

# Tracking the Evolution of Paid Family and Medical Leave

ESIS®

The paid leave landscape continues to evolve with new states implementing paid family and medical leave programs.

The complexity of managing these leaves has increased as various states offer different family leaves, each with its own eligibility rules and durations.

Most organizations are struggling to stay abreast of these complex leave laws and their subsequent impact on employees.

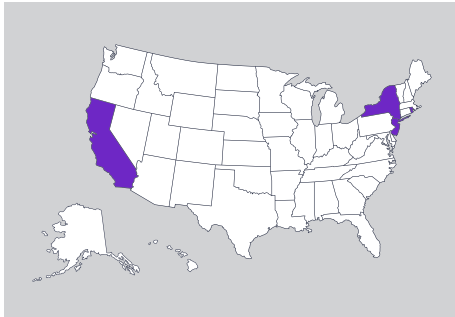
# How do they differ?

Paid leaves differ by states throughout the U.S.<sup>1</sup>

## Paid Leave Across the United States

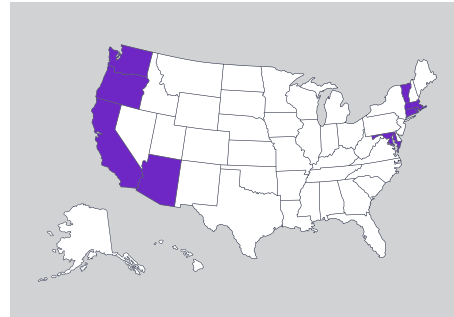
### Current snapshot of in force and passed legislation

Note: States in bold font do not appear on the map. Information is accurate as of 1/23/20



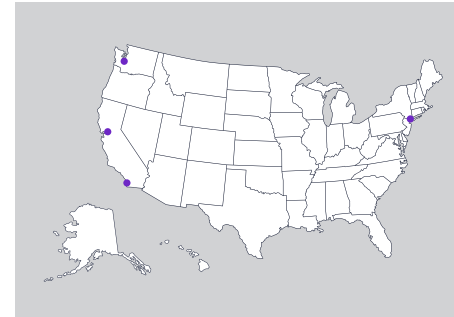
#### Family and Medical Leave Insurance

- California
- New Jersey
- Rhode Island
- New York
- **Washington (2020)**
- **Washington DC (2020)**
- **Massachusetts (2021)**
- **Connecticut (2022)**
- **Oregon (2023)**



#### State Employer-Mandated Paid Leave

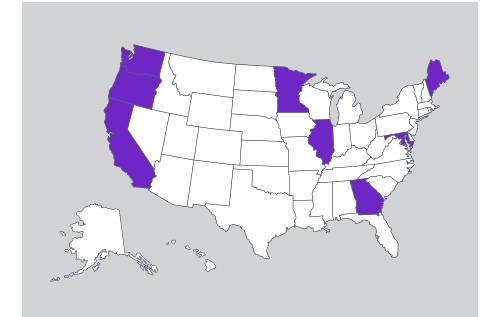
- California
- Oregon
- Connecticut
- Massachusetts
- Washington
- Washington DC
- Rhode Island
- Vermont
- Arizona
- Maryland
- **New Jersey**
- **Michigan**
- **Maine (1/1/21)**
- **Nevada (1/1/20)**



#### Local Employer-Mandated Paid Leave

20+ municipality laws including:

- San Francisco
- Seattle
- San Diego
- NYC



#### State Accrued Paid Leave

- California
- Georgia
- Illinois
- Maine
- Maryland
- Minnesota
- Oregon
- Washington
- **New Mexico (6/14/19)**



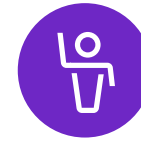
#### **Paid Family and Medical Leave Insurance**

Includes programs where benefits are administered by the state or an insurance company. Employees typically pay into the fund through payroll deductions and file claims with the state/insurance company. These leaves may or may not be job protected. Some states are starting to allow employers to self-insure. All states require time to be taken within one year of birth or adoption for bonding claims.



#### **State Employer-Mandated Paid Leave**

Includes laws that mandate employers provide paid leave to their employees. These laws are also referred to as Paid Sick Leave Laws in states where cities, municipalities, and counties have passed their own paid sick leave laws. Many of the laws base the employee's eligibility and the accrual of leave on how many hours the employee works in the city. They are difficult to manage for telecommuting employees and employees with multi-city territories. Employees have the right to accrue time based on the amount of time they work in that jurisdiction. The statute defines the amount of time accrued, reasons it can be used, etc. These leaves are usually job protected and are used for varying reasons based on the state. These leaves, compared with other leave types, have shown the most growth over the last few years.



#### **Voluntary Employer-Provided Leave Policies**

These are programs in which the employer chooses to provide paid leave which is not legally required. These policies allow uniformity across the employer's population and can help employers be more competitive.



#### **State Accrued Paid Leave Laws**

These are laws passed by states that mandate if an employer provides paid leave, they must allow the employee to take paid job-protected leave for enumerated reasons. Time is accrued from either the employee's sick or PTO bank. These laws originally started from "kin-care" which was care for a sick family member. Some states have expanded the reasons for leave.

## Focusing on Paid Family Leave

States that have Paid Family Leaves all cover family-related absences for the care of family members and/or bonding as a minimum. Each state with Paid Family Leaves has differences, such as employee eligibility, reasons the employee can take a leave, and benefit amounts. See graph below for further explanation:

Effective Date	State	Employee Eligibility	Reason for Leave	Benefit Amount
July 1, 2004	<b>California<sup>2</sup></b> All private sector employers can self-insure or opt in	Must have contributed to SDI for the last 18 months and earned at least \$300 in gross wages which deductions were taken	Care for seriously ill family member or bonding Qualifying exigency effective 1/1/2020 will be included	6 weeks paid in a 12-month period 60 to 70% of pay up to maximum of \$1,252
July 1, 2009	<b>New Jersey<sup>3</sup></b> All employers can use state or private plan State approval required	Must have worked 20 calendar weeks in NJ in the year and earned \$172 each week or \$8,600 in the year prior to leave	Care for seriously ill family member or bonding Expanded definition of family to include <i>whose close association is equivalent</i> Domestic or sexual violence against employee or family member	6 weeks paid in a 12-month period or 1/3 total wages during base year 66% of average weekly wage up to maximum benefit of \$650 as of 2019 12 weeks at 85% of employee AWW effective 7/1/2020
January 5, 2014	<b>Rhode Island<sup>4</sup></b> All private sector employers and some private	Employees must have been paid wages in RI and paid into the TDI/TCI fund Paid at least \$12,600 in the base year or \$2,100 in one quarter with conditions	Care for seriously ill family member To bond with new child within the first year of birth or placement	Combined RI TDI and TCI Maximum 30 weeks 4 weeks in any 12-month period 4.62% of wages in highest period and a maximum of \$852
January 1, 2018	<b>New York<sup>5</sup></b> All employers are covered DBL Carrier must administer PFL or employer can self-insure	Employees scheduled to work 20+ hours per week with 26 consecutive weeks of employment Employees scheduled less than 20 hours each week must have 175 days worked	Care for seriously ill family member To bond with new child within the first year of birth or placement Qualifying military event related to family member	Combined DBL and PFL maximum 26 weeks in 52-week period Weekly leave up to 10 weeks within 52 weeks Weekly benefit rate at least 55% of employees or state AWW Maximum benefit in 2019 \$746.61 Benefits increase over time up to 2021

Effective Date	State	Employee Eligibility	Reason for Leave	Benefit Amount
January 1, 2020	<b>Washington<sup>6</sup></b> Self-insure can opt in	Employee must be employed for at least 820 hours in the qualifying period VP – must have worked 340 hours in the last 12 months Employee can collect under the state plan until becoming eligible under the voluntary plan	Care for seriously ill family member To bond with new child within the first year of birth or placement Care for employees own serious health condition Qualifying military event related to family member	Combined duration of own condition and care of family member cannot exceed 16 weeks (18 if during pregnancy) Family – 12 weeks Medical 12 weeks (14 if pregnancy) Employees AWW 50% or less than states average weekly wage equal 90% AWW Employees AWW 50% or greater – 90% of AWW up to 50% of states average weekly wage, plus 50% of AWW Maximum benefit \$1000
July 1, 2020	<b>Washington, DC<sup>7</sup></b> Self-employed individual who has opted into the paid leave program	Employee who has worked more than 50% of the time in DC in the 52 weeks preceding the leave And spends a substantial amount of work time in DC and does not spend more than 50% in another jurisdiction	Care for seriously ill family member To bond with new child within the first year of birth or placement Care for employees own serious health condition	Combined duration cannot exceed 8 weeks total in 52 weeks Family Caregiver – 6 weeks Medical Leave – 2 weeks Parental Leave – 8 weeks Calculation applies Maximum benefit is \$1,100
January 1, 2021	<b>Massachusetts<sup>8</sup></b> Can use state or private plan State must approve	Employee must have earned \$4,700 and earn 30x the UI benefits in last 4 quarters	Care for seriously ill family member To bond with new child within the first year of birth or placement Care for employees own serious health condition Qualifying military event related to family member on active duty Care for family member with serious injury or illness aggravated or incurred in the line of duty	Combined maximum of 26 weeks Family Leave – 12 weeks Medical Leave – 20 weeks Military Caregiver – 26 weeks Employee receives 80% of wages up to 50% of the states AWW and then 50% of employee's wages to a maximum of \$850
January 1, 2022	<b>Connecticut<sup>9</sup></b> Can use state or private plan State must approve	Employees must work in the state of CT at least 3 months prior to the date of the leave	Care for seriously ill family member To bond with new child within the first year of birth or placement Care for employee's own serious health condition Qualifying military event related to family member on active duty To donate bone marrow	Combined maximum of 12 weeks (14 for pregnancy) for benefit year Family Leave – 12 weeks Medical Leave – 12 weeks (14 if pregnancy) Employees receive 95% of employees' wages Maximum benefit of \$760

Effective Date	State	Employee Eligibility	Reason for Leave	Benefit Amount
January 1, 2023	<b>Oregon</b> <sup>10</sup> Any employer except Federal Government, Tribal Governments self-employed (can opt in) Can have private plan	Employee contributed to the PFML Fund during the base year first 4/last 5 completed calendar quarters or alternate base year (last 4 quarters) and earned \$1000	Care for seriously ill family member To bond with new child within the first year of birth or placement Care for employees own serious health condition Safe leave to seek legal counsel, medical assistance, relocation, or victim service assistance related to domestic violence, harassment, stalking, or sexual assault	12 weeks paid leave (in conjunction with unpaid Oregon Family Leave Act, no more than 16 weeks of leave total) 2 additional weeks of paid leave available if disabled by pregnancy (18 weeks of combined limit with unpaid OFLA) Benefit rate: If AWW <65% SAWW, benefit equal 100% of AWW If AWW >65% of SAWW, benefit equals the sum of 65% of AWW+50% of AWW > 65% of the average weekly wage Maximum weekly benefit equals 120% SAWW

### Bonding Leaves Durations

Additionally, it's important to note that recent studies indicate that bonding leave durations differ between men and women. A study conducted by IBI Research in May of 2019 revealed the following statistics:<sup>11</sup>

- From 2011 to 2017, 15% of male FMLA leaves were for bonding with a new child. The share of men's bonding leaves was more than twice as high in states with PFL laws- for leaves taken in California, New Jersey and Rhode Island during period covered by the data – than in non PFL states (28% compared to 13%)
- 24% of female leaves were for bonding. Women account for two-thirds of FMLA leave, which suggests that women take bonding leave 3.2 times as often as men. The gap between bonding leaves taken in PFL and non-PFL states (32% and 23%, respectively, a 39% difference) is smaller for women than for men
- Leave durations for men in PFL states are 6 workdays longer than non-PFL states (a 44% increase). The comparable increase in bonding leave durations in PFL states for women is 3 workdays (a 9% increase)

To learn more about PFL and how it may impact your organization, feel free to contact ESIS.

- 1 Navigating the Complexity of Paid Leave. Disability Management Employer Coalition. July 16, 2019
- 2 See: EDD State of California Paid Family Leave: [https://edd.ca.gov/disability/paid\\_family\\_leave.htm](https://edd.ca.gov/disability/paid_family_leave.htm)
- 3 See: Division of Family Leave Insurance: <https://myleavebenefits.nj.gov/worker/fli/>
- 4 See: State of Rhode Island Division of Human Resources: <http://www.hr.ri.gov/stateemployee/resources1/>
- 5 See: New York State Paid Family Leave: <https://paidfamilyleave.ny.gov/>
- 6 See: Washington Paid Family and Medical Leave: <https://paidleave.wa.gov/>
- 7 See: DC Family Leave: <https://dcpaidfamilyleave.dc.gov/>
- 8 See: Department of Family and Medical Leave: <https://www.mass.gov/orgs/departments-of-family-and-medical-leave>
- 9 See: Connecticut Department of Labor: <https://www.ctdol.state.ct.us/wgwkstnd/fmla.htm>
- 10 See: Oregon Paid family and Medical Leave Insurance: <https://www.oregon.gov/EMPLOY/PFMLI/Pages/PFMLI-General-Information.aspx>
- 11 IBI Benchmarking Analytics Series: *How Do FMLA Bonding Leave Outcomes Differ by State?* Integrated Benefits Institute. May 29, 2019



#### Connect With Us

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If you would like to meet with one of ESIS' team of leave management experts to discuss how we can partner with you to build an effective, integrated leave management solution for your organization, please contact:

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