own disability, includes pregnancy
Family Member	Child, parent, spouse, domestic partner, grandparent, grandchild, sibling, parent-in-law
Length	6 weeks family care; 52 weeks own disability
Benefit	2017: 55% weekly wage, up to \$1,173 2018-2022: 70% weekly wage if earn less than 1/3 state avg or the greater of 60% weekly wage or 23.3% state avg
Funding	Employee payroll tax of .9% funds disability and family care



California – San Francisco

- Paid Parental Leave Ordinance: supplements CA Paid Family Leave (PFL)
- Only provided for bonding with a new child through birth, adoption, or foster care placement
- Employers must provide supplemental compensation so PFL compensation + supplemental compensation = 100% of employee's weekly wage
 - 50+ employees (January 1, 2017)
 - 35+ employees (July 1, 2017)
 - 20+ employees (January 1, 2018)



District of Columbia

Status	Enacted 2017, effective 2020.
Reason for Leave	<ol style="list-style-type: none">1. Bond with new child (birth, adoption, foster)2. Care for family member with serious health condition3. Care for own serious health condition
Family Member	Child, parent, spouse, domestic partner, grandparent, sibling
Length	8 weeks parental, 6 weeks family care; 2 weeks own serious health condition
Benefit	<ul style="list-style-type: none">- If paid less than or equal to 150% of DC min. wage x 40 = 90% weekly wage- If paid more than 150% of DC min. wage x 40: 90% weekly wage PLUS 50% of amount by which wage exceeds 150% of DC min wage x 40, up to \$1,000 per week
Funding	Employer contributions of .62% of wages or self-employment income

New Jersey

Status	Enacted 2008, effective 2009
Reason for Leave	<ol style="list-style-type: none">1. Care for new child (birth, adoption, foster)2. Care for family member with serious health condition3. Care for own disability, includes pregnancy
Family Member	Child, parent, spouse, domestic partner, civil union partner
Length	6 weeks family care; 26 weeks own disability
Benefit	66% weekly wage, with max of \$633
Funding	<p>Employee payroll tax of .1%. Max annual deduction \$33.50.</p> <p>Temporary disability by both employee and employer payroll contributions. For 2017, employees contribute .24% of taxable wage on the 1st \$33,500 wages/year, up to \$80.40/year. Employers contribute between \$33.50 and \$251.25 on the 1st \$33,500 earned by each employee/year.</p>

New York

Status	Enacted 2016, effective 2018.
Reason for Leave	<ol style="list-style-type: none">1. Bond with new child (birth, adoption, foster)2. Care for family member with serious health condition3. Spouse, domestic partner, child or parent called to active duty4. Care for own disability
Family Member	Child, parent, spouse, domestic partner, grandparent, grandchild
Length	Family care - 2018: 8 weeks; 2019: 10 weeks; 2021: 12 weeks. Own disability: 26 weeks
Benefit	Family care: 2018: 50% of avg weekly wage, not to exceed 50% of state's avg weekly wage (55% in 2019; 60% in 2020; and 67% in 2021) Own disability: 50% weekly wage, max of \$170; full wage if \$20/week or less
Funding	Family care by employee payroll tax, max TBD. Disability by employee (.05%, up to .60/week) and employer (balance).

Rhode Island

Status	Enacted 2013, effective 2014.
Reason for Leave	<ol style="list-style-type: none">1. Bond with new child (birth, adoption, foster)2. Care for family member with serious health condition3. Care for own disability
Family Member	Child, parent, spouse, domestic partner, grandparent
Length	4 weeks family care; 30 weeks own disability; no more than 30 weeks for family care and own disability combined
Benefit	Avg weekly benefit is 4.62% of wages paid during highest quarter of worker's base period, up to \$817/week (max will be adjusted annually)
Funding	Employee payroll tax of 1.2% of worker's first \$66,300 funds disability and family care



Thank You!

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