

# Expecting Better:

A State-by-State Analysis of Laws That Help New Parents

SECOND EDITION | MAY 2012



# Contents

1	<b>Foreword to the Second Edition of <i>Expecting Better</i></b>
2	<b>Grade by State (Map)</b>
4	<b>Executive Summary</b>
7	<b>Glossary of Terms</b>
8	<b>Introduction</b>
16	<b>Methodology</b>
21	<b>2012 State-by-State Report Card</b>
22	<b>Summary of State Laws</b>
47	<b>Conclusion</b>
48	<b>State-by-State Comparison of Select Policies</b>
50	<b>Endnotes</b>
54	<b>A Special Section of the Second Edition of <i>Expecting Better</i></b>
60	<b>Endnotes to Special Section</b>

## **About the National Partnership for Women & Families**

At the National Partnership for Women & Families, we believe that actions speak louder than words, and for four decades we have fought for every major policy advance that has helped women and families.

Today, we promote fairness in the workplace, reproductive health and rights, access to quality, affordable health care, and policies that help women and men meet the dual demands of work and family. Our goal is to create a society that is free, fair and just, where nobody has to experience discrimination, all workplaces are family friendly, and no family is without quality, affordable health care and real economic security.

Founded in 1971 as the Women's Legal Defense Fund, the National Partnership for Women & Families is a nonprofit, nonpartisan 501(c)3 organization located in Washington, D.C.

## **Acknowledgments**

Funding from the Ford Foundation and the Rockefeller Foundation for the National Partnership for Women & Families' Work and Family Program provided critical resources for this report. The National Partnership thanks the law firm of Hogan Lovells US LLP for pro bono research assistance that made this report possible.

The findings and conclusions presented here are those of the authors alone.

# Foreword to the Second Edition of *Expecting Better*

Seven years ago, in 2005, the National Partnership for Women & Families published the first edition of *Expecting Better*, a comprehensive review of federal and state laws that help new and expecting parents take leave when a child arrives. Today, in this second edition of that report, there are signs of progress.

Across the political spectrum, more of our nation's leaders acknowledge that 21st century families face significant challenges in meeting their responsibilities at home and on the job. High-profile leaders including President Barack Obama and first lady Michelle Obama have spoken passionately about the needs of working families. The president's proposed budget for three years running has included funding to speed the development of paid family leave programs in the states so that new parents can take leave from work to care for their children. And the president, the first lady and Secretary of Labor Hilda Solis are all strong supporters of legislation that would guarantee most workers paid sick time to care for themselves and their families when illness strikes or medical needs arise.

Since the first edition of *Expecting Better*, workers in some states have gained new rights that address the work and family challenges faced by new parents. For example:

- ▶ In 2011, Connecticut became the first state to pass a paid sick days law, joining the District of Columbia, in providing many workers the right to earn paid sick time that can be used to care for an ill child or family member or to seek medical care. Two cities — San Francisco and Seattle — also provide this right;
- ▶ In 2008, New Jersey joined California in establishing a paid family leave insurance program that provides new parents (and other family caregivers) with partial wage replacement during up to six weeks of family leave.
- ▶ In 2007, the state of Washington took a significant step toward establishing a paid parental leave program.
- ▶ In 2007, Maine expanded workers' ability to take unpaid, job-protected family leave by recognizing that domestic or civil union partners often need to care for each other and each other's children.
- ▶ And, from 2006 through 2009, nine states granted new rights to nursing mothers in the workplace.

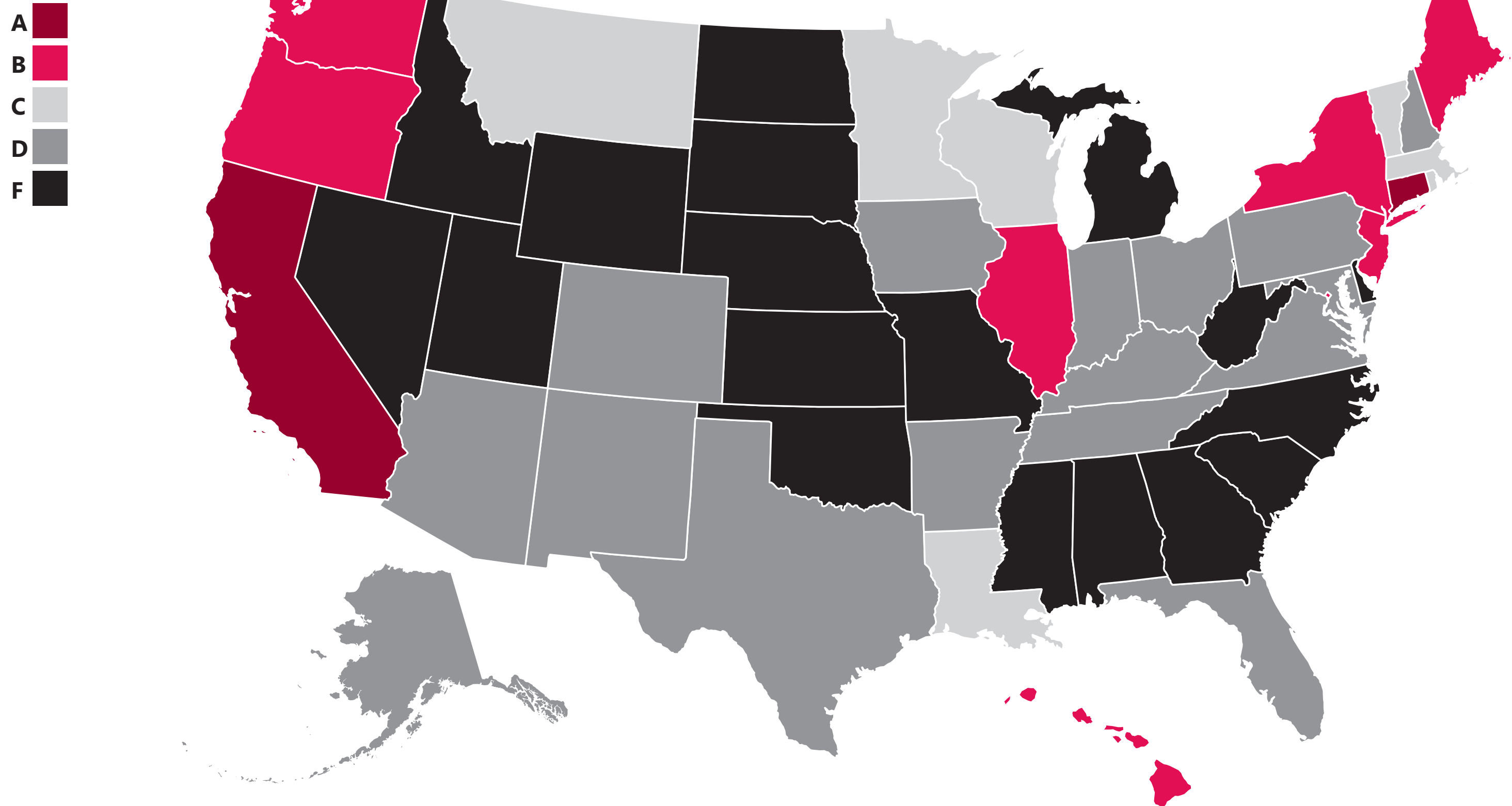
At the federal level, workers have also gained new family friendly rights. Many nursing mothers are now guaranteed reasonable break time and a private place to express breast milk while at work, thanks to a provision in the 2010 health care reform law that amended the Fair Labor Standards Act. Expansions of the Family and Medical Leave Act (FMLA) in 2008 and 2009 provided new leave rights to military families. And a new 2010 interpretation of the FMLA extends unpaid, job-protected leave to a broader range of adults caring for new or ill children.

These are important victories, but more significant progress toward securing a family friendly nation remains elusive. The nation's political debates too often continue to reflect a false dichotomy about work and family, promoting a narrative that suggests families have all adults in the labor force by choice rather than by economic necessity. And too few public officials recognize that public policies must reflect the new realities of a workforce made up of workers — women and men — with significant child and elder care responsibilities. It is imperative that our nation's leaders and our public policies acknowledge that workers' economic security — and their ability to provide for their families — often hinges on their ability to take time away from work when a new child arrives or health challenges arise. Working parents need to be able to address the needs of their children and families without jeopardizing their jobs.

This second edition of *Expecting Better* documents workers' rights under current state laws and the progress that states have made in promoting the economic security of new parents. In addition, a special section provides a snapshot of state policies that more broadly assist family caregivers — both parents and workers overall — in addressing the needs of their children and other family members. This report documents how far the United States has come, and how far we still have to go.

# Grade by State

FOR COMPLETE REPORT CARD, SEE PAGE 21.





# Expecting Better:

A State-by-State Analysis of Laws That Help New Parents

SECOND EDITION | MAY 2012

## Executive Summary

The arrival of a child should be cause for celebration. A time of pure joy. Parents may be sleep deprived during this important time — but sleep loss should not be made worse by concerns about job security or financial well-being.

Yet, for millions of parents throughout the country, a child's birth or adoption means stretched finances and unsettling concerns about whether caring for their new baby will cost them their jobs. Our nation's failure to provide key supports to new parents — including job-protected paid family and medical leave to care for a new child or recover from childbirth — adds significant pressure and harms millions of families during what should be one of the happiest times in their lives.

Working parents without paid leave — or even job-protected unpaid leave — face a range of difficult choices, none of which are acceptable. New parents are frequently forced to return to work before they,

their spouses or partners, or their children are ready. Many must take unpaid leave that stretches their families' financial resources and puts their jobs at risk. Others must resign from work altogether. None of these options serves working families or the nation well. They hurt the national economy, erode the nation's competitiveness and cause significant hardship for families and communities.

Just three national laws, addressing pregnancy discrimination, family and medical leave, and nursing mothers' rights at work, help some new and expecting parents upon the birth of a child. But the United States lacks a national policy that provides paid family and medical leave and other support to new parents. And gaps in our nation's chief work and family law, the Family and Medical Leave Act (FMLA), leave millions of working parents without even unpaid job-protected leave when a new child arrives. Some states do better — offering more support to working parents and providing good models for changes at the national level. Still, too many parents are left on their own.

The United States distinguishes itself from much of the rest of the world by failing to provide adequate supports and protections for parents and children. The absence of paid leave protections for new parents is in striking contrast to the 178 nations that guarantee paid leave for new mothers and the 54 nations that guarantee paid leave for new fathers.<sup>1</sup> The United States guarantees neither.

As a result, when workers need family or medical leave, they generally have to rely on individual employers' policies. Only 38 percent of workers have access to employer-provided short-term disability insurance,<sup>2</sup> which would provide some income during a woman's pregnancy-related disability leave. And only about one-tenth of the workforce has access to employer-provided paid family leave to care for a new child.<sup>3</sup> Workers in low-paying jobs — those with the greatest need for both job protection and wage replacement during leave from work — are far less likely to have access to either of these employer-provided benefits.<sup>4</sup> After returning to work, some nursing mothers have legal protections that help them continue to provide breast milk to their children, but others must rely on their employers' goodwill to be able to pump at work.

---

**[T]here have been too few advances in federal and state employment laws to bring public policies in line with the needs of the 21st century workforce. New and expecting parents need more — and expect better.**

---

As the first edition of *Expecting Better* asserted seven years ago, the United States can and must do better.

The need for change is only becoming more urgent. Dramatic shifts in the U.S. economy, labor markets and workplaces have resulted in working families' growing need for public policies that address the demands they face. Seventy-one percent of children live in families where all parents work, so it is unlikely that new mothers will stay home full time to care for a new child while a father returns to work.<sup>5</sup> Women are primary or co-breadwinners in nearly two-thirds of families,<sup>6</sup> meaning that a woman's income loss during pregnancy or parental leave has significant consequences for her family. The number of single-parent families has also grown;<sup>7</sup> parents (usually mothers) in these families often bear sole responsibility for the family's economic security.

Policymakers across the political spectrum have begun to embrace the need for change, yet consensus in support of family friendly policy solutions is still elusive. Where public policies do exist, research has demonstrated that work and family policies offer enormous benefits for families' economic security and health, as well as for businesses and their bottom lines. Yet, despite this positive and compelling evidence, there have been too few advances in federal and state employment laws to bring public policies in line with the needs of the 21st century workforce. New and expecting parents need more — and expect better.

This second edition of *Expecting Better: A State-by-State Analysis of Laws That Help New Parents* surveys the landscape of protections available to workers by cataloguing state laws that improve upon federal rights and protections. It is the most comprehensive state-by-state analysis of laws that relate to workplace rights and protections for new parents. In a special section, this report also includes a snapshot of laws that help parents and other family caregivers meet the needs of both older and younger members of their families.

As this report highlights, some states have surpassed the federal government by expanding access to leave and providing other workplace supports to new parents. Those states provide models worth replicating in other states and at the national level.

For example, California and New Jersey have led the way by providing paid leave to new parents. States from Maine to Oregon have expanded access to unpaid job-protected leave so that people who are ineligible for federal FMLA leave can care for a new child or for a spouse or partner with a pregnancy-related disability, or take a longer leave than federal law allows. Many states provide all nursing mothers the right to express breast milk at work.

Despite these bright spots, the report concludes that all states show room for improvement. No state provides all new parents both guaranteed job protection and paid family and medical leave upon the birth or adoption of a new child. For this reason, not a single state earned a grade of “A.”

California and Connecticut received grades of “A-” for their panoply of laws that help new parents, including California’s first-in-the-nation paid family leave law and Connecticut’s first statewide paid sick days law; the District of Columbia and New Jersey received grades of “B+” in recognition of their advances in providing workers access to paid sick days and paid family leave, respectively; and Hawaii, Oregon and Washington received grades of “B” for the steps they have taken to protect working parents with FMLA expansions and other family friendly policies. Eighteen states received grades of “F” for failing to provide a single benefit or program to help support families before and after the birth, adoption or foster placement of a child. Most states fall somewhere in between; they are doing something — but not enough — for working parents.

There is much more progress to be made — progress that must be made if working families are to prosper, communities are to become stronger, and the nation is to sustain and build its competitiveness worldwide. That is why people in the United States want and need stronger family friendly policies, and particularly job-protected paid family and medical leave. America’s families simply cannot afford to wait any longer.

# Glossary of Terms

## **Family Leave**

Leave taken to provide care for a family member who is seriously ill (including a spouse or partner disabled by pregnancy or childbirth), or to provide care for a new baby or newly placed adopted or foster child.

## **Flexible Use of Sick Leave**

Sick leave that may be used to care for a family member who is recovering from an illness, to accompany a family member to a medical appointment or, in some cases, to care for a new child.

## **Job-Protected Leave**

Protection provided by law, regulation, contract or agreement that prohibits employers from firing, demoting or otherwise penalizing workers for taking leave, and entitles workers to return to the same or an equivalent position after their leave is over.

## **Maternity Leave**

A broad term that encompasses both pregnancy disability leave (medical leave) and parental leave to care for a new baby (family leave). It applies only to pregnant women or birth or adoptive mothers (not to fathers).

## **Medical Leave**

Leave taken to recover from one's own serious health condition.

## **Nursing Mothers' Workplace Rights**

Rights provided by law, regulation, contract or agreement that guarantee nursing mothers reasonable break times and a private place to express breast milk at work.

## **Paid Family Leave**

A state-administered program or employer-provided benefit that fully or partially replaces the wages of workers who take leave to care for a seriously ill family member or new child.

## **Paid Medical Leave**

A state-administered program or employer-provided benefit that fully or partially replaces the wages of workers on leave for medical reasons, including pregnancy disability. Paid medical leave may be provided through a state-administered system, called a State Disability Insurance (SDI) or Temporary Disability

Insurance (TDI) program. Paid medical leave may also be available through privately purchased or employer-provided short-term disability insurance, or through employer-provided paid sick days or paid time off.

## **Paid Sick Leave**

Employer-provided benefit that provides full wage replacement to workers who take sick leave for their own illness or medical appointment or for those of a family member.

## **Parental Leave**

A type of family leave taken by mothers or fathers to provide care for a new baby or newly placed adopted or foster child.

## **Pregnancy Disability Leave**

A type of medical leave taken by new or expecting birth mothers who are temporarily disabled by their pregnancy, childbirth or a related medical condition. It may be taken prior to and/or following childbirth for the period during which a woman is actually disabled.

## **Private Place**

A place other than a bathroom or toilet stall where a woman can express breast milk without intrusion from co-workers and the public.

## **Reasonable Break Times**

Intermittent breaks from work that are long and frequent enough to meet a nursing mother's physiological need to express milk. These breaks may be paid or unpaid.

## **Sick Leave**

Short-term leave taken to recover from a brief illness or, in some cases, to obtain preventive or routine care.

## **Small Necessities Leave**

Short-term leave taken for occasional family-related activities, most frequently involving a child's schooling (such as a parent-teacher conference) or a family member's medical appointment.



# Introduction

Virtually all of the nation's leaders talk about valuing children and families, yet public policies fail to reflect a fundamental reality: In 21st century America, women are more likely than ever to be in the workforce as key breadwinners, most children live in families in which all parents work, and families are struggling more than ever to make ends meet. Working families urgently need public policies that help them meet the dual demands of work and family.

Right now, the United States is failing to meet the basic needs of working families. For new parents in particular, the failure to provide adequate workplace policies means that the birth or adoption of a child — which ought to be a glorious event — can too often mark the beginning of a family's financial struggles.

The absence of family friendly public policies in the United States leaves many new parents without pay and in danger of losing their jobs when they need or want time away from work to care for a newborn or newly adopted child. Too many parents must manage conflicts between needing to care for a child and financial realities that require them to return to work before they or their children are ready. Back at work, many new mothers find it difficult to continue nursing, face discrimination and worse. As their children grow, parents often face significant challenges in meeting their own needs, the needs of their families and the needs of their employers. And they often face these challenges without modernized labor standards that help ease the conflicting pressures on working families.

Workers want more — and expect better. In addition to paid, job-protected family and medical leave, parents need a comprehensive set of policies that recognize their family responsibilities as their children grow, including job-protected paid sick days to care for a sick child or a child needing preventive medical care, flexible work arrangements, affordable child and after-school care, and job-protected time away from work to attend school meetings.

The focus of this report, however, is the federal and state workplace policies that parents need just before and after the arrival of a child. These policies include paid and unpaid family and medical leave laws that allow parents more than a few days away from work when a new child arrives, pregnancy disability laws that give women time to recover from childbirth, sick days laws that let workers earn paid sick time to care for a recovering spouse or partner and to attend pre- and post-natal medical appointments, and laws that help nursing mothers continue to provide breast milk to their babies after returning to work. This report focuses on these policies because the economic security, health and well-being of workers and their families is closely linked to being able to tend to family needs around the time of a child's arrival.

## New Realities, Old Ways

America's workforce has changed, but the nation's public policies have not kept pace. Women and mothers are a permanent fixture in the workforce — and odds are slim that after a child's birth its mother will stay home full time while its father works as the family's sole breadwinner. Seventy-two percent of women work at some point before giving birth to a first child; among women who worked during pregnancy, 73 percent return to work within six months of giving birth.<sup>8</sup> Seventy-seven percent of mothers with children under the age of six and 78 percent of mothers with elementary- to high-school-age children work outside the home.<sup>9</sup> In fact, 71 percent of children live in households where all parents work.<sup>10</sup>

What's more, women's wages are critical — both to the national economy and the economic security of their families. The wages that a woman brings home can increasingly make or break her family's economic security. Women are now the primary or co-breadwinners in more than six out of 10

households, and nearly 40 percent are the main or sole breadwinner. In lower-income households, women’s earnings are even more important to the family’s economic survival.<sup>11</sup>

These demographic and economic changes make the imperative to update the nation’s public policies more urgent than ever. There needs to be a national commitment to promoting families’ economic security while giving parents the time to care for themselves and their children after birth or adoption. Without a public policy standard that gives new parents the time and financial support they need, they are forced to cobble together individual solutions in order to manage work responsibilities, children’s needs and financial obligations.

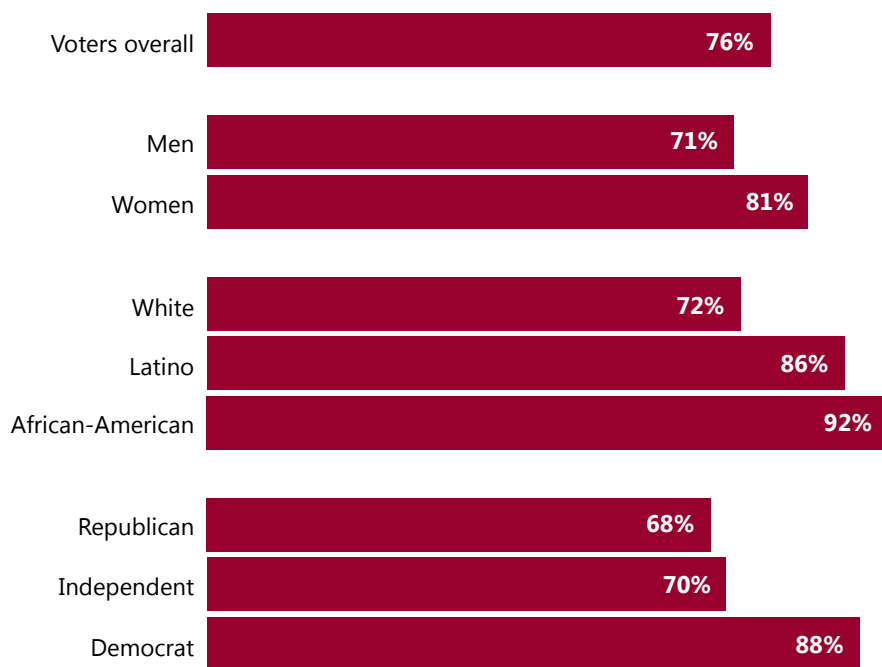
## Strong Public Support for New Workplace Standards

Given the nearly universal challenges faced by working families, it is no surprise that Americans are hungry for change. They overwhelmingly agree that business and government need to adapt to the needs of modern families and support new parents.

Seventy-six percent of adults in the United States believe that businesses should be required to provide paid family and medical leave.<sup>12</sup> Nearly eight in 10 (78 percent) say that family and maternity leave is a “very important” labor standard for workers.<sup>13</sup>

Paid leave policies are also popular among voters when evaluating their support for candidates. In a poll conducted before the 2010 elections, 76 percent of registered voters said they would support a candidate who proposes laws to provide paid leave for family care and childbirth, including 41 percent who said they would strongly support a pro-paid-leave candidate.<sup>14</sup> As Figure 1 shows, solid majorities of voters across political and demographic groups support pro-paid-leave candidates.

**FIGURE 1. SUPPORT FOR CANDIDATES WHO PROPOSE LAWS TO PROVIDE PAID LEAVE FOR FAMILY CARE AND CHILDBIRTH**



Source: Institute for Women’s Policy Research. (2010, October 29). *Majority of Voters Support Workplace Flexibility, Job Quality, and Family Support Policies*. Based on a survey of 2,080 registered voters nationwide, conducted September - October 2010.

Despite broad public support for paid leave and other key work and family policies, working families are still waiting.

## Existing U.S. Policies Don't Apply to All New Parents – and Don't Address All of Their Needs

Throughout our country's history, lawmakers at the federal level have enacted just three laws that provide modest protections to new working parents. Millions of new and expecting parents have benefited from the Pregnancy Discrimination Act of 1978 (PDA) and the Family and Medical Leave Act of 1993 (FMLA). These laws have enabled countless new parents to hold on to their jobs while taking leave to care for a new child or a spouse disabled by pregnancy. Millions of women are benefiting from a provision of the 2010 health care reform law that protects new mothers who want to continue breastfeeding after returning to work. Each of these laws set important minimum standards, but they are only a start.

### The Pregnancy Discrimination Act

The PDA was the first law to explicitly protect pregnant women. Before its passage, women were routinely fired as soon as their pregnancies were discovered. The PDA prohibits employers from using pregnancy as a barrier to job opportunity. According to the law, workers cannot be fired, denied a promotion, demoted or forced to stop working because they are or might become pregnant, and employers cannot refuse to hire someone because they are or may become pregnant.<sup>15</sup> The law also requires employers to treat a pregnant woman the same as any other employee who becomes sick or temporarily disabled.

Although the PDA has helped combat discrimination against millions of pregnant women, it has three primary shortcomings: It does not require employers to provide any period of leave; it does not guarantee that a pregnant woman who takes leave will be able to return to the same or a similar job, unless the employer also provides those protections to other returning workers; and it applies only to employers with 15 or more workers.

As the analysis of state laws in this report shows, some states do better. They offer job-protected pregnancy disability leave to pregnant workers and women recovering from childbirth; they have expanded protections to include smaller workplaces; and they guarantee a woman the same or an equivalent job when she returns to work.

### The Family and Medical Leave Act

The FMLA has allowed millions of new parents to take time away from work after the birth, adoption or foster placement of a new child. The FMLA also provides men with family leave to care for a spouse disabled by pregnancy or childbirth.<sup>16</sup> Since its 1993 enactment, the FMLA has been used by workers more than 100 million times,<sup>17</sup> and more than one in four of these FMLA users have been new parents.<sup>18</sup> By providing job-protected leave, the law has made an enormous difference in the lives of working parents striving to care for their families.

However, only about half of the workforce benefits from FMLA protections.<sup>19</sup> The FMLA applies only to employees in workplaces with 50 or more workers within a 75-mile radius. Even in covered workplaces, workers must meet eligibility requirements to qualify for leave — they have to have worked for their employer for at least a year and worked at least 1,250 hours during the previous year. And, even though a recent interpretation of the FMLA permits the domestic partner of a birth or adoptive parent to take leave to care for a new child,<sup>20</sup> the FMLA's definition of "family" does not permit domestic partners to take time to care for each other.

Even among the 50 percent or so of workers who are eligible for FMLA leave, many simply cannot afford to take time away from work without pay. According to a Department of Labor study, 78 percent of workers who needed FMLA leave but did not take it said they could not afford to take unpaid leave.<sup>21</sup> And nearly one in 10 workers who did take unpaid FMLA leave sought public assistance to make ends meet.<sup>22</sup>

CONTINUED NEXT PAGE

The analysis of state laws in this report shows that many states have done better by providing access to leave to workers in smaller businesses, by requiring employers to provide longer leave periods, by extending leave rights to workers who have had less time on the job, and by permitting domestic partners to take leave to care for a pregnant partner.

### **Nursing Mothers' Workplace Rights**

The 2010 health care reform law amended the Fair Labor Standards Act (FLSA) to provide nursing mothers with a new “right to pump” at their worksite.<sup>23</sup> As a result, many nursing mothers who return to work now have the right to take reasonable break times and use a private place to express breast milk while at work for one year after giving birth. The nursing mothers protected by the law are those who are paid hourly or eligible for overtime (“non-exempt” employees under the FLSA) – a population that is least likely to have control over breaks and schedules or, previously, to have a private place to express milk at work. The law generally applies to employers of all sizes, with only a limited exemption in cases of undue hardship.<sup>24</sup>

The right-to-pump provision was an important national breakthrough for the women and children who will benefit from it. However, it excludes many workers, including salaried managerial and professional women.

As the analysis of state laws in this report shows, some states do better by providing the right to pump to all women, both salaried and hourly, and by extending a mother’s right to pump into her child’s toddler years.

## **The United States Trails the Rest of the World in Providing Paid Leave**

The workplace protections available to U.S. workers pale in comparison to those enjoyed by workers in the rest of the world. The United States does not even provide unpaid leave to all new parents. In contrast, 178 countries guarantee paid leave to women in connection with childbirth, and 54 guarantee paid paternity or parental leave.<sup>25</sup> The United States is the only highly competitive country that fails to provide paid leave to new parents.<sup>26</sup>

The United States’ failure to guarantee access to paid parental leave means that many new mothers and fathers can only take time away from work when their employers voluntarily offer some form of paid time off for parental leave. Some employers have stepped up, but many have not. In fact, employers have cut back paid maternity leave benefits in recent years, with just nine percent offering fully paid maternity leave in 2012, down from 16 percent in 2008 and 27 percent in 1998.<sup>27</sup> And, according to government data, just 11 percent of private sector workers have access to paid family leave that can be used by fathers or non-birth mothers to care for a new child.<sup>28</sup>

At some companies, workers may be able to use accrued paid vacation and sick time, but only if their employers provide paid sick or vacation time and allow it to be used when a new child arrives. Notably, however, a significant portion of workers in the United States do not have access to any vacation or sick time — 23 percent of private sector workers do not earn paid vacation time, and 37 percent of private sector workers do not earn paid sick time.<sup>29</sup> Women — who need time to recover from childbirth — are less likely than men to hold jobs that offer paid sick time or paid vacation time.<sup>30</sup>

Even many industry leaders — companies that are regarded as the most “family friendly” by offering paid leave and other benefits that help workers manage the dual demands of work and family — have room for improvement. Among *Working Mother* magazine’s top 100 companies in 2011, all provided fully paid leave to new birth mothers and more than three-quarters provided fully paid leave to new fathers and adoptive parents.<sup>31</sup> On average, however, these companies provided 7.2 weeks of fully paid maternity leave, three weeks of fully paid paternity leave and 5.3 weeks of fully paid leave to adoptive parents — far less than parents need to care adequately for their new children.<sup>32</sup>

## Low-Wage Parents Are Hit the Hardest

Low-wage workers face particular challenges upon the arrival of a new child. They are disproportionately unable to access unpaid leave under the FMLA because they tend to work for smaller employers, have shorter tenures and work multiple part-time jobs.<sup>33</sup> They are also far more likely to not have access to employer-provided short-term disability insurance, paid sick days, paid vacation days and employer-provided paid family leave (See Table 1). These challenges compound the daily hardships that low-wage workers already face, including low pay, little access to health insurance or other workplace benefits, and little control over hours or schedules.

**TABLE 1. PERCENTAGE OF PRIVATE SECTOR WORKERS WITH ACCESS TO PAID TIME OFF**

	ALL WORKERS	WORKERS IN THE LOWEST WAGE QUARTILE (EARNING \$10.69 PER HOUR OR LESS)	WORKERS IN THE HIGHEST WAGE QUARTILE (EARNING \$24.81 PER HOUR OR MORE)
Paid family leave	11%	5%	19%
Short-term disability insurance	38%	17%	58%
Sick leave	63%	32%	85%
Vacation leave	77%	51%	89%

Source: Bureau of Labor Statistics. 2011 National Compensation Survey of Employers.

Cumulatively, this puts low-wage workers in a particularly precarious financial position when a new child arrives, and it makes the choice so many new parents face — staying home to care for a new child at a crucial time or going back to work to meet family financial needs — even more stark.

## States Are Leading the Way Toward a Better Future for Families

Fortunately, some states are taking the lead in addressing the challenges facing working families by making significant policy changes.

In a few states, workers can take longer, unpaid, job-protected leave than the FMLA provides. Many workers in Connecticut and the District of Columbia are entitled to paid sick time to use for prenatal, postnatal and children’s medical appointments. And in two states, California and New Jersey, new parents can use statewide paid family leave insurance to receive up to six weeks of income support while on leave after the arrival of a new child. New parents in Washington state are awaiting the implementation of their own statewide paid parental leave program.

Experience shows that state innovation can pave the way for national change. For example, 23 states had passed FMLA laws prior to the 1993 enactment of the federal FMLA.<sup>34</sup> And more than a dozen states had created rights for nursing mothers at work prior to the 2010 adoption of a federal standard.

This report, by surveying the states and charting their progress, provides a glimpse of what the future may hold for parents and workers across the country.

Paid family leave is the next frontier. The paid family leave insurance programs in California and New Jersey demonstrate that it is possible to provide benefits to new parents at minimal cost, and with great benefits. President Obama has recognized the importance of state paid leave programs by proposing a special fund to spur state innovation.

## California and New Jersey Prove That Paid Leave Works

In 2002, California became the first state to enact a paid family leave insurance program to help new parents and other family caregivers make ends meet when a new baby arrives or a family member becomes ill. The law took effect in July 2004. New parents in California can receive 55 percent of their income, up to a weekly capped amount, for up to six weeks.

New Jersey enacted a similar program in 2008 and started paying benefits in 2009. Under the program, new parents may be eligible for up to two-thirds of their income, up to a weekly capped amount, for up to six weeks of family leave.

These two programs demonstrate the benefits of paid family leave:

- ▶ Between July 2004 and June 2011, California's paid family leave program saw more than 1.1 million claims filed by parents caring for new children.<sup>35</sup>
- ▶ Between July 2009 and March 2012, New Jersey's paid family leave program was used more than 60,000 times by parents caring for new children.<sup>36</sup>
- ▶ In California:
  - ▶ Parents who used the state paid family leave program were much more likely than those who didn't to report that leave had a positive effect on their ability to care for their new children and to arrange child care;
  - ▶ Fathers who used the state paid family leave program stayed home to care for their children twice as long as fathers who did not use the program;
  - ▶ Mothers who used the state paid family leave program breastfed for twice as long as mothers who did not use the program; and
  - ▶ Sixty percent of businesses reported coordinating their own benefits with the state program, likely leading to cost savings for these employers.<sup>37</sup>

It is also clear that there is more to do:

- ▶ Neither California nor New Jersey offer job protection to workers who take paid family leave under the states' programs, leaving workers who do not have job protection through state family and medical leave laws or the federal FMLA at risk of job loss when they take leave.
- ▶ Many of the workers who need paid family leave the most are not aware that the programs exist, suggesting the need for strategic public education and outreach efforts to increase program uptake.

## Paid Leave Strengthens Families

### PAID LEAVE PROVIDES HEALTH BENEFITS FOR MOTHERS AND CHILDREN

All of the available research — from studies of California's paid leave insurance program, to data that reflect the experiences of new parents fortunate enough to work for employers who offer some form of paid leave, to analyses of the experiences of parents in other countries — demonstrate the clear health benefits of paid leave.

Paid leave gives new parents time to establish and build a strong bond with a new child during the first months of life, which results in long-term health benefits for both children and parents. Parental leave can decrease maternal depression and infant mortality.<sup>38</sup> And children whose mothers take leave longer after giving birth and before returning to work full time are more likely to be taken to pediatricians for regular checkups,<sup>39</sup> with clear health benefits and likely cost savings down the road. In an international study of paid family leave, a 10-week extension in paid leave was predicted to decrease infant mortality by as much as four percent.<sup>40</sup>

Paid leave also provides more time for mothers to establish breastfeeding. Research demonstrates that breastfeeding lowers the risk of childhood health concerns — such as infections, diarrhea, SIDS, obesity, diabetes, asthma and leukemia — and it lowers the mother’s risk of breast and ovarian cancers.<sup>41</sup> Among women in California who reported taking leave under the state’s paid family leave insurance program, the link between paid family leave and breastfeeding was clear. Women who took leave for 15 weeks or longer breastfed for a median of 13 weeks.<sup>42</sup> Women in lower-quality jobs (jobs in which workers were paid less than \$20 per hour and did not receive health insurance benefits) benefited in particular — these new mothers who took paid leave were more likely to initiate breastfeeding and breastfed for nearly twice as long as their peers who did not take leave.<sup>43</sup>

## **FATHERS AND CHILDREN BENEFIT FROM PAID LEAVE**

When fathers take leave after a child’s birth, they are more likely to be involved over the long term in the direct care of their children. One longitudinal study of U.S. families shows that fathers who took two or more weeks off after the birth of their children were involved in the direct care of their children nine months longer than fathers who took no leave.<sup>44</sup>

Access to paid family leave encourages fathers to take leave. In California, as the state’s family leave insurance program has become better established, fathers have become more likely to take paid family leave.<sup>45</sup> Among fathers in lower-quality jobs in California, access to paid family leave has greatly impacted the average length of leave, nearly tripling the amount of time fathers reported taking off work after the birth of a child, from an average of three weeks to an average of eight weeks.<sup>46</sup>

## **PAID LEAVE LEADS TO BETTER CHILD CARE PLACEMENTS**

Many working parents need to arrange child care in order to return to work after the arrival of a new child. Working parents seeking institutional day care face significant obstacles in waiting lists and restrictive rules about minimum enrollment age — and being forced to go back to work soon after a child’s arrival only increases the pressure and odds of a child being placed in a poor or unstable child care situation. Parents who must settle for unreliable or poor child care often find themselves struggling to fill unexpected gaps in care while also trying to keep their jobs. For some, discipline and serial unemployment are all too common occurrences.

Access to paid leave gives parents time to find child care. The impact is particularly dramatic for workers in lower-quality jobs. Among Californians in lower-quality jobs who reported having taken leave to care for a new child, nearly three-quarters of those who took leave through the state paid leave program (72 percent) reported that the leave had a positive effect on their ability to arrange child care; and only half (49 percent) of those who took leave and did not participate in the state paid leave program reported that the leave had a positive effect on their ability to arrange child care.<sup>47</sup>

## **Businesses Benefit from Paid Family Leave**

Paid leave makes sense for businesses. Worker turnover declines and loyalty increases when workers are able to use paid leave to care for a new child. First-time mothers with access to paid maternity leave are more likely to return to work — and to return to work for the same employer — within a year after giving birth.<sup>48</sup> Worker retention saves employers money because replacing workers can be expensive — turnover costs are estimated to be between 25 and 200 percent of an employee’s annual salary.<sup>49</sup> In California, 83 percent of workers reported returning to their employers after taking family leave. Access to paid family leave insurance had a particularly significant impact on businesses’ ability to retain workers in low-quality jobs.<sup>50</sup>

What's more, the California case study demonstrates how beneficial a state paid family leave program can be for businesses that already provide some form of paid leave. Sixty percent of California employers reported coordinating their own benefits with the state's paid family leave insurance system, which likely resulted in cost savings for those who previously permitted employees to use vacation, sick leave, family leave or personal time during maternity or parental leave, and shouldered the entire cost of providing that time off.<sup>51</sup>

## **Paid Leave Provides Economic Benefits for Families and Governments**

When new parents have access to paid leave, they are more likely to remain in the workforce, contributing to the tax base and boosting their own economic security. First-time mothers who use paid leave after the birth of a child are more likely to work into the last month of pregnancy.<sup>52</sup> In addition, a recent analysis of paid leave use among new parents shows that women who take paid leave after the birth of a child are more likely to be working nine to 12 months after the child's birth than those who take no leave (paid or unpaid) at all.<sup>53</sup> New mothers who have taken paid leave are also more likely to report higher wages in the year following a child's birth, controlling for other factors that might affect wage rates.<sup>54</sup>

In addition, families rely less often on public assistance when new parents have access to paid leave, even when controlling for other socioeconomic factors that might affect reliance on public assistance. New mothers who return to work after taking paid leave are about 40 percent less likely to report receiving public assistance and food stamps in the year after a child's birth when compared to those who return to work without taking paid or unpaid family leave.<sup>55</sup> New fathers who take paid leave are also significantly less likely to report receiving public assistance or food stamps in the year following a child's birth than those who return to work and take no leave at all.<sup>56</sup>

In short, paid leave makes economic sense for families, for businesses and for taxpayers.

Research and experience demonstrate what some state policymakers, forward-thinking businesses, and tens of millions of working families already know: Support for new parents, particularly paid family leave, should be available to every working family in the United States.

The states that provide greater legal rights and protections to their residents than federal law prove that progress is possible. These states showcase new models that can and should be replicated to help millions more working families across the country. The nation cannot afford to wait.



# Methodology

This report provides the most comprehensive assessment to date of state policies that support new parents just before and soon after the arrival of a new child. It discusses:

- ▶ State laws that exceed the FMLA in guaranteeing job protection or pay to women and men who take a leave of absence from their job to care for a new child (“parental” leave) or a spouse or partner disabled by pregnancy (“family” leave)
- ▶ State laws that provide birth mothers a period of disability leave to prepare for and recover from pregnancy and childbirth (“medical leave” or “maternity leave”)
- ▶ State laws that require employer-provided sick, vacation or personal leave to be available for workers to care for a new child or an ill spouse or partner (“flexible use of sick leave”)
- ▶ State laws that exceed federal standards in enabling new mothers to continue to provide breast milk to a new baby after returning to work (“workplace rights for nursing mothers”)

The National Partnership used legal search engines, reviewed materials created by the National Conference on State Legislatures and searched state websites, statutes, regulations and case law to identify state laws that guarantee access to leave to new and expecting parents and support for breastfeeding mothers.<sup>57</sup> States may have other laws in place that help new parents, including laws affecting state employees’ ability to work a flexible or reduced schedule, or to pool unused vacation or sick time to help co-workers when a new child arrives. These laws are unquestionably valuable but are not within the scope of this analysis.

This analysis differentiates between laws affecting private sector workers and public sector state workers.

## Scoring Criteria

### PRIVATE SECTOR WORKERS

To evaluate leave and breastfeeding support laws that apply to private sector workers, the following questions were answered:

#### Paid Family and Medical Leave

- ▶ Does the state guarantee wage replacement to workers while they take leave from work to care for a new child or a spouse disabled by pregnancy?
- ▶ Does the state guarantee wage replacement to female workers when they take leave due to pregnancy or childbirth-related medical issues?
- ▶ Does the state require employers to provide paid sick leave that can be used by pregnant women and their partners to seek prenatal and postnatal care or to take a new baby to the doctor?

#### Job-Protected Family Leave

- ▶ Does the state guarantee workers greater access to job-protected family leave than the federal FMLA by requiring smaller employers to provide leave?
- ▶ Does the state guarantee workers greater access to job-protected family leave than the federal FMLA by expanding eligibility to include workers with less time on the job?
- ▶ Does the state guarantee workers access to job-protected family leave for a longer period of time away from work than the federal FMLA?

- ▶ Does the state guarantee more workers access to job-protected family leave than the FMLA by providing them leave to care for a pregnant domestic partner or the new child of a domestic partner?

### **Job-Protected Medical Leave for Pregnancy, Childbirth or Related Medical Conditions**

- ▶ Does the state guarantee female workers greater access to job-protected medical or disability leave than federal law by requiring smaller employers to provide leave?
- ▶ Does the state guarantee female workers greater access to job-protected medical or disability leave than the federal FMLA by providing access to workers with less time on the job?
- ▶ Does the state provide workers with a longer period of job-protected time off for medical or disability leave than the federal FMLA?

### **Paid Sick Leave**

- ▶ Does the state guarantee workers the ability to earn paid sick leave that can be used for the workers' own illnesses, to care for an ill family member or for personal or family medical visits?

### **Other Policies Affecting New Parents**

- ▶ Does the state have a flexible sick-leave requirement that permits workers to use accrued earned paid sick time for leave to care for a new child or a spouse or partner with medical needs?
- ▶ Does the state guarantee nursing mothers greater rights to express breast milk at work than federal law does?

## **STATE WORKERS**

- ▶ Does the state provide its workers with paid family leave or paid medical leave?
- ▶ Does the state provide its workers with a longer period of job-protected time off for family or medical leave than the federal FMLA?
- ▶ Does the state provide its workers with a lower threshold for the hours they are required to work in order to qualify for job-protected time off for family or medical leave?
- ▶ Does the state have a flexible sick leave requirement that allows its workers to use accrued earned paid sick time for leave to care for a new child or an ill spouse or partner?
- ▶ Does the state provide all nursing mothers who return to work for the state with reasonable break time and a private place to express breast milk?

Each state was awarded points based on the protections provided to private and state employees. Because most employees work in the private sector, the point system favors laws that provide protection and benefits to private sector employees.

## **Scoring Results**

### **PRIVATE SECTOR WORKERS**

#### **Paid Family Leave Benefits**

Thirty points were awarded to California and New Jersey for their programs providing paid family leave to new parents who are caring for newborns, newly adopted children or newly placed foster children, or for a spouse disabled by pregnancy. Washington state passed a paid parental leave program in 2007 but, due to budget constraints, it has not yet been implemented. Washington was awarded 10 points for taking a step toward providing paid leave.

### **Paid Medical/Pregnancy Disability Leave Benefits**

Twenty-five points were awarded to each state with a program that provides paid medical leave to birth mothers who need leave for pregnancy-related disabilities and for recovery after childbirth. Five states (California, Hawaii, New Jersey, New York and Rhode Island) and Puerto Rico have short-term disability insurance programs that provide paid leave to women who are temporarily disabled due to pregnancy and childbirth.

### **Paid Sick Leave**

Fifteen points were awarded to the District of Columbia and Connecticut for their paid sick leave laws, under which employers are required to provide workers with a limited number of days each year that can be used to address a worker's own illness, to seek medical care or to accompany a family member to a medical appointment. Access to paid sick leave may help new and expecting parents attend prenatal, postnatal and well-baby/sick-baby medical appointments and take a few paid days off in connection with childbirth.

### **Expanded Job-Protected Family Leave for Workers in Smaller Businesses**

Ten points were awarded to states that provide job-protected unpaid family leave to workers in businesses with fewer than 50 employees. Laws in five states (Maine, Minnesota, New Jersey, Oregon and Vermont) plus the District of Columbia provide this expanded leave.

### **Expanded Job-Protected Family Leave for Workers with Less Time on the Job**

Ten points were awarded to states that provide job-protected unpaid family leave to workers with less than one year of job tenure or fewer than 1,250 hours worked in the previous year. Laws in seven states (Connecticut, Hawaii, Maine, Minnesota, New Jersey, Oregon and Wisconsin) plus the District of Columbia provide this expanded leave.

### **Extended Length of Job-Protected Family Leave**

Ten points were awarded to states that give workers a longer period of job-protected leave to care for new babies or to recover from maternity disability than the 12 weeks provided by the federal FMLA. Laws in three states (Connecticut, Rhode Island and Tennessee) and the District of Columbia provide a longer period of family leave.

### **Expanded Definition of "Family" for Purposes of Job-Protected Family Leave**

Ten points were awarded to states that allow workers to take family leave to care for a pregnant domestic partner or same-sex spouse or to care for the child of a domestic partner or same-sex spouse. Laws in nine states (California, Connecticut, Hawaii, Maine, New Jersey, Oregon, Vermont, Washington and Wisconsin) and the District of Columbia provide an expanded definition of covered family members.

### **Expanded Job-Protected Medical or Pregnancy Leave for Workers in Smaller Businesses<sup>58</sup>**

Ten points were awarded to states that provide job protection for pregnancy and childbirth-related disabilities to women who work for businesses with fewer than 50 employees. Laws in nine states (California, Connecticut, Hawaii, Iowa, Louisiana, Massachusetts, Montana, New Hampshire and Washington) protect women in smaller businesses.<sup>59</sup>

### **Expanded Job-Protected Medical or Pregnancy Leave for Workers with Less Time on the Job<sup>60</sup>**

Ten points were awarded to states that provide job-protected pregnancy or childbirth-related disability leave to workers with less than one year of job tenure or fewer than 1,250 hours worked in the previous year. Laws in nine states (California, Connecticut, Hawaii, Iowa, Louisiana, Massachusetts, Montana, New Hampshire and Washington) provide job-protected leave to mothers with reduced or no tenure requirement.

### **Extended Length of Job-Protected Medical or Pregnancy Disability Leave<sup>61</sup>**

Ten points were awarded to states that provide a longer period of job-protected pregnancy- or childbirth-related disability leave than the 12 weeks provided by the federal FMLA. Laws in four states (California, Louisiana, Oregon and Washington) and the District of Columbia provide a longer period of leave.<sup>62</sup> Among these jurisdictions, California, Oregon, Washington and the District of Columbia allow birth mothers two “buckets” of leave — one to recover from pregnancy and another to care for their new children.

### **Flexible Use of Sick Leave**

Fifteen points were awarded to states that allow workers to use earned paid sick leave to care for a new child and/or a spouse or partner with a pregnancy-related disability. Eight states (California, Connecticut, Hawaii, Maine, Maryland, Oregon, Washington and Wisconsin) and the District of Columbia allow some workers to use their leave to care for either a new child or an ill family member (such as a spouse or partner disabled by pregnancy), and some of these jurisdictions permit both. Minnesota has a similar law but only requires that employers allow accrued sick leave to be used for an ill child (not a new baby or an ill spouse). The Minnesota law is acknowledged, but no points were awarded for it.

### **Workplace Protection for Nursing Mothers**

Ten points were awarded to states that improve upon the federal law by providing all nursing mothers with reasonable break times and/or a place other than a bathroom to express breast milk at work. Fourteen states (Arkansas, California, Colorado, Connecticut, Illinois, Indiana, Maine, Minnesota, New Mexico, New York, Oregon, Rhode Island, Tennessee and Vermont) and the District of Columbia received points for their laws supporting nursing mothers at work.

## **STATE EMPLOYEES**

### **Paid Family and Medical Leave Benefits**

Twenty points were awarded to states that do not provide paid leave to private sector workers but do provide at least some of their own workers with paid family leave to care for a new child or ill spouse, or paid medical leave for birth mothers’ pregnancy or childbirth-related disability. Three states (Illinois, Ohio and Virginia) received points for providing paid leave.

### **Expanded Job-Protected Family and/or Medical Leave for Workers with Less Time on the Job**

Ten points were awarded to states that provide their own workers (but not private sector workers) with family and/or pregnancy disability leave even before a worker has been on the job for one year and has worked 1,250 hours in the prior year. Twelve states (Alaska, Arizona, Connecticut, Florida, Illinois, Kentucky, Massachusetts, Montana, New York, Pennsylvania, Texas and Washington) received points for relaxed job tenure requirements.

**Extended Length of Family and/or Medical Leave**

Ten points were awarded to states that provide their own workers (but not private sector workers) with more than 12 weeks of job-protected family or medical leave by statute or administrative rule. Thirteen states (Alaska, Arizona, Colorado, Connecticut, Florida, Illinois, Kentucky, Massachusetts, New York, Pennsylvania, Vermont, Washington and Wisconsin) received points for providing longer leave.

**Flexible Use of Sick Leave**

The report provides information on states whose statutes or administrative rules permit state workers to use accrued sick leave to care for a new child or ill family member. Points were not awarded for these policies.

**Workplace Protection for Nursing Mothers**

The report provides information on states whose statutes or administrative rules provide all nursing mothers returning to work for the state with reasonable break time and a private place to express breast milk. Points were not awarded for these policies.

# 2012 State-by-State Report Card\*

The following grades reflect the degree to which each state improves upon federal law.

## A-

POINTS AWARDED

California.....	125
Connecticut.....	120

## B+

District of Columbia.....	95
New Jersey.....	85

## B

Hawaii.....	80
Washington.....	75
Oregon.....	70

## B-

Maine.....	60
New York.....	60
Illinois.....	55

## C+

Rhode Island.....	50
Vermont.....	45
Wisconsin.....	45
Massachusetts.....	40

## C

Minnesota.....	35
----------------	----

## C-

Louisiana.....	30
Montana.....	30

## D+

Colorado.....	25
Tennessee.....	25

## D

Alaska.....	20
Arizona.....	20
Florida.....	20
Iowa.....	20
Kentucky.....	20

New Hampshire.....	20
Ohio.....	20
Pennsylvania.....	20
Virginia.....	20

## D-

Arkansas.....	15
Indiana.....	15
Maryland.....	15
New Mexico.....	15
Texas.....	10

## F

Alabama.....	0
Delaware.....	0
Georgia.....	0
Idaho.....	0
Kansas.....	0
Michigan.....	0
Mississippi.....	0
Missouri.....	0
Nebraska.....	0
Nevada.....	0
North Carolina.....	0
North Dakota.....	0
Oklahoma.....	0
South Carolina.....	0
South Dakota.....	0
Utah.....	0
West Virginia.....	0
Wyoming.....	0

\*This second edition of *Expecting Better* examines a wider variety of laws, including nursing mothers' rights at work laws and paid sick days laws, and scores family and medical leave laws on more specific dimensions than in our first edition; as a result, this second edition employs a different scoring system than the first edition. Therefore, this report does not provide a direct comparison of individual states' 2005 and 2012 grades. In broad strokes, however, this 2012 analysis reveals very similar results to those of seven years ago — a handful of states score relatively high grades of "A-," "B+" or "B," but the majority garners failing or near-failing grades.

# Summary of State Laws

The state-by-state descriptions that follow provide a snapshot of how state-based rights and protections compare to the 12 weeks of leave for new and expecting parents provided by the federal Family and Medical Leave Act (FMLA), the protections provided by the Pregnancy Discrimination Act (PDA), and the right to express breast milk at work provided to some nursing mothers under the Fair Labor Standards Act (FLSA).<sup>63</sup>

## ALABAMA

F

### PRIVATE SECTOR WORKERS

Alabama law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### STATE WORKERS

Alabama law does not expand upon federal rights or protections for new and expecting parents who work for the state.

## ALASKA

D

### PRIVATE SECTOR WORKERS

Alaska law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### STATE WORKERS

#### Job-Protected Family and Medical Leave

State workers have greater access to family and pregnancy disability leave under state law than under the federal FMLA. Alaska's public sector leave law applies to employees who have worked 910 hours over six months and grants workers 18 weeks of leave.<sup>64</sup>

## ARIZONA

D

### PRIVATE SECTOR WORKERS

Arizona law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### STATE WORKERS

#### Job-Protected Family and Medical Leave

Arizona state workers may take up to 12 weeks away from work to care for a new child, care for a spouse disabled by pregnancy or childbirth, or for their own pregnancy or childbirth-related disability without meeting FMLA tenure or hours worked eligibility requirements.

Birth mothers with serious complications arising from pregnancy may take up to 180 days of leave for a "seriously incapacitating and extended illness or injury."<sup>65</sup> A worker who takes medical leave is entitled to return to the same position or a position in the same class as the position held prior to the extended medical leave if a position is available and funded.<sup>66</sup>

# ARKANSAS

D-

## PRIVATE SECTOR WORKERS

Arkansas has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

### Nursing Mothers' Workplace Rights

All nursing mothers are entitled to reasonable break time and a place other than a toilet stall to express breast milk at work, for an unspecified time after childbirth.<sup>67</sup>

## STATE WORKERS

Arkansas has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

### Nursing Mothers' Workplace Rights

Like private sector workers, women who work for the state of Arkansas are entitled to reasonable break time and a place other than a toilet stall to express breast milk at work, for an unspecified time after childbirth.<sup>68</sup>

# CALIFORNIA

A-

## PRIVATE SECTOR WORKERS

### Paid Family and Medical Leave

Private sector workers who qualify for the state's disability insurance system are entitled to up to six weeks of paid family leave that can be used by either parent.<sup>69</sup> The state's paid family leave program is an expansion of California's State Disability Insurance (SDI) program that provides partial wage replacement for new parents and for workers caring for a seriously ill family member, including a spouse disabled by pregnancy. The program is funded through employee payroll contributions. The paid family leave law provides wage replacement only; it does not provide job protection for workers while they are on family leave.

In addition, California's SDI program provides partial wage replacement to workers with a non-work-related illness, injury or a medically disabling condition, including disability resulting from pregnancy or childbirth. In essence, SDI functions as paid pregnancy disability leave for women preparing for or recovering from childbirth. The SDI program is funded through employee payroll contributions.<sup>70</sup> Women who take SDI leave for a pregnancy-related disability are also eligible to take paid family leave; SDI leave and family leave must be taken sequentially rather than concurrently. Although SDI covers a disabled worker for up to 52 weeks, typical coverage for a pregnancy-related disability is four weeks prior to the woman's due date and six weeks after delivery.<sup>71</sup>

### Job-Protected Family and Medical Leave

More private sector workers have parental and family caregiving leave rights under California law than under the federal FMLA.

California and Louisiana include unique provisions in their anti-discrimination laws that make it unlawful for an employer to refuse a pregnant employee's request to transfer to a less strenuous or less hazardous job for the duration of her pregnancy. The employer cannot refuse the request if the request can be reasonably accommodated.<sup>72</sup> The California statute also makes it unlawful for an employer to refuse a pregnant employee's request for a reasonable accommodation for conditions related to pregnancy, childbirth or related medical conditions.<sup>73</sup>



The California leave law extends parental and family leave rights to workers caring for a domestic partner or the child of a domestic partner.<sup>74</sup>

### **Job-Protected Medical Leave for Pregnancy Disability**

Workers disabled by pregnancy, childbirth or related medical conditions also have protections under California anti-discrimination law. Pregnant women are eligible for up to four months of job-protected leave to address a pregnancy-related health condition. The law applies to women working for employers with five or more employees, regardless of the worker's tenure or the number of hours she has worked.<sup>75</sup> Once a pregnancy-related disability ends, a woman eligible for leave under the California Family Rights Act can request up to 12 additional weeks of leave to care for her new baby.

### **Flexible Use of Sick Leave**

Private sector workers who earn sick leave are entitled to use up to half of their allotted leave each year for the care of a sick child or other family member, including a spouse or domestic partner with a pregnancy-related disability.<sup>76</sup> Unlike similar laws in some other states, the California law does not require that employer-provided sick time be available to care for a healthy newborn or newly adopted child.

### **Nursing Mothers' Workplace Rights**

All nursing mothers are entitled to reasonable break time and a private place other than a toilet stall to express breast milk at work while their children are infants.<sup>77</sup>

## **STATE WORKERS**

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

State workers are eligible for State Disability Insurance (SDI) and paid family leave only if their bargaining unit has opted in to the system.<sup>78</sup> If an employee contributes to the SDI system, that employee is also eligible for paid family leave. The time allotted for SDI and paid family leave and the wage replacement level is the same for covered state workers as it is for private sector workers.

### **Job-Protected Family and Medical Leave**

Like private sector workers, more state workers have parental and family caregiving leave rights under California law than under the federal FMLA because the California leave law extends parental and family leave rights to workers caring for a domestic partner or the child of a domestic partner.<sup>79</sup>

### **Job-Protected Medical Leave for Pregnancy Disability**

Like private sector workers, state workers disabled by pregnancy, childbirth or related medical conditions enjoy protections under California anti-discrimination law. They are eligible for up to four months of job-protected leave to address a pregnancy-related health condition regardless of their tenure on the job or the number of hours worked in the prior year.<sup>80</sup> Once a pregnancy-related disability ends, a state worker eligible for leave under the California Family Rights Act may take up to 12 additional weeks of leave to care for her new baby.

### **Flexible Use of Sick Leave**

Like private sector workers, state workers who earn sick leave are entitled to use up to half of their allotted time each year for the care of a sick child or other family member, including a spouse or domestic partner with a pregnancy-related disability.<sup>81</sup>

### **Nursing Mothers' Workplace Rights**

As in private sector workplaces, nursing mothers working for the state of California are entitled to reasonable break time and a private place other than a toilet stall to express breast milk at work while their children are infants.<sup>82</sup>

## PRIVATE SECTOR WORKERS

Colorado has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

### Nursing Mothers' Workplace Rights

All nursing mothers are entitled to reasonable break time and a place other than a toilet stall to express breast milk at work for up to two years after giving birth.<sup>83</sup>

## STATE WORKERS

### Job-Protected Medical Leave for Pregnancy Disability

Employees of the state who work full time and meet federal FMLA eligibility requirements are entitled to up to 520 hours (the equivalent of 13 weeks) of family leave or leave for a pregnancy-related disability each fiscal year. The number of hours available to part-time employees is prorated.<sup>84</sup>

### Flexible Use of Sick Leave

State workers who earn sick leave are entitled to use it to seek medical diagnosis or treatment or to care for a sick child or family member, including a spouse disabled by pregnancy.<sup>85</sup>

### Nursing Mothers' Workplace Rights

As in private sector workplaces, women who work for the state of Colorado are entitled to reasonable break time and a place other than a toilet stall to express breast milk at work for up to two years after giving birth.<sup>86</sup>

# CONNECTICUT

## PRIVATE SECTOR WORKERS

### Job-Protected Family and Medical Leave

Private sector workers who work for employers with 75 or more employees have greater family leave and pregnancy disability leave rights than the federal FMLA provides.<sup>87</sup> Connecticut's family and medical leave law applies to private sector workers who have worked 1,000 hours during the previous year.<sup>88</sup> The Connecticut law also provides workers with up to 16 weeks of leave in a 24-month period (rather than 12 weeks in a 12-month period under federal law).<sup>89</sup>

In addition, because same-sex marriage is now legal in Connecticut, the state law defines family more broadly than the federal FMLA to include same-sex spouses caring for a new child or a spouse disabled by pregnancy.<sup>90</sup>

### Job-Protected Medical Leave for Pregnancy Disability

Workers disabled by pregnancy, childbirth or related medical conditions also have protections under Connecticut anti-discrimination law. Pregnant women are eligible for a "reasonable" period of leave to address a pregnancy-related health condition.<sup>91</sup> The law applies to workers in businesses with three or more employees.<sup>92</sup>

### Job-Protected Paid Sick Leave

As of January 2012, many workers in service industries and in other occupations requiring public contact, who work in businesses with 50 or more employees, will be able to earn paid sick time that can be used to care for a child or spouse who is ill or needs to seek medical care.<sup>93</sup> Workers may earn up to 40 hours per year. The law entitles pregnant women to use paid sick leave to seek prenatal or postnatal care.

### **Flexible Use of Sick Leave**

Under the state family and medical leave law, private sector workers in firms with 75 or more employees who earn sick leave are entitled to use up to two weeks for the birth or adoption of a child or to care for an ill child, spouse or parent.<sup>94</sup>

### **Nursing Mothers' Workplace Rights**

Employers of any size must provide all female workers a place other than a toilet stall to express breast milk at work, for an unspecified period of time after giving birth.<sup>95</sup>

## **STATE WORKERS**

### **Job-Protected Family and Medical Leave**

State workers have greater family and pregnancy leave rights than under the federal FMLA. Public sector workers also enjoy greater leave rights than Connecticut's private sector workers. Connecticut's public sector family leave law protects employees after six months of employment, regardless of the number of hours worked,<sup>96</sup> and grants workers up to 24 weeks of leave in a two-year period.<sup>97</sup>

### **Job-Protected Medical Leave for Pregnancy Disability**

Like many private sector workers in Connecticut, state workers disabled by pregnancy, childbirth or related medical conditions have protections under Connecticut anti-discrimination law. Pregnant women are eligible for a "reasonable" period of leave to address a pregnancy-related health condition.<sup>98</sup>

### **Nursing Mothers' Workplace Rights**

As in private sector workplaces, women who work for the state of Connecticut are entitled to a place other than a toilet stall to express breast milk at work, for an unspecified period of time after childbirth.<sup>99</sup>

## **DELAWARE**

**F**

## **PRIVATE SECTOR WORKERS**

Delaware law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

## **STATE WORKERS**

Delaware has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

### **Flexible Use of Sick Leave**

State workers who earn sick leave are entitled to use it upon the birth of a child or upon the adoption of a pre-kindergarten-age child.<sup>100</sup>

## **DISTRICT OF COLUMBIA**

**B+**

## **PRIVATE SECTOR WORKERS**

### **Job-Protected Family and Medical Leave**

Private sector workers have greater access to family and pregnancy disability leave under District law than under the federal FMLA. The D.C. family and medical leave law applies to employers with 20 or more employees.<sup>101</sup> Employees who have worked at least 1,000 hours over the preceding year are eligible for leave. Workers are entitled to up to 16 weeks of leave over two years to care for a new child or a family member with a serious health condition.<sup>102</sup> Women with a pregnancy-related disability are eligible for up to 16 weeks of medical leave;<sup>103</sup> this leave is in addition to any period of leave taken to care for a new child.<sup>104</sup>

In addition, District law provides a broader definition of “family member” than the federal FMLA so that a worker in a “committed relationship” may take leave to care for a partner with a serious health condition, including a pregnancy-related disability.<sup>105</sup>

### **Job-Protected Paid Sick Leave**

Most private sector workers in the District are entitled to earn paid sick leave that may be used for their own medical care or the medical care of a child or other family member.<sup>106</sup> The law entitles pregnant women to use paid sick leave to seek prenatal or postnatal care and enables a spouse, domestic partner or other family member to take time away from work for a relative’s pregnancy-related disability or medical care. The number of days a full-time worker earns ranges from three to seven days, depending on the size of his or her employer.<sup>107</sup>

### **Nursing Mothers’ Workplace Rights**

All nursing mothers are entitled to reasonable break time and a place other than a bathroom to express breast milk at work for an unspecified period of time after childbirth.<sup>108</sup>

## **DISTRICT WORKERS**

### **Job-Protected Family and Medical Leave**

Like private sector workers, District workers have greater access to family and pregnancy disability leave under District law than under the federal FMLA. Employees who have worked for the D.C. government for at least 1,000 hours in the previous year are entitled to up to 16 weeks of leave to care for a new child or family member with a serious health condition,<sup>109</sup> and female workers may take up to 16 weeks of pregnancy disability leave<sup>110</sup> — which is in addition to any period of leave taken to care for a new child.<sup>111</sup> In addition, the expanded “family” definition that includes taking leave to care for an ill or disabled partner in a “committed relationship” applies to District workers as it does to private sector workers.<sup>112</sup>

### **Job-Protected Paid Sick Leave**

Like most private sector workers, District workers earn paid sick leave that may be used for their own medical care and the medical care of a child or other family member.<sup>113</sup>

### **Nursing Mothers’ Workplace Rights**

Like private sector workers, women employed by the District are entitled to reasonable break time and a place other than a bathroom to express breast milk at work for an unspecified period of time after childbirth.<sup>114</sup>

## **FLORIDA**

## **D**

### **PRIVATE SECTOR WORKERS**

Florida law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### **STATE WORKERS**

#### **Job-Protected Family and Medical Leave**

State workers have greater family and pregnancy disability leave rights than under the federal FMLA. Florida’s public sector family leave law provides career service employees with up to six months of leave to care for a new child or deal with personal or spousal medical issues arising from pregnancy or childbirth.<sup>115</sup> Workers do not have to satisfy any tenure requirements to be eligible for leave.

## GEORGIA

F

### PRIVATE SECTOR WORKERS

Georgia law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### STATE WORKERS

Georgia law does not expand upon federal rights or protections for new and expecting parents who work for the state.

## HAWAII

B

### PRIVATE SECTOR WORKERS

#### Paid Medical Leave

Under Hawaii's Temporary Disability Insurance (TDI) law, most private sector workers disabled by pregnancy or the termination of a pregnancy are entitled to up to 26 weeks of partial wage replacement each year. To be eligible, a worker must have worked at least 14 weeks and earned at least \$400 in the previous 52 weeks.<sup>116</sup> Under Hawaii's law, employers of all sizes are required to provide TDI for their employees.<sup>117</sup> Employers may ask their workers to contribute up to half of the premium cost, as long as that amount does not exceed half of one percent of the employee's weekly wages.<sup>118</sup>

#### Job-Protected Family Leave

Private sector workers in firms with 100 or more employees have greater family leave and caregiving rights than under the federal FMLA. The Hawaii family leave law protects employees with six months' tenure, regardless of the number of hours worked,<sup>119</sup> and defines family more broadly than the federal FMLA to include caregiving for a designated "reciprocal beneficiary," which may include a same-sex partner.<sup>120</sup>

#### Job-Protected Medical Leave for Pregnancy Disability

Women in the private sector have greater access to pregnancy disability leave under state law than under federal law. The law applies to employers of all sizes and protects employees regardless of tenure and number of hours worked. Pregnant workers must be granted leave for a "reasonable period of time."<sup>121</sup>

#### Flexible Use of Sick Leave

Under the state family leave law, private sector workers in firms with 100 or more employees who earn sick leave or other forms of paid leave are entitled to use up to 10 days for the care of a new child or to assist an ill family member.<sup>122</sup>

### STATE WORKERS

#### Paid Medical Leave

Like private sector workers, state workers disabled by pregnancy or childbirth are eligible for partial wage replacement under Hawaii's TDI law.<sup>123</sup>

#### Job-Protected Family Leave

Like private sector workers, state workers have greater access to parental and caregiving leave under Hawaii law than under the federal FMLA. Hawaii's family leave law protects workers with six months' tenure, regardless of the number of hours worked,<sup>124</sup> and defines family more broadly than the federal FMLA.<sup>125</sup>

### **Job-Protected Medical Leave for Pregnancy Disability**

Like private sector workers, state workers employed by Hawaii have greater access to pregnancy disability leave under state law than under federal law. Hawaii’s leave law provides pregnant workers with leave for “a reasonable period of time” and protects workers regardless of tenure and number of hours worked.<sup>126</sup>

### **Flexible Use of Sick Leave**

Like private sector workers, state workers who earn sick leave or other forms of paid leave are entitled to use up to 10 days for the care of a new child or to assist a family member, pursuant to Hawaii’s family leave law.<sup>127</sup>

## **IDAHO**

**F**

### **PRIVATE SECTOR WORKERS**

Idaho law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### **STATE WORKERS**

Idaho law does not expand upon federal rights or protections for new and expecting parents who work for the state.

## **ILLINOIS**

**B-**

### **PRIVATE SECTOR WORKERS**

Illinois has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

### **Nursing Mothers’ Workplace Rights**

Nursing mothers employed by private employers with more than five employees are entitled to reasonable break time and a private place other than a toilet stall to express breast milk at work while their children are infants.<sup>128</sup>

### **STATE WORKERS**

#### **Paid Family Leave**

State workers are entitled to four weeks of paid parental leave — upon the birth or adoption of a child — that can be used by either parent. If both parents are state workers, only the family is entitled to just one leave per pregnancy or adoption.<sup>129</sup>

### **Job-Protected Family and Medical Leave**

State workers have greater access to family leave under state law than under the federal FMLA. Illinois’s public sector “family responsibility leave” law applies to full-time employees, regardless of tenure. Workers may take up to one year of leave to care for a new child or a disabled family member. The law defines family more broadly than the federal FMLA to include household members who share a custodial or mutually dependent relationship.<sup>130</sup>

### **Nursing Mothers’ Workplace Rights**

Like private sector workers, women who work for the state of Illinois are entitled to reasonable break time and a private place other than a toilet stall to express breast milk at work while their children are infants.<sup>131</sup>

## INDIANA

D-

### PRIVATE SECTOR WORKERS

Indiana has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work in the private sector.

#### Nursing Mothers' Workplace Rights

All nursing mothers who work for larger employers in Indiana (25 or more employees) must be provided a private place other than a toilet stall to express breast milk. Unlike most other states, Indiana's law does not require that workers also be provided reasonable break time to express breast milk.<sup>132</sup>

### STATE WORKERS

Indiana has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents who work for the state.

#### Nursing Mothers' Workplace Rights

Women employed by the state of Indiana are entitled to reasonable break time and a place other than a bathroom to express breast milk at work, while their children are infants.<sup>133</sup>

## IOWA

D

### PRIVATE SECTOR WORKERS

#### Job-Protected Medical Leave for Pregnancy Disability

Women in the private sector have greater access to pregnancy disability leave under state anti-discrimination law than under federal law. Iowa law prohibits employers with four or more employees from denying a woman's request for up to eight weeks of leave to address pregnancy, childbirth and related medical disabilities. Leave must be granted regardless of a woman's tenure on the job or the number of hours she has worked.<sup>134</sup> The law is silent as to whether a woman is entitled to return to the same or a similar position after returning from leave.

### STATE WORKERS

#### Job-Protected Medical Leave for Pregnancy Disability

As in the private sector, state workers have greater access to pregnancy disability leave under state law than under federal law. The state may not deny a woman's request for up to eight weeks of leave to address pregnancy, childbirth and related medical disabilities. Leave must be granted regardless of a woman's tenure or the number of hours she has worked.<sup>135</sup>

## KANSAS

F

### PRIVATE SECTOR WORKERS

Kansas law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### STATE WORKERS

Kansas law does not expand upon federal rights or protections for new and expecting parents who work for the state.

## KENTUCKY

D

### PRIVATE SECTOR WORKERS

Kentucky law does not expand upon federal rights or protections for new and expecting birth parents who work in the private sector.

### STATE WORKERS

#### Job-Protected Medical Leave for Pregnancy Disability

Women who work for the state have greater access to pregnancy disability leave under Kentucky law than under the federal FMLA. Kentucky's public sector sick leave law applies to employees regardless of tenure and number of hours worked and provides up to one year of leave to sick or disabled employees, including workers disabled by pregnancy or childbirth.<sup>137</sup>

Adoptive parents in Kentucky have a novel right to leave. Under Kentucky law, private sector employers must grant new adoptive parents a period of "reasonable personal leave" of up to six weeks. Workers are not required to have met any tenure or hours worked requirements to qualify, and the law applies to employers of all sizes.<sup>136</sup>

## LOUISIANA

C-

### PRIVATE SECTOR WORKERS

#### Job-Protected Medical Leave for Pregnancy Disability

Women in the private sector have greater access to pregnancy disability leave under state anti-discrimination law than federal law. Louisiana's pregnancy disability law applies to employers with more than 25 employees.<sup>138</sup> Women are protected by the law regardless of tenure or the number of hours they have worked. The law forbids an employer to refuse to allow a worker to take up to four months of leave for her own disability related to pregnancy, childbirth or related medical conditions.<sup>139</sup> The law does state, however, that no employer is required to provide more than six weeks of leave for a normal pregnancy, childbirth or related medical condition.<sup>140</sup> The law is silent as to whether a woman is entitled to return to the same or a similar position after returning from leave.

### STATE WORKERS

#### Job-Protected Medical Leave for Pregnancy Disability

Like private sector workers, state workers with pregnancy-related disabilities have greater access to leave under state law than under federal law. Women may receive up to four months of leave related to pregnancy disability, childbirth or related medical conditions.<sup>141</sup> The law applies to all workers, without eligibility requirements related to tenure or hours worked. The law does state, however, that no employer is required to provide more than six weeks of leave for a normal pregnancy, childbirth or related medical conditions.<sup>142</sup>

## MAINE

B-

### PRIVATE SECTOR WORKERS

#### Job-Protected Family and Medical Leave

Private sector workers have greater access to family and pregnancy disability leave under Maine law than under the federal FMLA. The Maine family leave law applies to employers with 15 or more employees, and eligible workers are those with 12 months' tenure, regardless of the number of hours worked.<sup>143</sup> The Maine law also defines family more broadly than the federal FMLA to include domestic partners, the children of domestic partners and cohabiting siblings.<sup>144</sup> The duration of family and medical leave under Maine law is less than under the federal FMLA, however (10 weeks in a two-year period).<sup>145</sup>



### **Flexible Use of Sick Leave**

Private sector workers who earn paid leave and are employed by a firm with 25 or more employees are entitled to use at least 40 hours of paid leave per year for the care of an ill child, spouse or parent.<sup>146</sup> Unlike similar laws in some other states, the law does not require that leave be available to care for a healthy newborn or newly adopted child.

### **Nursing Mothers' Workplace Rights**

All nursing mothers are entitled to adequate break time and a place other than a bathroom to express breast milk at work, for up to three years after childbirth.<sup>147</sup>

## **STATE WORKERS**

### **Job-Protected Family and Medical Leave**

Like private sector workers, state workers have greater access to family and pregnancy disability leave under Maine law than under the federal FMLA. Workers with at least 12 months' tenure are eligible for leave regardless of the number of hours they have worked.<sup>148</sup> The Maine law also defines family more broadly than the federal FMLA to include domestic partners, the children of domestic partners and cohabiting siblings.<sup>149</sup> As it is for private sector workers, the duration of family and medical leave under Maine law is less than under the federal FMLA.<sup>150</sup>

### **Flexible Use of Sick Leave**

Like private sector workers, state workers who earn paid leave are entitled to use at least 40 hours per year for the care of an ill child, spouse or parent.<sup>151</sup>

### **Nursing Mothers' Workplace Rights**

Like private sector workers, women employed by the state of Maine are entitled to adequate break time and a place other than a bathroom to express breast milk at work, for up to three years after childbirth.<sup>152</sup>

## **MARYLAND**

**D-**

## **PRIVATE SECTOR WORKERS**

Maryland has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents.

### **Flexible Use of Sick Leave**

Private sector workers who earn sick leave are entitled to use it for the care of an ill child, spouse or parent.<sup>153</sup> Unlike similar laws in some other states, the law does not require that leave time be available to care for a healthy newborn or newly adopted child.

## **STATE WORKERS**

Maryland state workers do not have parental or pregnancy disability leave rights or protections beyond those provided by the federal FMLA.

### **Flexible Use of Sick Leave**

State workers who earn sick leave are entitled to use it for the care of a child, spouse or parent, including upon the birth or adoption of a child.<sup>154</sup>

# MASSACHUSETTS

C+

## PRIVATE SECTOR WORKERS

### Job-Protected Medical or “Maternity” Leave

Women in the private sector have greater access to “maternity leave” rights (defined as leave for giving birth or leave to care for an adopted child) under commonwealth law than under the federal FMLA. The Massachusetts leave law applies to employers with six or more workers and provides up to eight weeks of job-protected leave;<sup>155</sup> workers with three months’ tenure are eligible.<sup>156</sup>

## COMMONWEALTH WORKERS

### Job-Protected Family and Medical Leave

Like private sector workers, women employed by the commonwealth have greater access to “maternity leave” rights under commonwealth law than under the federal FMLA. The Massachusetts leave law provides up to eight weeks of job-protected leave;<sup>157</sup> employees with three months’ tenure are eligible.<sup>158</sup>

In addition, executive branch employees have greater access to parental and pregnancy disability leave than under the federal FMLA. Massachusetts’s public sector family and medical leave regulations grant workers up to 26 weeks of leave and apply to employees with three months’ tenure, regardless of the number of hours worked.<sup>159</sup>

# MICHIGAN

F

## PRIVATE SECTOR WORKERS

Michigan law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

## STATE WORKERS

Michigan law does not expand upon federal rights or protections for new and expecting parents who work for the state.

# MINNESOTA

C

## PRIVATE SECTOR WORKERS

### Job-Protected Family Leave

Workers have greater access to parental leave upon the birth or adoption of a child under Minnesota law than under the federal FMLA. Minnesota’s parental leave law applies to employers with 21 or more workers;<sup>160</sup> employees who have worked at least part time in the previous 12 months are entitled to up to six weeks of leave to care for a newborn or newly adopted child.<sup>161</sup>

### Nursing Mothers’ Workplace Rights

All nursing mothers are entitled to reasonable break time and a place other than a toilet stall to express breast milk at work while their children are infants.<sup>162</sup>

In Minnesota, public sector and private sector workers at firms with 21 or more employees who earn sick leave are entitled to use it for the care of an ill child.<sup>163</sup> Unlike in many other states, however, Minnesota’s “flexible sick leave” law does not require employer-provided sick leave to be available to care for an ill spouse or partner or to care for a healthy newborn or newly adopted child.

## STATE WORKERS

### Job-Protected Family Leave

Like private sector workers, state workers have greater access to family leave upon the birth or adoption of a child under Minnesota law than under the federal FMLA. Minnesota’s law provides up to six weeks of parental leave to employees who have worked at least part time in the previous 12 months.<sup>164</sup>

### Nursing Mothers’ Workplace Rights

Like private sector workers, women employed by the state of Minnesota are entitled to reasonable break time and a place other than a toilet stall to express breast milk at work while their children are infants.<sup>165</sup>

## MISSISSIPPI

F

### PRIVATE SECTOR WORKERS

Mississippi law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### STATE WORKERS

Mississippi law does not expand upon federal rights or protections for new and expecting parents who work for the state.

## MISSOURI

F

### PRIVATE SECTOR WORKERS

Missouri law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### STATE WORKERS

Missouri state workers do not have parental or pregnancy disability leave rights or protections beyond those provided by the federal FMLA.

### Flexible Use of Sick Leave

State workers who earn sick leave are entitled to use it for the care of a spouse, child, stepchild or other relative or household member, or upon the adoption of a child.<sup>166</sup>

## MONTANA

C-

### PRIVATE SECTOR WORKERS

#### Job-Protected Medical or “Maternity” Leave

Women in the private sector have greater access to “maternity” leave rights under state law than under federal law. Montana law applies to employers of any size and protects employees regardless of tenure and number of hours worked.<sup>167</sup> Workers are entitled to “a reasonable leave of absence for the pregnancy” with job protection and cannot be required to take a “mandatory maternity leave for an unreasonable length of time.”<sup>168</sup>

### STATE WORKERS

#### Job-Protected Family and Medical Leave

Like private sector workers, women who work for the state have greater access to “maternity” leave rights under state law than under federal law. Montana law protects employees regardless of tenure and number of hours worked.<sup>169</sup> Workers are entitled to “a reasonable leave of absence for the

pregnancy” with job protection and cannot be required to take a “mandatory maternity leave for an unreasonable length of time.”<sup>170</sup> The state government has adopted rules providing that six weeks is “reasonable” leave after the birth of a child.<sup>171</sup>

In addition, birth fathers and adoptive parents employed by the state are entitled to a “reasonable leave of absence” of up to 15 days immediately following the birth or adoption of a child without having to meet tenure or hours worked requirements.<sup>172</sup>

### **Nursing Mothers’ Workplace Rights**

Women employed by the state are entitled to reasonable break time and a place other than a toilet stall to express breast milk at work for an unspecified period of time after giving birth.<sup>173</sup> All public employers must have a written policy supporting women who want to continue breastfeeding after returning from maternity leave.<sup>174</sup>

## **NEBRASKA**

**F**

### **PRIVATE SECTOR WORKERS**

Nebraska law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### **STATE WORKERS**

Nebraska law does not expand upon federal rights or protections for new and expecting parents who work for the state.

## **NEVADA**

**F**

### **PRIVATE SECTOR WORKERS**

Nevada law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### **STATE WORKERS**

Nebraska law does not expand upon federal rights or protections for new and expecting parents who work for the state.

## **NEW HAMPSHIRE**

**D**

### **PRIVATE SECTOR WORKERS**

#### **Job-Protected Medical Leave for Pregnancy Disability**

Women in the private sector have greater access to pregnancy disability leave under state anti-discrimination law than under federal law. The New Hampshire law applies to employers with six or more employees and covers all workers regardless of tenure and number of hours worked.<sup>175</sup> The law provides workers the right to a leave of absence of an unspecified length due to “pregnancy, childbirth, or related medical conditions.”<sup>176</sup>

### **STATE WORKERS**

#### **Job-Protected Medical Leave for Pregnancy Disability**

Like private sector workers, state workers have greater access to pregnancy disability leave under state anti-discrimination law than under the federal law. The New Hampshire law applies to workers regardless of tenure and number of hours worked.<sup>177</sup> The law provides workers with a leave of absence of an unspecified length due to “pregnancy, childbirth, or related medical conditions.”<sup>178</sup>

**PRIVATE SECTOR WORKERS****Paid Family and Medical Leave**

Private sector workers are entitled to up to six weeks of paid family leave that can be used by either parent to care for a new child, including the child of a domestic partner.<sup>179</sup> The state's paid family leave law is an expansion of New Jersey's Temporary Disability Insurance (TDI) program. The paid family leave program provides partial wage replacement for new parents and for family caregivers of a seriously ill family member. The program is funded through employee payroll contributions. The paid family leave law provides wage replacement only; it does not provide job protection for workers while they are on family leave.

In addition, New Jersey's TDI program provides partial wage replacement to workers with a non-work-related illness, injury or a medically disabling condition resulting from pregnancy or childbirth. In essence, TDI functions as paid pregnancy disability leave for women preparing for or recovering from childbirth.<sup>180</sup> The TDI program is funded jointly through employer and employee payroll contributions.<sup>181</sup> Women who take TDI leave for a pregnancy-related disability are also eligible to take paid family leave; TDI leave and family leave must be taken sequentially rather than concurrently.<sup>182</sup> Although workers are eligible for up to 26 weeks of TDI leave, the typical duration of benefits for pregnancy disability leave is four weeks prior to a woman's expected due date and six weeks after delivery.<sup>183</sup>

**Job-Protected Family Leave**

Private sector workers have greater access to family leave under state law than under the federal FMLA. The New Jersey family leave law applies to employers with 50 or more employees nationwide;<sup>184</sup> employees who have worked 1,000 hours over the preceding year are eligible for up to 12 weeks of leave in a 24-month period.<sup>185</sup> The New Jersey law also defines family more broadly than the federal FMLA to include civil union partners.<sup>186</sup>

However, unlike most other state laws and the federal FMLA, the New Jersey Family Leave Act does not include leave for a worker's own illness; therefore, a birth mother does not have job-protected leave to recover from pregnancy, childbirth or related medical conditions.<sup>187</sup>

**STATE WORKERS****Paid Family and Medical Leave**

Like private sector workers, state workers are entitled to six weeks of paid family leave that can be used by either parent.<sup>188</sup>

However, female state workers are not necessarily entitled to paid pregnancy disability leave through New Jersey's TDI program; state workers are only covered by TDI if the government entity they work for has elected to be a "covered employer" and the worker has exhausted all accumulated sick leave.<sup>189</sup>

**Job-Protected Family Leave**

Like private sector workers, state workers have greater access to family leave under state law than under the federal FMLA because New Jersey's family leave law applies to employees who have worked at least 1,000 hours over the preceding year.<sup>190</sup>

**Flexible Use of Sick Leave**

State workers who earn sick leave are entitled to use it for the care of a seriously ill child or family member, including a family member disabled by pregnancy.<sup>191</sup>

## NEW MEXICO

D-

### PRIVATE SECTOR WORKERS

New Mexico has no laws beyond the federal FMLA that guarantee job protection or leave for new or expecting parents.

#### Nursing Mothers' Workplace Rights

All nursing mothers who work for employers with four or more workers are entitled to “flexible” break times and a place other than a bathroom to express breast milk at work for an unspecified period of time after childbirth.<sup>192</sup>

### STATE WORKERS

New Mexico state workers do not have parental or pregnancy disability leave rights or protections beyond those provided by the federal FMLA.

#### Nursing Mothers' Workplace Rights

Like private sector workers, women employed by the state are entitled to “flexible” break times and a place other than a bathroom to express breast milk at work for an unspecified period of time after childbirth.<sup>193</sup>

## NEW YORK

B-

### PRIVATE SECTOR WORKERS

New York has no laws beyond the federal FMLA that guarantee job-protected family leave for new or expecting parents.

#### Paid Medical Leave for Pregnancy Disability

New York's Temporary Disability Insurance (TDI) program provides up to \$170 per week to eligible workers who are temporarily disabled, including women with pregnancy or childbirth-related disabilities. The TDI program is funded by contributions from employers and workers.<sup>194</sup> Although workers are eligible for up to 26 weeks of TDI, the typical period of pregnancy-related disability is four to six weeks prior to a woman's due date and four to six weeks after delivery.<sup>195</sup>

#### Nursing Mothers' Workplace Rights

All nursing mothers are entitled to reasonable break time and a room or other location close to their work area to express breast milk at work for up to three years after childbirth.<sup>196</sup>

### STATE WORKERS

#### Paid Medical Leave for Pregnancy Disability

State workers are not covered by New York's TDI system.

#### Job-Protected Family and Medical Leave

State workers have greater access to parental leave under state law than under the federal FMLA. New York's public sector family leave regulations apply to all workers regardless of tenure and number of hours worked and grant workers up to seven months of leave after a child is born.<sup>197</sup>

Female state workers have greater access to pregnancy disability leave under state law than under the federal FMLA. New York's public sector pregnancy disability regulations apply to all workers regardless of tenure and number of hours worked. The typical period of pregnancy disability is four weeks prior to a woman's due date and six weeks after her delivery date.<sup>198</sup>

### **Nursing Mothers' Workplace Rights**

Like private sector workers, women employed by the state are entitled to reasonable break time and a room or other location close to their work areas to express breast milk at work for up to three years after childbirth.<sup>199</sup>

## **NORTH CAROLINA**

**F**

### **PRIVATE SECTOR WORKERS**

North Carolina law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### **STATE WORKERS**

North Carolina law does not expand upon federal rights or protections for new and expecting parents who work for the state.

## **NORTH DAKOTA**

**F**

### **PRIVATE SECTOR WORKERS**

North Dakota law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### **STATE WORKERS**

North Dakota law does not expand upon federal rights or protections for new and expecting parents who work for the state.

### **Flexible Use of Sick Leave**

North Dakota state workers are entitled to use up to 40 hours of paid leave provided by an employer to care for spouse with a serious health condition, including a pregnancy-related disability.<sup>200</sup>

## **OHIO**

**D**

### **PRIVATE SECTOR WORKERS**

Ohio law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### **STATE WORKERS**

#### **Job-Protected Paid Family Leave**

State workers who work at least 30 hours per week, regardless of tenure, are entitled to up to six weeks of parental leave after the birth or adoption of a child. Leave can be used by either parent. New parents receive four weeks of leave at 70 percent of their current salary after satisfying a two-week waiting period. Workers can use accrued paid sick or vacation time during the two-week waiting period and to top off the paid leave benefit, so that they can earn 100 percent of their usual pay during parental leave. Paid parental leave must be taken concurrently with federal FMLA leave.<sup>201</sup>

#### **Job-Protected Paid Medical Leave for Pregnancy Disability**

Full-time state employees who have worked continuously for the state for at least one year and are disabled for more than 14 consecutive days are entitled to up to 12 months of paid disability leave over the course of their employment, including for a pregnancy-related disability.<sup>202</sup> Workers are paid 67 percent of their usual salary while on disability leave.<sup>203</sup>

### **Flexible Use of Sick Leave**

State workers who earn sick leave are entitled to use it for the care of an ill immediate family member (spouse or “significant other”), including a sick child or a family member disabled by a serious health condition such as pregnancy.<sup>204</sup>

## **OKLAHOMA**

**F**

### **PRIVATE SECTOR WORKERS**

Oklahoma law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### **STATE WORKERS**

Oklahoma law does not expand upon federal rights or protections for new and expecting parents who work for the state.

## **OREGON**

**B**

### **PRIVATE SECTOR WORKERS**

#### **Job-Protected Family and Medical Leave**

Private sector workers have greater access to family and pregnancy disability leave under state law than under the federal FMLA. The Oregon family leave law applies to employers with 25 or more employees.<sup>205</sup> Workers who have worked 25 or more hours per week for 180 days are eligible for up to 12 weeks of leave.<sup>206</sup> The law defines family more broadly than the federal FMLA to include domestic partners.<sup>207</sup>

In addition, birth mothers are eligible for 12 weeks of pregnancy disability leave and an additional 12 weeks of family leave to care for a new child.<sup>208</sup>

#### **Flexible Use of Sick Leave**

Under the Oregon family leave law, private sector workers at firms with 25 or more employees who earn paid leave are entitled to use it for the care of a new child or a family member with a serious health condition (including pregnancy disability).<sup>209</sup>

#### **Nursing Mothers' Workplace Rights**

All nursing mothers who work for employers with 25 or more workers are entitled to reasonable break time and a place other than a bathroom to express breast milk at work for up to 18 months after childbirth.<sup>210</sup>

### **STATE WORKERS**

#### **Job-Protected Family and Medical Leave**

Like private sector workers, state workers have greater access to family and pregnancy disability leave under state law than under the federal FMLA. Workers who have worked 25 or more hours per week for 180 days are eligible for up to 12 weeks of leave.<sup>211</sup> The law defines family more broadly than the federal FMLA to include domestic partners.<sup>212</sup>

In addition, as in the private sector, female state workers who are eligible for family and medical leave may take up to 12 weeks of pregnancy-related leave and up to an additional 12 weeks of family leave to care for a new child.<sup>213</sup>



### **Flexible Use of Sick Leave**

As in the private sector, state workers who earn paid leave are entitled to use it for the care of a new child or a family member with a serious health condition (including pregnancy disability).<sup>214</sup>

### **Nursing Mothers' Workplace Rights**

As in the private sector, women employed by the state are entitled to reasonable break time and a place other than a bathroom to express breast milk at work for up to 18 months after childbirth.<sup>215</sup>

## **PENNSYLVANIA**

**D**

### **PRIVATE SECTOR WORKERS**

Pennsylvania law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### **STATE WORKERS**

#### **Job-Protected Family and Medical Leave**

Commonwealth workers have access to longer parental and pregnancy disability leave under public sector regulations than under the federal FMLA. Permanent management workers, non-represented workers and some workers covered by collective bargaining agreements are entitled to six months of either parental leave or pregnancy disability leave, provided they meet the federal FMLA eligibility requirements.<sup>216</sup> All other permanent workers are entitled to six months of parental leave and another six months of pregnancy disability leave, regardless of tenure or hours worked.<sup>217</sup>

In addition to the parental and pregnancy disability leave discussed above, commonwealth workers also have greater access to family caregiving leave under public sector regulations than under the federal FMLA, and some have access to a longer leave for family caregiving. Permanent management workers, non-represented workers and some workers covered by collective bargaining agreements are eligible for up to six months of leave to care for a family member with a serious health condition, including a pregnancy-related disability, provided they meet the federal FMLA eligibility requirements.<sup>218</sup> All other permanent workers need only have been employed for one year or more to qualify for up to 12 weeks of such leave.<sup>219</sup>

## **RHODE ISLAND**

**C+**

### **PRIVATE SECTOR WORKERS**

#### **Paid Medical Leave for Pregnancy Disability**

Rhode Island's Temporary Disability Insurance (TDI) program provides partial wage replacement to eligible workers who are temporarily disabled, including to women with pregnancy or childbirth-related disabilities, or other related medical conditions.<sup>220</sup> The TDI program is funded through workers' payroll contributions.<sup>221</sup> Workers are eligible for up to 30 weeks of TDI payments up to a maximum payment cap.<sup>222</sup>

#### **Job-Protected Family and Medical Leave**

Private sector workers have access to a slightly longer family and pregnancy disability leave under state law than under the federal FMLA. Under the Rhode Island family and medical leave law, workers with one year of tenure who work an average of 30 hours or more per week are eligible for up to 13 weeks of leave in a two-year period for parental or family care.<sup>223</sup>

### **Nursing Mothers' Workplace Rights**

All nursing mothers are entitled to a place other than a bathroom to express breast milk at work while their children are infants.<sup>224</sup> Unlike most other state laws, the Rhode Island law permits, but does not require, employers to provide reasonable break time.

### **STATE WORKERS**

#### **Paid Medical Leave for Pregnancy Disability**

Rhode Island's TDI program covers only some state workers. Governmental entities can elect to participate in the program, or state workers may choose to become subject to it through the collective bargaining process.<sup>225</sup> The law covers participating state workers in the same way it covers private sector workers.

#### **Job-Protected Family and Medical Leave**

As in the private sector, state workers have access to a slightly longer family and pregnancy disability leave under state law than under the federal FMLA. Under the Rhode Island family leave law, workers with one year of tenure who work an average of 30 hours or more per week are eligible for up to 13 weeks of leave.<sup>226</sup> As applied to state workers, the definition of "family member" includes domestic partners, a definition that is broader than under the federal FMLA.<sup>227</sup>

### **Nursing Mothers' Workplace Rights**

As in the private sector, women who work for the state of Rhode Island are entitled to a place other than a bathroom to express breast milk at work while their children are infants.<sup>228</sup>

#### **Flexible Use of Sick Leave**

State workers may use up to 10 paid sick days each year for the illness of an immediate family member.<sup>229</sup>

## **SOUTH CAROLINA**

**F**

### **PRIVATE SECTOR WORKERS**

South Carolina law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### **STATE WORKERS**

South Carolina law does not expand upon federal rights or protections for new and expecting parents who work for the state.

#### **Flexible Use of Sick Leave**

State workers who earn sick leave are entitled to use up to 10 days to care for an ill family member.<sup>230</sup>

## **SOUTH DAKOTA**

**F**

### **PRIVATE SECTOR WORKERS**

South Dakota law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### **STATE WORKERS**

South Dakota law does not expand upon federal rights or protections for new and expecting parents who work for the state.

# TENNESSEE

D+

## PRIVATE SECTOR WORKERS

### Job-Protected Family Leave

Full-time workers in firms with more than 100 employees and who have at least one year of tenure are entitled to up to four months of leave “for adoption, pregnancy, childbirth and nursing an infant.”<sup>231</sup>

### Nursing Mothers’ Workplace Rights

All nursing mothers are entitled to reasonable break time and a place other than a toilet stall to express breast milk at work while their children are infants.<sup>232</sup>

## STATE WORKERS

### Job-Protected Family Leave

Like private sector workers in larger firms, state employees have greater family leave rights under state law than under the federal FMLA. Tennessee’s law provides full-time workers with up to four months of leave “for adoption, pregnancy, childbirth and nursing an infant.”<sup>233</sup>

### Flexible Use of Sick Leave

State workers who earn sick leave are entitled to use it to care for an ill immediate family member, including a spouse disabled by pregnancy.<sup>234</sup>

### Nursing Mothers’ Workplace Rights

Like private sector workers, women employed by the state are entitled to reasonable break time and a place other than a toilet stall to express breast milk at work while their children are infants.<sup>235</sup>

# TEXAS

D-

## PRIVATE SECTOR WORKERS

Texas law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

## STATE WORKERS

### Job-Protected Family Leave

State workers have greater access to parental leave rights under state law than under the federal FMLA. Texas law provides state workers with up to 12 weeks of leave to care for a new child, regardless of the worker’s tenure and hours worked.<sup>236</sup> The statute and the regulations are silent as to whether the leave is job-protected.

### Flexible Use of Sick Leave

State workers who earn sick leave are entitled to use it to “care for and assist” an immediate family member.<sup>237</sup>

# UTAH

F

## PRIVATE SECTOR WORKERS

Utah law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

## STATE WORKERS

Utah state workers do not have parental or pregnancy disability leave rights or protections beyond those provided by the federal FMLA.

### Flexible Use of Sick Leave

State workers who earn sick leave may use it to care for a new child or a seriously ill family member, including a spouse recovering from pregnancy and childbirth.<sup>238</sup>

## VERMONT

C+

### PRIVATE SECTOR WORKERS

#### Job-Protected Family and Medical Leave

Private sector workers have greater access to family and pregnancy disability leave under state law than under the federal FMLA. The Vermont leave law applies to employers with 10 or more employees.<sup>239</sup> Eligible workers (those who have worked an average of 30 hours per week for one year) are entitled to up to 12 weeks of parental leave during pregnancy and following the birth or adoption of a child.<sup>240</sup>

Under a separate family leave provision, eligible workers in businesses with 15 or more employees are entitled to up to 12 weeks of leave to care for a spouse with a serious health condition, including pregnancy-related health issues.<sup>241</sup> Under Vermont's civil union law, a civil union partner has the same rights as a married "spouse" to take family leave.<sup>242</sup>

#### Nursing Mothers' Workplace Rights

All nursing mothers are entitled to reasonable break time and a place other than a bathroom stall to express breast milk at work for up to three years after childbirth.<sup>243</sup>

### STATE WORKERS

#### Job-Protected Parental and Medical Leave

State workers have greater parental and pregnancy disability leave rights under state law than under the federal FMLA. Vermont's public sector family leave policy provides workers up to four months of unpaid leave following the birth of a child; birth mothers are able to use accrued sick leave for any period of disability prior to childbirth and for up to six weeks after childbirth.<sup>244</sup>

State workers are entitled to up to 12 weeks of family leave to care for a family member with a serious health condition, including a pregnancy-related disability.<sup>245</sup>

#### Nursing Mothers' Workplace Rights

As in the private sector, women employed by the state of Vermont are entitled to reasonable break time and a place other than a bathroom stall to express breast milk at work for up to three years after childbirth.<sup>246</sup>

## VIRGINIA

D

### PRIVATE SECTOR WORKERS

Virginia law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

## STATE WORKERS

### Paid Family and Medical Leave

Certain female state workers, including those who participate in the state's retirement system, are eligible for up to 125 days of full or partial wage replacement for pregnancy disability/maternity leave through Virginia's short-term disability insurance system.<sup>247</sup>

In addition, certain state workers, including those who participate in the state's retirement system, are entitled to a few days per year of paid family or personal leave to address a family member's illness, death or any other need. Workers with up to one year of tenure receive 32 hours per year; workers with longer tenure receive 40 hours per year.<sup>248</sup>

## WASHINGTON

## B

### PRIVATE SECTOR WORKERS

#### Job-Protected Paid Family Leave

In 2007, Washington state enacted a paid parental leave program that has not yet gone into effect. Once implemented, the program will provide eligible workers — both mothers and fathers — up to five weeks per year of paid leave to care for a newborn or newly adopted child.<sup>249</sup> The benefit amount will be \$250 per week for full-time workers, and part-time workers will receive a prorated benefit.<sup>250</sup> Leave taken under the family leave insurance program will run concurrently with any leave taken under the federal FMLA or the state family and medical leave act.

Employers with more than 25 workers will be required to provide job protection to any worker who takes leave under the paid parental leave program if the worker has been with the employer for one year and has worked at least 1,250 hours during the previous year.<sup>251</sup>

#### Job-Protected Family Leave

Washington's family leave law defines family more broadly than the federal FMLA to permit workers to take leave to care for a registered domestic partner.<sup>252</sup> Like the federal FMLA, workers who meet state family leave eligibility requirements are entitled to up to 12 weeks of leave to care for a new child or a seriously ill spouse or partner.

#### Job-Protected Medical Leave for Pregnancy Disability

Women in the private sector have greater access to pregnancy disability leave under state law than under the federal FMLA. Washington anti-discrimination law applies to employers with eight or more employees<sup>253</sup> and covers pregnant workers regardless of tenure and the number of hours worked.<sup>254</sup> Women may take job-protected leave for the entire period of a pregnancy-related disability,<sup>255</sup> and this period of leave does not count against a worker's parental leave rights under the state family and medical leave law.<sup>256</sup> This means that a woman with a normal pregnancy who meets FMLA eligibility requirements and works for an employer covered by the FMLA may generally take up to 18 weeks of leave, six weeks of pregnancy-related disability leave and 12 weeks of family leave to care for her child.<sup>257</sup>

#### Flexible Use of Sick Leave

Private sector workers who earn paid time off are entitled to use it for the care of an ill child, spouse, parent, parent-in-law or grandparent. Unlike similar laws in some other states, the law does not require that paid time off be available to care for a healthy newborn or newly adopted child.<sup>258</sup>

## STATE WORKERS

### Job-Protected Paid Family Leave

Like private sector workers, state workers will be eligible to participate in Washington’s family leave insurance program once the program is implemented. State workers will be eligible for up to five weeks of paid leave upon the birth or adoption of a child.<sup>259</sup> Leave for state workers who meet the minimum tenure and hours-worked requirements will be job-protected.<sup>260</sup>

### Job-Protected Family and Medical Leave

State workers have greater parental leave rights than under the federal FMLA. Washington’s public sector family leave regulations grant workers who meet FMLA eligibility requirements up to six months of leave to care for a newborn or newly adopted child.<sup>261</sup>

Like private sector workers, many women employed by the state (those classified as “permanent” state employees) who have given birth may take disability leave for the entire period of pregnancy- or childbirth-related disability, regardless of tenure or hours worked.<sup>262</sup> The broader definition of “family member” under the state family leave law permits state workers to take family leave to care for a domestic partner with a serious health condition, which includes pregnancy-related periods of incapacity.<sup>263</sup>

### Flexible Use of Sick Leave

Like private sector workers, state workers who earn paid time off are entitled to use it for the care of an ill child or other family member.<sup>264</sup>

## WEST VIRGINIA

F

### PRIVATE SECTOR WORKERS

West Virginia law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### STATE WORKERS

West Virginia law does not expand upon federal rights or protections for new and expecting parents who work for the state.

## WISCONSIN

C+

### PRIVATE SECTOR WORKERS

#### Job-Protected Family and Medical Leave

Private sector workers have greater access to family and medical leave under state law than under the federal FMLA. The Wisconsin law applies to workers who have worked at least 1,000 hours over the preceding year<sup>265</sup> and defines family more broadly than the federal FMLA to include domestic partners.<sup>266</sup> However, state law provides less generous amounts of time off than the federal FMLA. Workers are entitled to a maximum of six weeks of leave to care for a new child, up to two weeks of leave to care for a spouse or domestic partner with a serious health condition, and up to two weeks of pregnancy-related leave in any 12-month period.<sup>267</sup>

#### Flexible Use of Sick Leave

Under the state family and medical leave law, private sector workers at firms with 50 or more employees who earn paid leave are entitled to use it for the birth or adoption of a child or to care for an ill child, spouse, domestic partner or parent.<sup>268</sup>

## STATE WORKERS

### Job-Protected Family and Medical Leave

By regulation, permanent classified employees of the state are entitled to up to six months of unpaid maternity, paternity, adoption and pre-adoptive foster-care leave.<sup>269</sup>

Other state employees are entitled to the same leave rights as private sector workers.<sup>270</sup> Workers with at least 1,000 hours of service in the preceding year may take job-protected unpaid leave to care for a new child (up to six weeks) or a family member with a serious health condition (up to two weeks),<sup>271</sup> including a spouse or domestic partner.<sup>272</sup> Female state workers with at least 1,000 hours of service in the preceding year may take up to two weeks of job-protected leave for pregnancy-related medical leave.<sup>273</sup>

### Flexible Use of Sick Leave

State workers who earn sick leave are entitled to use it for family medical or dental appointments or for the emergency care of an ill or injured child or other family member (for up to five days per illness or injury).<sup>274</sup>

## WYOMING

## F

### PRIVATE SECTOR WORKERS

Wyoming law does not expand upon federal rights or protections for new and expecting parents who work in the private sector.

### STATE WORKERS

Wyoming law does not expand upon federal rights or protections for new and expecting parents who work for the state.

## FEDERAL GOVERNMENT

Federal workers do not have parental or pregnancy disability leave rights or protections beyond those provided by the federal FMLA.

### Nursing Mothers' Workplace Rights

All women employed by the executive branch are entitled to reasonable break time and a private place other than a bathroom to express breast milk.<sup>275</sup>

### Flexible Use of Sick Leave

Federal workers earn paid sick leave that may be used to accompany a family member to medical appointments or to care for an ill child or other family member.<sup>276</sup>

Regulations issued by the U.S. Office of Personnel Management authorize federal agencies to issue advanced sick leave (sick leave not yet earned) to federal government workers under certain circumstances. Agencies may advance up to 30 days of sick leave to a worker for a disability related to pregnancy or childbirth, a serious health condition of a family member or the adoption of a child. Agencies may advance up to 13 days of sick leave to a worker for the care of a family member or to accompany a family member to medical appointments.<sup>277</sup>

# Conclusion

The United States cannot wait any longer for public policies that honor new parents and their children. Paid leave policies, more substantial access to unpaid family and medical leave, paid sick days and other family friendly policies will allow working families to prosper, businesses to grow, communities to thrive, and the nation to become more internationally competitive.

Despite the imperative for change, progress is painfully slow. To be sure, between our first report in 2005 and this report in 2012, one state — New Jersey — enacted and implemented paid family leave, joining California as a national leader. Another — Washington — took a first step toward paid parental leave. A smattering of other policy advances expanded workers' access to unpaid family and medical leave in Maine, Oregon and Washington, to flexible sick leave in Maine and Maryland, and to paid sick days in Connecticut and the District of Columbia. A number of states, including Arkansas, Colorado, Illinois, Indiana, Maine, New Jersey, New York, Oregon, Vermont and the District of Columbia, enacted laws to protect the rights of nursing mothers in the workplace.

But, in aggregate, more remains the same than has changed. In the first edition of *Expecting Better*, just six states received grades of “A-,” “B+” or “B,” and the same is true in this second edition. Similarly, in 2005, 19 states received a grade of “F”; today, 18 states received a grade of “F.” The unfortunate reality is this: A lack of progress in most states means that too many working families continue to struggle at the very time that they should be focused on celebrating the birth or adoption of a child and giving that child the best possible start.

Looking ahead, we hope and expect better. If policymakers are responsive to the needs of working families, if they take note of the policy research that demonstrates enormous benefits for families, communities, businesses and the public, and if they understand the breadth and depth of public support for policies that support new parents and working families, a report like this will look very different six or seven years from now — or sooner. We can only hope that our next report will paint an entirely different picture of a nation that is truly family friendly. America's families can't afford to wait.



# State-by-State Comparison of Select Policies

PRIVATE SECTOR WORKERS										STATE WORKERS***		
State	Paid Family Leave	Medical Leave Through State TDI	Paid Sick Leave	Unpaid Leave with Expanded Access for Workers in Smaller Businesses	Unpaid Leave Longer than Federal FMLA	Unpaid Leave with Expanded Access for Workers with Less Time on the Job	Unpaid Leave with an Expanded Definition of Family	Flexible Use of Sick Leave	Right to Pump that Exceeds Federal Law	Paid Family and/or Medical Leave	Unpaid Leave Longer than Federal FMLA	Unpaid Leave with Expanded Access for Workers with Less Time on the Job
Alabama												
Alaska											YES	YES
Arizona											P only	YES
Arkansas									YES			
California	YES	YES		P only	P only	P only	YES	YES	YES	YES****	P only	YES
Colorado									YES		YES	
Connecticut			YES	P only	YES	YES	YES	YES	YES		YES	YES
Delaware												
District of Columbia			YES	YES	YES	YES	YES	YES	YES		YES	YES
Florida											YES	YES
Georgia												
Hawaii		YES		P only		YES	YES	YES		P only		YES
Idaho												
Illinois									YES	YES	YES	YES
Indiana									YES			
Iowa				P only		P only						P only
Kansas												
Kentucky											P only	P only
Louisiana				P only	P only	P only					P only	P only
Maine				YES		YES	YES	YES	YES			YES
Maryland								YES				
Massachusetts				P only		P only					P only	P only
Michigan												
Minnesota				YES		YES		**	YES			YES
Mississippi												
Missouri												
Montana				P only		P only					P only	YES
Nebraska												
Nevada												
New Hampshire				P only		P only						P only
New Jersey	YES	YES		YES		YES	YES			YES****		YES
New Mexico									YES			
New York		YES							YES		YES	YES
North Carolina												
North Dakota												
Ohio										YES		
Oklahoma												
Oregon				YES	P only	YES	YES	YES	YES		P only	YES
Pennsylvania											YES	YES
Rhode Island		YES			YES				YES	P only****	YES	
South Carolina												
South Dakota												
Tennessee					YES				YES		YES	
Texas												YES
Utah												
Vermont				YES			YES		YES		YES	
Virginia										YES		
Washington	*			P only	P only	P only	YES	YES		*	YES	YES
West Virginia												
Wisconsin						YES	YES	YES			YES	YES
Wyoming												
<b>Total</b>	<b>2</b>	<b>5</b>	<b>2</b>	<b>15</b>	<b>8</b>	<b>15</b>	<b>10</b>	<b>9</b>	<b>15</b>	<b>7</b>	<b>20</b>	<b>23</b>

\* Washington passed a program but it has not been implemented.  
 \*\* Minnesota's law can only be used for a sick child, not for a newborn, adopted child or a sick spouse.  
 \*\*\* Access to policies through same laws as private sector workers or through laws or regulations specific to public sector state employees.  
 \*\*\*\* TDI/PFL policies cover only some state workers.

## Endnotes for *Expecting Better*

- <sup>1</sup> Heymann, J., & Earle, A. (2009). *Raising the Global Floor: Dismantling the Myth That We Can't Afford Good Working Conditions for Everyone*. Stanford, CA: Stanford University Press; and Human Rights Watch. (2011, February 23). *Failing Its Families: Lack of Paid Leave and Work-Family Supports in the US* (p. 33). Human Rights Watch Publication. Retrieved 26 April 2012, from <http://www.hrw.org/en/reports/2011/02/23/failing-its-families-0>
- <sup>2</sup> U.S. Bureau of Labor Statistics. (2011, March). *Employee Benefits Survey Table 17. Insurance benefits: Access, participation, and take-up rates, private industry workers, National Compensation Survey*. Retrieved 26 April 2012, from <http://www.bls.gov/ncs/ebs/benefits/2011/ownership/private/table12a.pdf>
- <sup>3</sup> U.S. Bureau of Labor Statistics. (2011, March). *Employee Benefits Survey Table 33. Leave benefits: Access, private industry workers, National Compensation Survey*. Retrieved 26 April 2012, from <http://www.bls.gov/ncs/ebs/benefits/2011/ownership/private/table21a.pdf>
- <sup>4</sup> See notes 2 and 3.
- <sup>5</sup> Glynn, S.J. (2012, April 16). *The New Breadwinners: 2010 Update*. Center for American Progress Publication. Retrieved 26 April 2012, from [http://www.americanprogress.org/issues/2012/04/epd\\_breadwinners.html](http://www.americanprogress.org/issues/2012/04/epd_breadwinners.html)
- <sup>6</sup> Ibid.
- <sup>7</sup> Boushey, H. (2009). The New Breadwinners. In H. Boushey and A. O'Leary (Eds.), *The Shriver Report: A Woman's Nation Changes Everything* (p. 35). Retrieved 26 April 2012, from [http://www.americanprogress.org/issues/2009/10/pdf/awn/a\\_womans\\_nation.pdf](http://www.americanprogress.org/issues/2009/10/pdf/awn/a_womans_nation.pdf)
- <sup>8</sup> Laughlin, L. (2011, October). *Maternity Leave and Employment: Patterns of First-Time Mothers 1961-2008*. U.S. Census Bureau Publication. Retrieved 26 April 2012, from <http://www.census.gov/prod/2011pubs/p70-128.pdf>
- <sup>9</sup> U.S. Bureau of Labor Statistics. (2010). Women in the Labor Force: A Databook (2010 Edition). *Employment status of women by presence and age of youngest child, March 1975-2010 (Table 7)*. Retrieved 7 May 2012, from <http://www.bls.gov/cps/wlf-table7-2011.pdf>
- <sup>10</sup> See note 5.
- <sup>11</sup> Ibid.
- <sup>12</sup> Halpin, J., & Teixeira, R. (2009). Battle of the Sexes Give Way to Negotiations. In H. Boushey and A. O'Leary (Eds.), *The Shriver Report: A Woman's Nation Changes Everything* (p. 412). Retrieved 26 April 2012, from [http://www.americanprogress.org/issues/2009/10/pdf/awn/a\\_womans\\_nation.pdf](http://www.americanprogress.org/issues/2009/10/pdf/awn/a_womans_nation.pdf)
- <sup>13</sup> Smith, T., & Kim, J. (2010, June). *Paid Sick Days: Attitudes and Experiences* (p. 9). National Opinion Research Center at the University of Chicago Publication. Retrieved 26 April 2012, from <http://www.publicwelfare.org/resources/DocFiles/psd2010final.pdf>
- <sup>14</sup> Institute for Women's Policy Research. (2010, October 29). *Majority of Voters Support Workplace Flexibility, Job Quality, and Family Support Policies*. Reporting findings from a survey of 2,080 registered voters nationwide, conducted September through October 2010.
- <sup>15</sup> Pregnancy Discrimination Act of 1978 § 42 U.S.C. § 2000e(k).
- <sup>16</sup> Family and Medical Leave Act of 1993 § 29 U.S.C. § 2612(a).
- <sup>17</sup> Ness, D. (2008, February 13). Testimony before the Committee on Health, Education, Labor and Pensions Subcommittee on Children and Families. Washington, D.C. Retrieved 26 April 2012, from <http://help.senate.gov/imo/media/doc/Ness.pdf>; and U.S. Department of Labor. (2007, June). *The Family and Medical Leave Act Regulations: A Report on the Department of Labor's Request for Information 2007 Update* (p. 129). Retrieved 26 April 2012, from <http://www.dol.gov/whd/Fmla2007Report.htm>
- <sup>18</sup> Cantor, D., Waldfogel, J., Kerwin, J., et al. (2000). *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys* (p. 2-5). Westat and U.S. Department of Labor Publication. Retrieved 26 April 2012, from <http://www.dol.gov/whd/fmla/toc.pdf>
- <sup>19</sup> Waldfogel, J. (2001, September). Family and medical leave: evidence from the 2000 surveys, *Monthly Labor Review*, 18. Retrieved 26 April 2012, from <http://www.bls.gov/opub/mlr/2001/09/art2full.pdf>
- <sup>20</sup> In 2010, the Department of Labor issued an Administrator's Interpretation of *in loco parentis* that makes clear the right of same-sex partners to take leave to care for their partner's child; U.S. Department of Labor, Wage and Hour Division. (2010, June 22). *Administrator's Interpretation No. 2010-3*. Retrieved 26 April 2012, from [http://www.dol.gov/whd/opinion/adminIntrprtn/FMLA/2010/FMLA12010\\_3.pdf](http://www.dol.gov/whd/opinion/adminIntrprtn/FMLA/2010/FMLA12010_3.pdf)
- <sup>21</sup> See note 18, p. 2-16.
- <sup>22</sup> Ibid, p. 4-9.
- <sup>23</sup> Fair Labor Standards Act of 1938 § 29 U.S.C. § 207(r).
- <sup>24</sup> Smaller employers can apply for a hardship exemption, but U.S. Department of Labor guidance has interpreted that exemption strictly so that an employer would have to show actual hardship each time a woman requests the right to pump.
- <sup>25</sup> See note 1.
- <sup>26</sup> Ray, R., Gornick, J., & Schmitt, J. (2009, June). *Parental Leave Policies in 21 Countries: Assessing Generosity and Gender Equality* (p. 7). Center for Economic and Policy Research Publication. Retrieved 26 April 2012, from [http://www.cepr.net/documents/publications/parental\\_2008\\_09.pdf](http://www.cepr.net/documents/publications/parental_2008_09.pdf); Australia instituted a paid parental leave program in 2010. See Paid Parental Leave Act 2010 (Cth).
- <sup>27</sup> Matos, K., & Galinsky, E. (2012). *2012 National Study of Employers* (p. 21). Families and Work Institute Publication. Retrieved 2 May 2012 from, [http://familiesandwork.org/site/research/reports/NSE\\_2012.pdf](http://familiesandwork.org/site/research/reports/NSE_2012.pdf); and Galinsky, E., Bond, J., Sakai, K., et al. (2008). *National Study of Employers* (p. 6). Families and Work Institute Publication. Retrieved 26 April 2012, from <http://familiesandwork.org/site/research/reports/2008nse.pdf>
- <sup>28</sup> See note 3.
- <sup>29</sup> Ibid.
- <sup>30</sup> U.S. Bureau of Labor Statistics. (2012, April). *Current Population Survey: Employed persons by occupation, sex, and age. Table A-19*. Retrieved 26 April 2012, from <http://www.bls.gov/web/empsit/cpseea19.htm>; See also note 3. Women are overrepresented in industries such as sales and office employment, and are more likely to have part-time employment. Workers in these industries and in part-time jobs are less likely to have paid sick time or paid vacation time.
- <sup>31</sup> Working Mother. (2011, October). 100 Best Companies. *Working Mother*, 52-62.
- <sup>32</sup> Ibid. Data analysis by the National Partnership for Women & Families.
- <sup>33</sup> See note 18. Workers paid less than \$20,000 made up 16 percent of the workforce in 2000 but only 10 percent of those eligible for FMLA leave.
- <sup>34</sup> See note 19.
- <sup>35</sup> State of California Employment Development Department. (2011). *State Disability (SDI) Statistical Information: Paid Family Leave (PFL) Program Statistics*. Retrieved 20 April 2012, from [http://www.edd.ca.gov/Disability/pdf/qspfl\\_PFL\\_Program\\_Statistics.pdf](http://www.edd.ca.gov/Disability/pdf/qspfl_PFL_Program_Statistics.pdf) (Unpublished calculation)
- <sup>36</sup> State of New Jersey Department of Labor and Workforce Development. (2009-2012). *Family Leave Monthly Report*. Retrieved 20 April 2012, from [http://lwd.dol.state.nj.us/labor/fli/content/fli\\_program\\_stats.html](http://lwd.dol.state.nj.us/labor/fli/content/fli_program_stats.html) (Unpublished calculation)
- <sup>37</sup> Appelbaum, E., & Milkman, R. (2011). *Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California* (p. 4). Center for Economic and Public Research Publication. Retrieved 26 April 2012, from <http://www.cepr.net/documents/publications/paid-family-leave-1-2011.pdf>
- <sup>38</sup> Gomby, D., & Pei, D. (2009). *Newborn Family Leave: Effects on Children, Parents, and Business*. David and Lucile Packard Foundation Publication. Retrieved 26 April 2012, from [http://www.packard.org/wp-content/uploads/2011/06/NFLA\\_fullreport\\_final.pdf](http://www.packard.org/wp-content/uploads/2011/06/NFLA_fullreport_final.pdf)
- <sup>39</sup> Berger, L., Hill, J., & Waldfogel, J. (2005). Maternity Leave, Early Maternal Employment and Child Health and Development in the U.S. *The Economic Journal*, 115(501), 44.
- <sup>40</sup> Zero to Three. (2009). *Building a Secure and Healthy Start: Family Leave in the Early Years*. Retrieved 25 April 2012, from <http://www.zerotothree.org/public-policy/policy-toolkit/familyleavesingmar5.pdf> (Citing Kamerman, S. B. (2006). Parental leave policies: The impact on child well-being. *International Review of Leave Policies and Related Research*, 57, 16-21.)
- <sup>41</sup> United States Breastfeeding Committee. (2011). *Breastfeeding Saves Billions: Fund Breastfeeding Support*. United States Breastfeeding Committee Publication. Retrieved 26 April 2012, from <http://www.usbreastfeeding.org/LinkClick.aspx?link=Publications%2FHealth-Care-Reform-One-Page-USBC-update.pdf&tabid=70&mid=388>
- <sup>42</sup> See note 37, p. 26.

<sup>43</sup> Ibid, p. 26.

<sup>44</sup> Nepomnyaschy, L., & Waldfogel, J. (2007). Paternity Leave and Fathers' Involvement with Their Young Children. *Community, Work, and Family*, 10(4), 427-453.

<sup>45</sup> See note 37, p. 29.

<sup>46</sup> Ibid, p. 23.

<sup>47</sup> Ibid, p. 26.

<sup>48</sup> Laughlin, L. (2011, December 7). Presentation to the National Partnership for Women & Families' Work-Life Lunch Group, Washington, D.C. Calculations based on U.S. Census Bureau Survey of Income and Program Participation, 2008 Panel, Wave 2. Data on file with the National Partnership for Women & Families.

<sup>49</sup> Sasha Corporation. (2007). *Compilation of Turnover Cost Studies*. Retrieved 26 April 2012, from <http://www.sashacorp.com/turnframe.html>

<sup>50</sup> See note 37, p. 5.

<sup>51</sup> Ibid, p. 8.

<sup>52</sup> See note 8, p. 11.

<sup>53</sup> Houser, L., & Varatanian, T. (2012, January). *Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses and the Public* (p. 6). Rutgers Center for Women and Work Publication. Retrieved 26 April 2012, from <http://smlr.rutgers.edu/paymatters-cwwreport-january2012>

<sup>54</sup> Ibid, p. 7.

<sup>55</sup> Ibid, p. 8.

<sup>56</sup> Ibid, p. 8.

<sup>57</sup> Some state laws allow workers job-protected family and medical leave for family care and personal medical issues of all kinds; these laws apply to new and expecting parents as well as to other workers who need leave to care for seriously ill family members and/or their own serious medical conditions. Other state laws specifically provide for pregnancy disability leave. States are given points when their laws exceed federal standards, whether they address family and pregnancy leave in the same statute or in different statutes.

<sup>58</sup> States that provide both family and medical leave to workers in smaller businesses are given points under the "family leave" category to avoid double counting.

<sup>59</sup> Massachusetts and Montana call this type of leave "maternity" leave and permit mothers time to care for their new child (rather than simply just to address their own medical issues) during their leave. Those states are counted in this category because their laws only apply to women.

<sup>60</sup> States that provide both family and medical leave to workers with less time on the job are given points under the "family leave" category to avoid double counting, except where birth mothers are provided two "buckets" of leave that allow them to take a longer leave than a biological father or an adoptive parent.

<sup>61</sup> States that provide a longer period of both family and medical leave are given points under the "family leave" category to avoid double counting.

<sup>62</sup> In the first edition of *Expecting Better*, states were awarded points if they provided job-protected pregnancy disability leave for

a "reasonable" or unspecified length of time. A review of relevant case law reveals that the reasonable length of leave permitted is typically less than the 12 weeks permitted by the federal FMLA. Therefore, points were not awarded to these states in this second edition.

<sup>63</sup> As discussed elsewhere in this report, the FMLA and the FLSA's protections for nursing mothers each protect only particular segments of the workforce. The FMLA applies only to places of employment with 50 or more employees within a 75-mile radius and, within those workplaces, only to workers who have been on the job for at least 12 months and have worked 1,250 hours within the prior 12 months. The FLSA right-to-pump provision applies to "non-exempt" workers (those who are paid hourly or are subject to overtime pay protections), but not to salaried workers.

<sup>64</sup> Alaska Stat. § 39.20.500(b).

<sup>65</sup> Ariz. Admin. Code § R2-5-413.

<sup>66</sup> Ariz. Admin. Code § R2-5-414(D).

<sup>67</sup> Ark. Code. Ann. § 11-5-116.

<sup>68</sup> Ibid.

<sup>69</sup> Calif. Unemp. Ins. Code §§ 3300-3306.

<sup>70</sup> Calif. Unemp. Ins. Code §§ 2625-2630.

<sup>71</sup> State of California Employment Development Department. *FAQ — Pregnancy*. Retrieved 26 April 2012, from [http://edd.ca.gov/Disability/FAQ\\_DI\\_Pregnancy.htm](http://edd.ca.gov/Disability/FAQ_DI_Pregnancy.htm)

<sup>72</sup> Calif. Gov't Code § 12945(b)(3); La. Rev. Stat. § 23:342(4). (Applies to employers with more than 25 employees.)

<sup>73</sup> Calif. Gov't Code § 12945 (b)(1).

<sup>74</sup> Calif. Fam. Code § 297.5; Cal. Gov't Code § 12945.2.

<sup>75</sup> Calif. Gov't Code §§ 12926, 12945.

<sup>76</sup> Calif. Lab. Code § 233.

<sup>77</sup> Calif. Lab. Code §§ 1030-1031.

<sup>78</sup> State of California Employment Development Department. (2011, September). *State Disability Insurance Program*. Retrieved 26 April 2012, from [http://www.edd.ca.gov/pdf\\_pub\\_ctr/de8714c.pdf](http://www.edd.ca.gov/pdf_pub_ctr/de8714c.pdf)

<sup>79</sup> Calif. Fam. Code § 297.5; Cal. Gov't Code § 12945.2.

<sup>80</sup> Calif. Gov't Code §§ 12926, 12945.

<sup>81</sup> Calif. Lab. Code § 233.

<sup>82</sup> Calif. Lab. Code §§ 1030-1031.

<sup>83</sup> Colo. Rev. Stat. §§ 8-13.5-103(1), 8-13.5-104.

<sup>84</sup> 4 Colo. Code. Regs. § 801(5-25).

<sup>85</sup> 4 Colo. Code. Regs. § 801(5-5).

<sup>86</sup> Colo. Rev. Stat. §§ 8-13.5-103(1), 8-13.5-104.

<sup>87</sup> Connecticut employees who work for employers with between 50 and 74 employees would only receive federal FMLA protection.

<sup>88</sup> Conn. Gen. Stat. § 31-51kk(1).

<sup>89</sup> Conn. Gen. Stat. § 31-51ll.

<sup>90</sup> Conn. Gen. Stat. §§ 31-51kk, 46b-38rr.

<sup>91</sup> Conn. Gen. Stat. § 46a-60(a)(7).

<sup>92</sup> Conn. Gen. Stat. § 46a-51.

<sup>93</sup> 2011 Conn. Acts 11-52 (Reg. Sess.)

<sup>94</sup> Conn. Gen. Stat. § 31-51pp(c)(1).

<sup>95</sup> Conn. Gen. Stat. § 31-40w.

<sup>96</sup> Conn. Gen. Stat. Ann. § 5-196(20). Some employees do not have any tenure requirement.

<sup>97</sup> Conn. Gen. Stat. Ann. § 5-248a(a).

<sup>98</sup> Conn. Gen. Stat. § 46a-60(a)(7).

<sup>99</sup> Conn. Gen. Stat. Ann. § 31-40w.

<sup>100</sup> Del. Code. Ann. tit. 14, § 1333; tit. 29, §§ 5116(b), 5120.

<sup>101</sup> D.C. Code § 32-516.

<sup>102</sup> D.C. Code §§ 32-501(1), 32-502(a).

<sup>103</sup> D.C. Code § 32-503(a).

<sup>104</sup> Government of the District of Columbia Office of Personnel. (2001, December 10). *Procedures on Family and Medical Leave under the D.C. Family and Medical Leave Act*. Retrieved 26 April 2012, from <http://dc.gov/downloads/ABOUT%20DCPS/Human%20Resources/Downloadables/DCPS-HR-REQUEST-FOR-FAMILY-MEDICAL-LEAVE.pdf>

<sup>105</sup> D.C. Code § 32-501(4); In addition, D.C. law recognizes same-sex marriages, so same-sex couples are also covered by the D.C. law. See D.C. Code § 46-401.

<sup>106</sup> D.C. Code § 32-131.02(b).

<sup>107</sup> D.C. Code § 32-131.02(a).

<sup>108</sup> D.C. Code §§ 2-1401.02(10), 2-1402.82(d).

<sup>109</sup> D.C. Code §§ 32-501(1), 32-502(a).

<sup>110</sup> D.C. Code § 32-503(a).

<sup>111</sup> D.C. Code § 32-516.

<sup>112</sup> D.C. Code § 32-501(4).

<sup>113</sup> D.C. Code §§32-131.01(3)(B), 32-131.02(b).

<sup>114</sup> D.C. Code §§ 2-1401.02(10), 2-1402.82(d).

<sup>115</sup> Fla. Stat. § 110.221.

<sup>116</sup> Haw. Rev. Stat. §§ 392-3, 392-21, 392-23.

<sup>117</sup> Haw. Rev. Stat. § 392-41.

<sup>118</sup> Haw. Rev. Stat. § 392-43.

<sup>119</sup> Haw. Rev. Stat. §§ 398-1, 398-3.

<sup>120</sup> Haw. Rev. Stat. §398-3.

<sup>121</sup> Haw. Code. R. § 12-46-108.

<sup>122</sup> Haw. Rev. Stat. §§ 398-2, 398-4(c).

<sup>123</sup> Haw. Rev. Stat. §§ 392-3, 392-21, 392-23.

<sup>124</sup> Haw. Rev. Stat. §§ 398-1, 398-3.

<sup>125</sup> Haw. Rev. Stat. §§ 398-1, 398-3.

<sup>126</sup> Haw. Code. R. § 12-46-108.

<sup>127</sup> Haw. Rev. Stat. § 398-4(c).

<sup>128</sup> 820 Ill. Comp. Stat. 260/5, 260/10, 260-15.

<sup>129</sup> Ill. Admin. Code tit. 80 § 303.130.

<sup>130</sup> Ill. Admin. Code tit. 80 § 303.148.

<sup>131</sup> 820 Ill. Comp. Stat. 260/5, 260/10, 260-15.

<sup>132</sup> Ind. Code §§ 22-2-14-1, 22-2-14-2(a).

<sup>133</sup> Ind. Code § 5-10-6-2(a).

<sup>134</sup> Iowa Code § 216.6(2)(e), (6)(a).

<sup>135</sup> Iowa Code § 216.6(2)(e), (6)(a).

<sup>136</sup> Ky. Rev. Stat. Ann. § 337.015.

<sup>137</sup> 101 Ky. Admin. Regs. 2:102 § 2(3), 3:015 § 2(3).

<sup>138</sup> La. Rev. Stat. Ann. § 23:341(A).

<sup>139</sup> La. Rev. Stat. Ann. § 23:342(2)(b).

<sup>140</sup> La. Rev. Stat. Ann. § 23:341(B)(1).

- 141 La. Rev. Stat. Ann. § 23:342(2)(b).
- 142 La. Rev. Stat. Ann. § 23:341(B)(1).
- 143 Me. Rev. Stat. Ann. tit. 26 § 844(1).
- 144 Me. Rev. Stat. Ann. tit. 26 § 843(4), (8).
- 145 Me. Rev. Stat. Ann. tit. 26 § 844(1).
- 146 Me. Rev. Stat. Ann. tit. 26 § 636.
- 147 Me. Rev. Stat. Ann. tit. 26 §§ 603(1)(A), 604.
- 148 Me. Rev. Stat. Ann. tit. 26 § 844(1).
- 149 Me. Rev. Stat. Ann. tit. 26 § 843(4), (8).
- 150 Me. Rev. Stat. Ann. tit. 26 § 844(1).
- 151 Me. Rev. Stat. Ann. tit. 26 § 636.
- 152 Me. Rev. Stat. Ann. tit. 26 §§ 603(1)(A), 604.
- 153 Md. Code Ann., Lab. & Empl. § 3-802.
- 154 Md. Code Ann., State. Pers. & Pens. §§ 9-501, 9-505.
- 155 Mass. Gen. Laws ch. 149, § 105D; ch. 151B, § 1(5).
- 156 Mass. Gen. Laws ch. 149, § 105D.
- 157 Mass. Gen. Laws ch. 149, § 105D; ch. 151B, § 1(5).
- 158 Mass. Gen. Laws ch. 149, § 105D.
- 159 The Commonwealth of Massachusetts Human Resources Division. (2009, January). *Enhanced Family and Medical Leave Guide* (pp. 5, 8).
- 160 Minn. Stat. § 181.940 (Subd. 3).
- 161 Minn. Stat. §§ 181.940 (Subd. 2), 181.941.
- 162 Minn. Stat. § 181.939.
- 163 Minn. Stat. § 181.9413.
- 164 Minn. Stat. §§ 181.940 (Subd. 2), 181.941.
- 165 Minn. Stat. § 181.939.
- 166 Mo. Rev. Stat. § 105.271.; Mo. Code. Regs. Ann. tit. 1 § 20-5.020(2)(K).
- 167 Mont. Code Ann. §§ 49-2-101(10)-(11), 49-2-310, 49-2-311.
- 168 Mont. Code Ann. §§ 49-2-310(2), (4); 49-2-311.
- 169 Mont. Code Ann. §§ 49-2-101(10)-(11), 49-2-310, 49-2-311.
- 170 Mont. Code Ann. §§ 49-2-310(2), 49-2-311.
- 171 State of Montana. (n.d.). *Salary and Benefits Information Overview*. Retrieved 26 April 2012, from [http://mt.gov/statejobs/salary\\_mcp#Maternity](http://mt.gov/statejobs/salary_mcp#Maternity)
- 172 Mont. Code Ann. § 2-18-606; See also note 148.
- 173 Mont. Code Ann. § 39-2-216.
- 174 Mont. Code Ann. § 39-2-215.
- 175 N.H. Rev. Stat. Ann. §§ 354-A:2(VI)-(VII), 354-A:7(VI)(b).
- 176 N.H. Rev. Stat. Ann. § 354-A:7(VI)(b).
- 177 N.H. Rev. Stat. Ann. §§ 354-A:2(VI)-(VII), 354-A:7(VI)(b).
- 178 N.H. Rev. Stat. Ann. § 354-A:7(VI)(b).
- 179 N.J. Stat. Ann. §§ 43:21-27(k),(o), 43:21-38.
- 180 N.J. Stat. Ann. §§ 43:21-25-43:21-31; State of New Jersey Department of Labor and Workforce Development. (n.d.). *Pregnancy — Temporary Disability Benefits for Pregnancy Related Disabilities*. Retrieved 26 April 2012, from [http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp\\_pregnancy.html](http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp_pregnancy.html)
- 181 State of New Jersey Department of Labor and Workforce Development. (n.d.). *Cost to Worker — State Plan*. Retrieved 26 April 2012, from [http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp\\_cost.html](http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp_cost.html)
- 182 State of New Jersey Department of Labor and Workforce Development. (n.d.). *Family Leave Insurance — Frequently Asked Questions (#41)*. Retrieved 26 April 2012, from [http://lwd.dol.state.nj.us/labor/fli/content/fli\\_faq.html#41](http://lwd.dol.state.nj.us/labor/fli/content/fli_faq.html#41)
- 183 State of New Jersey Department of Labor and Workforce Development. (n.d.). *Pregnancy — Temporary Disability Benefits for Pregnancy Related Disabilities*. Retrieved 26 April 2012, from [http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp\\_pregnancy.html](http://lwd.dol.state.nj.us/labor/tdi/worker/state/sp_pregnancy.html)
- 184 N.J. Stat. Ann. § 34:11B-3(f); New Jersey Office of the Attorney General. (2011, April). *Civil Rights Fact Sheet: The New Jersey Family Leave Act*. Retrieved 26 April 2012, from <http://www.state.nj.us/lps/dcr/downloads/flafactsheet.pdf>
- 185 N.J. Stat. Ann. § 34:11B-3(e).
- 186 N.J. Stat. Ann. §§ 34:11B-3(h), (j), 37:1-31.
- 187 New Jersey Office of the Attorney General. (2011, April). *Civil Rights Fact Sheet: The New Jersey Family Leave Act*. Retrieved 26 April 2012, from <http://www.state.nj.us/lps/dcr/downloads/flafactsheet.pdf>
- 188 N.J. Stat. Ann. §§ 43:21-27(a)(1),(k)(o), 43:21-38.
- 189 N.J. Stat. Ann. §§ 43:21-27(a). Governmental entity may elect to become a “covered employer” for TDI purposes but is automatically a “covered employer” for paid family leave insurance purposes, 43:21-27 (b).
- 190 N.J. Stat. Ann. § 34:11B-3(e).
- 191 N.J. Admin. Code § 4A:6-1.3(g)(3).
- 192 N.M. Stat. §§ 28-1-2, 28-20-2.
- 193 N.M. Stat. § 28-20-2.
- 194 N.Y. Workers’ Comp. Law §§ 201-205; New York State Workers’ Compensation Board. (n.d.). *Disability Benefits (Off-the-Job Injury or Illness) Frequently Asked Questions*. Retrieved 26 April 2012, from [http://www.wcb.ny.gov/content/main/offthejob/CommonQuestions\\_DB.jsp](http://www.wcb.ny.gov/content/main/offthejob/CommonQuestions_DB.jsp)
- 195 New York State Workers’ Compensation Board. (n.d.). *Disability Benefits (Off-the-Job Injury or Illness) Frequently Asked Questions*. Retrieved 26 April 2012, from [http://www.wcb.ny.gov/content/main/offthejob/CommonQuestions\\_DB.jsp](http://www.wcb.ny.gov/content/main/offthejob/CommonQuestions_DB.jsp)
- 196 N.Y. Lab. Law § 206-c.
- 197 New York State Department of Civil Service. (1991, January). *Attendance and Leave Manual, Leaves Without Pay (Part 22), Section 22.1 — Leave of Absence; Duration*. Retrieved 30 September 2011, from [http://www.cs.ny.gov/attend\\_leave\\_manual/022LeavesWithoutPay/22\\_1/22\\_1Rulespages-LeaveofAbsenceDuration.htm](http://www.cs.ny.gov/attend_leave_manual/022LeavesWithoutPay/22_1/22_1Rulespages-LeaveofAbsenceDuration.htm)
- 198 Ibid.
- 199 N.Y. Lab. Law § 206-c.
- 200 N.D. Cent. Code § 54-52.4-03.
- 201 Ohio Rev. Code Ann. § 124.136.
- 202 Ohio Admin. Code §§ 123:1-33-01, 123:1-33-05, 123:1-33-06.
- 203 Ohio Admin. Code § 123:1-33-05(B).
- 204 Ohio Admin. Code §§ 123:1-32-05(A)(5), 123:1-47(A)(39).
- 205 Ore. Rev. Stat. § 659A.153(1).
- 206 Ore. Rev. Stat. §§ 659A.156, 659A.162(1).
- 207 Ore. Rev. Stat. §§ 106.340, 659A.150(4).
- 208 Ore. Rev. Stat. § 659A.162(2)(a).
- 209 Ore. Rev. Stat. §§ 659A.159(1)(d), 659A.174(2).
- 210 Ore. Rev. Stat. § 653.077.
- 211 Ore. Rev. Stat. §§ 659A.156, 659A.162(1).
- 212 Ore. Rev. Stat. §§ 106.340, 659A.150(4).
- 213 Ore. Rev. Stat. § 659A.162(2)(a).
- 214 Ore. Rev. Stat. §§ 659A.159(1)(d), 659A.174(2).
- 215 Ore. Rev. Stat. § 653.077.
- 216 Commonwealth of Pennsylvania, Governor’s Office. (2007). Management Directive 530.30(4) (f), (m).
- 217 Commonwealth of Pennsylvania, Governor’s Office. (2008). Management Directive 530.2(3)(d).
- 218 Commonwealth of Pennsylvania, Governor’s Office. (2007). Management Directive 530.30(4) (f), (m).
- 219 Commonwealth of Pennsylvania, Governor’s Office. (2008). Management Directive 530.2(3)(e).
- 220 R.I. Gen. Laws § 28-41-8.
- 221 R.I. Gen. Laws §§ 28-40-1, 28-40-3.
- 222 Rhode Island Department of Labor and Training. (n.d.). *Temporary Disability Insurance Frequently Asked Questions*. Retrieved 26 April 2012, from <http://www.dlt.ri.gov/tdi/tdifaqs.htm>
- 223 R.I. Gen. Laws §§ 28-48-1(2), 28-48-2(a). Workers are entitled to a maximum of 13 weeks in any two calendar years, compared to 12 weeks in a 12-month period under the federal FMLA.
- 224 R.I. Gen. Laws § 23-13.2-1.
- 225 R.I. Gen. Laws § 28-39-3.
- 226 R.I. Gen. Laws §§ 28-41-1(2), 28-48-2(a).
- 227 R.I. Gen. Laws § 28-48-1(5).
- 228 R.I. Gen. Laws § 23-13.2-1.
- 229 State of Rhode Island. (2010, September 22). *Employee Handbook: Sick Leave with Pay (Exception Code 5)*. Retrieved 26 April 2012, from [http://www.hr.ri.gov/documents/Handbook/leave/1200\\_Sick%20Leave%20with%20Pay\\_9-22-2010.pdf](http://www.hr.ri.gov/documents/Handbook/leave/1200_Sick%20Leave%20with%20Pay_9-22-2010.pdf)
- 230 S.C. Code Ann. §§ 8-11-40(C), 8-11-155.
- 231 Tenn. Code Ann. § 4-21-408(a), (d)(2).
- 232 Tenn. Code Ann. § 50-1-305.
- 233 Tenn. Code Ann. §§ 4-21-102(5), 4-21-408.
- 234 Tenn. Code Ann. § 8-50-802.
- 235 Tenn. Code Ann. § 50-1-305.
- 236 Texas Gov’t Code Ann. § 661.913.
- 237 Texas Gov’t Code Ann. § 661.202(d)-(e).
- 238 Utah Admin. Code R477-7-4(2).
- 239 Vt. Stat. Ann. tit. 21 § 471(1).
- 240 Vt. Stat. Ann. tit. 21 §§ 471(4), 472(a)(1).
- 241 Vt. Stat. Ann. tit. 21 §§ 471(1), (3), 472(a)(2).
- 242 Vt. Stat. Ann. tit. 15 § 1204(e)(12); tit. 21 §§ 471(3)(B), 472(a).
- 243 Vt. Stat. Ann. tit. 21 §§ 302(1), 305.

<sup>244</sup> Vermont Department of Human Resources. (2008, August 4). *Personnel Policy & Procedure Manual* (pp. 281-282). Retrieved 26 April 2012, from [http://humanresources.vermont.gov/sites/dhr/files/pdf/policies\\_procedures/DHR-Policy\\_Manual.pdf](http://humanresources.vermont.gov/sites/dhr/files/pdf/policies_procedures/DHR-Policy_Manual.pdf)

<sup>245</sup> Ibid.

<sup>246</sup> Vt. Stat. Ann. tit. 21 §§ 302(1), 305.

<sup>247</sup> Va. Code Ann. § 51.1-1110.

<sup>248</sup> Va. Code Ann. §§ 51.1-1107, 51.1-1108.

<sup>249</sup> Wash. Rev. Code §§ 49.86.010, 49.86.030, 49.86.050.

<sup>250</sup> Wash. Rev. Code § 49.86.060.

<sup>251</sup> Wash. Rev. Code § 49.86.090.

<sup>252</sup> Wash. Rev. Code § 49.78.020 (7), (17).

<sup>253</sup> Wash. Rev. Code § 49.60.040(11); Wash. Admin. Code § 162-04-010.

<sup>254</sup> Wash. Rev. Code § 49.60.040(10); Wash. Admin. Code § 162-30-020(4).

<sup>255</sup> Wash. Admin. Code § 162-30-020(4)(a), (c).

<sup>256</sup> Wash. Rev. Code § 49.78.390; Wash. Admin. Code § 162-04-020(4)(d).

<sup>257</sup> Washington State Department of Labor & Industries. (2010, March). *Washington State Family Leave Act Q&A (#6)*. Retrieved 26 April 2012, from <http://www.lni.wa.gov/WorkplaceRights/files/FamilyLeaveFAQs.pdf>

<sup>258</sup> Wash. Rev. Code § 49.12.270.

<sup>259</sup> Wash. Rev. Code §§ 49.86.010, 49.86.030, 49.86.050.

<sup>260</sup> Wash. Rev. Code § 49.86.090.

<sup>261</sup> Wash. Admin. Code §§ 357-31-460, 357-31-465, 357-31-475.

<sup>262</sup> Wash. Admin. Code §§ 357-31-500.

<sup>263</sup> Wash. Rev. Code § 49.78.020 (7), (16), (17).

<sup>264</sup> Wash. Rev. Code § 49.12.270.

<sup>265</sup> Wis. Stat. § 103.10(2)(c).

<sup>266</sup> Wis. Stat. § 103.10(1)(ar).

<sup>267</sup> Wis. Stat. § 103.10(3), (4).

<sup>268</sup> Wis. Stat. § 103.10(5)(b).

<sup>269</sup> Wis. Adm. Code E.R. §18.14(2)(d), (e).

<sup>270</sup> Wis. Stat. § 103.10(1)(c).

<sup>271</sup> Wis. Stat. § 103.10(3).

<sup>272</sup> Wis. Stat. § 103.10(1)(ar).

<sup>273</sup> Wis. Stat. § 103.10(4).

<sup>274</sup> Wis. Adm. Code E.R. §§ 18.01(4), 18.03(4).

<sup>275</sup> United States Office of Personnel Management. (2010, December 22). *Nursing Mothers in Federal Employment*. Memorandum for Heads of Executive Departments and Agencies. Retrieved 26 April 2012, from <http://www.chcoc.gov/Transmittals/TransmittalDetails.aspx?TransmittalID=3281>

<sup>276</sup> 5 C.F.R. § 630.401.

<sup>277</sup> United States Office of Personnel Management. (2010, December 3). *Final Regulations on Sick Leave*. Memorandum for Human Resources Directors. Retrieved 26 April 2012, from <http://www.chcoc.gov/Transmittals/TransmittalDetails.aspx?TransmittalID=3237>

# Expecting Better for All Working Families

A Special Section of the Second Edition  
of *Expecting Better*

## Introduction

Workers' caregiving responsibilities extend well beyond caring for new babies, adopted or foster children, or a spouse or partner disabled by pregnancy. Frequently, women and men must also balance their work responsibilities with caring for a special-needs or chronically ill child; an ill parent, spouse or domestic partner; or even an ill sibling, grandparent, grandchild or in-law. Workers also have routine caregiving needs, such as attending parent-teacher conferences during work hours or accompanying a parent to a medical appointment.

The primary focus of *Expecting Better* is workplace supports for new and expecting parents, but it is also important to recognize working families' critical need for public policies that go beyond the federal Family and Medical Leave Act (FMLA) — policies that help workers meet a more diverse range of caregiving responsibilities and care for a broader definition of family members. Many of the same state laws discussed in *Expecting Better* also appear below, but the focus of this special section is on the rights and protections that these laws offer to help workers meet broader family caregiving needs.

*Expecting Better for All Working Families* summarizes state policies that improve on the FMLA by:

- ▶ providing private sector workers with *paid* leave for family caregiving;
- ▶ providing workers with *unpaid* leave to care for family members other than the family members covered by the FMLA;
- ▶ providing workers with extended leave for uses beyond those included in the FMLA; and
- ▶ providing workers with leave for “small necessities,” such as attending their children’s school activities or accompanying family members to medical appointments.

This section also summarizes improvements that more than 20 states have made to their unemployment insurance laws to recognize that family caregiving responsibilities often compel workers to leave their jobs. These states provide unemployment insurance benefits to workers who are caring for ill or disabled family members.

## Millions of Working Americans Provide Unpaid Family Care — and the Demand is Growing

There is a growing need for laws and policies that recognize the needs of working family caregivers. Sixty-six million people in the United States — nearly one in three adults — are unpaid family caregivers.<sup>1</sup> The majority of family caregivers work outside the home, and seven in 10 have been employed at some point while providing care.<sup>2</sup>

Most family caregivers assist parents or older relatives,<sup>3</sup> but one in seven provides assistance to a child with special needs.<sup>4</sup> One-third of family caregivers cares for more than one person, frequently an adult and a child.<sup>5</sup>

Improving policies to support caregivers is a 21st century imperative. The population is aging: By 2030, there will be 71 million older adults in the United States — double the number there

are now.<sup>6</sup> This means that even more workers will need time off to care for aging family members. Already, approximately one-third of caregivers providing eldercare ends up leaving the workforce or reducing the number of hours they work — taking a financial toll on their current economic stability and impacting their long-term retirement security.<sup>7</sup> Updating workplace policies to support these workers will be vital to their economic security and the well-being of their families.

---

**The average worker over 50 years of age who leaves the workforce to take care of a parent will lose more than \$300,000 in earnings and retirement income.**

**MetLife Mature Market Institute. (2011, June). *The MetLife Study of Caregiving Costs to Working Caregivers: Double Jeopardy for Baby Boomers Caring for Their Parents.***

---

## Workers Need Public Policies to Manage the Dual Demands of Work and Caregiving

Working families need public policies that recognize their family responsibilities because employers' policies often fail to match working caregivers' needs. For example, one in five family caregivers reports having had to take a leave of absence from work at some point while caregiving.<sup>8</sup> Yet, according to government data, the overwhelming majority of workers do not have paid family leave that can be used for such purposes.<sup>9</sup>

Beyond access to paid leave, caregivers urgently need flexibility in scheduling: Two-thirds of caregivers report that they have had to go to work late, leave early or take time off during the day to handle caregiving responsibilities.<sup>10</sup> Unfortunately, day-to-day flexibility in scheduling is not the norm for most workers. Even though many businesses allow some workers control over their schedules, only 10 percent of employers allow all workers to change their start or end times on short notice.<sup>11</sup>

The mismatch between working caregivers' needs and workplace policies puts families' economic security at risk. Too often, caregivers jeopardize their financial and job security to care for a loved one, or they report for work worried that a child, parent, spouse, sibling or grandparent is going without needed care.

## State Family and Medical Leave Innovations

Just as many states have improved upon federal FMLA rights for new and expecting parents, some states have recognized a broader range of family care responsibilities than those covered by the FMLA.

As shown below, paid family leave insurance programs in California and New Jersey each provide working family caregivers with a portion of their wages for up to six weeks per year to care for an ill child, spouse, parent or same-sex partner. One state and the District of Columbia require many employers to provide paid sick leave to care for ill family members or family members in need of medical care.

## Family and Medical Leave Policies

Federal law provides some protections for working caregivers, and laws in more than a dozen states expand on those protections. But much more is needed to bring public policies in line with the needs of the workforce.

Workers need paid, job-protected leave to attend medical appointments and to provide more intensive health-related and personal care to their loved ones. They also need time to care for their children and deepen their involvement in their children's school activities.

And, although the focus of this section is on laws that provide workers with leave from work, working caregivers also need public policies that will provide them more control over their schedules, more flexibility in work hours and shift start and end times, and the ability to refuse overtime so that workers can meet child care, eldercare and other family responsibilities.

### The Federal Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) addresses some of the key challenges working caregivers face when they have to take time away from work. The FMLA provides eligible workers with up to 12 weeks of unpaid, job-protected leave to care for a spouse, parent or child when that family member has a serious health condition.<sup>12</sup> A worker is eligible for leave to care for a family member when the family member is unable to care for his or her own basic medical, hygienic or nutritional needs; needs assistance with transportation to medical appointments; or is in inpatient or home care and would benefit from psychological comfort or reassurance. Workers may also take leave to substitute for regular caregivers when the family member's regular caregivers are unavailable, or to make arrangements for ongoing care. Leave may be taken intermittently to accommodate the nature of a family member's serious health condition or to share caregiving responsibilities with another caregiver.<sup>13</sup>

---

### A KEY STEP TOWARD RECOGNIZING A BROADER CONCEPT OF "FAMILY"

In 2010, the Department of Labor issued an administrator's interpretation of the FMLA's definition of "parent," making clear that family members may qualify for FMLA leave to care for a child if they stand in loco parentis ("in the place of a parent") to that child, regardless of whether they are the child's biological or adoptive parent. This clarification helps to ensure that same-sex partners, grandparents and others who provide daily care or financial support to a child will be able to use FMLA leave to care for that child.

---

### Special Provisions for Military Family Members

In 2008 and 2009, the FMLA was amended to cover the special needs of military family members. Under these amendments, the spouse, child, parent or next of kin of a seriously injured military member is entitled to 26 weeks of unpaid job-protected leave. Furthermore, family members of a deployed service member may use FMLA leave to respond to "qualifying exigencies" arising out of deployment.<sup>14</sup>

### Where the FMLA Falls Short

As discussed in *Expecting Better*, only about half of workers in the United States are covered by the FMLA.<sup>15</sup> Workers employed by firms with fewer than 50 employees, those who have not worked at least 1,250 hours for their current employer in the past year, and those who haven't been with the same employer for at least a year, are not eligible for leave under the law.

In addition, workers have many urgent caregiving needs that are not covered by the FMLA. More than one-third of family caregivers provide care for a family member that falls outside the FMLA's protection, including parents-in-law (8 percent), grandparents (8 percent), siblings (5 percent) and other relatives (11 percent).<sup>16</sup> And, although the law covers caregiving for spouses, it does not cover care for domestic partners or same-sex spouses.

Finally, although the FMLA gives workers leave to care for family members with serious health conditions, it does not help them fulfill more run-of-the-mill caregiving responsibilities, such as attending parent-teacher conferences or taking relatives to medical appointments.



Ten states and the District of Columbia have FMLA laws that cover more family caregiving relationships than the FMLA, and two of these states provide leave for more caregiving purposes than the FMLA.

Eight states and the District of Columbia offer leave for employees to participate in their children’s school activities. Two of those states also permit leave to be used to attend to the routine health needs of family members.

## PAID FAMILY LEAVE AND SICK LEAVE

STATE	PAID LEAVE POLICY
California	Provides up to six weeks of caregiving leave at 55 percent wage replacement, up to a maximum cap, to workers caring for a child, parent, spouse or domestic partner with a serious health condition <sup>17</sup>
New Jersey	Provides up to six weeks of caregiving leave at 67 percent wage replacement, up to a maximum cap, to workers caring for a child, parent, spouse, domestic partner or civil-union partner with a serious health condition <sup>18</sup>
District of Columbia	Requires employers to provide most workers with a limited number of paid sick days each year that can be used, among other things, to care for an ill spouse, domestic partner, parent, parent-in-law, child, grandchild, sibling, sibling-in-law or a person with whom the worker is in a committed relationship; to take these family members to a medical appointment; or to assist a family member who is a victim of stalking, domestic violence or sexual abuse <sup>19</sup>
Connecticut	Requires most employers with 50 or more employees to provide certain categories of workers with up to 40 hours of earned paid sick leave per year to care for a spouse, domestic partner, minor child or adult child incapable of self-care because of mental or physical disability, or to address the impacts of domestic violence or sexual assault. <sup>20</sup>

## STATE FAMILY LEAVE LAWS THAT INCLUDE ADDITIONAL FAMILY MEMBERS

STATE	DEFINITION OF FAMILY (BEYOND CHILD, SPOUSE AND PARENT)
California	Registered, formerly registered and surviving registered domestic partners and children of such partners; <sup>21</sup> stepparent <sup>22</sup>
Connecticut	Civil-union partner; <sup>23</sup> parent-in-law <sup>24</sup> ; stepparent <sup>25</sup>
Hawaii	Non-dependent adult child; <sup>26</sup> grandparent; <sup>27</sup> parent-in-law; <sup>28</sup> grandparent-in-law; <sup>29</sup> stepparent; <sup>30</sup> reciprocal beneficiary <sup>31</sup>
Maine	Domestic partner and child of domestic partner; <sup>32</sup> non-dependent adult child; <sup>33</sup> sibling who lives with employee <sup>34</sup>
New Jersey	Civil-union partner and child of civil-union partner; <sup>35</sup> parent-in-law; <sup>36</sup> stepparent <sup>37</sup>
Oregon	Domestic partner and child of domestic partner; <sup>38</sup> non-dependent adult child; <sup>39</sup> grandparent; <sup>40</sup> grandchild; <sup>41</sup> parent-in-law <sup>42</sup>
Rhode Island	Non-dependent adult child; <sup>43</sup> parent-in-law <sup>44</sup>
Vermont	Civil-union partner and child of civil-union partner; <sup>45</sup> non-dependent adult child; <sup>46</sup> parent-in-law <sup>47</sup>
Washington	Registered domestic partner and child of domestic partner <sup>48</sup>
Wisconsin	Registered or unregistered domestic partner; <sup>49</sup> parent-in-law <sup>50</sup>
District of Columbia	Person related by blood, legal custody or marriage; <sup>51</sup> child who lives with employee and for whom employee permanently assumes and discharges parental responsibility; <sup>52</sup> person with whom employee lives and maintains a committed relationship <sup>53</sup>

## STATES FAMILY LEAVE LAWS THAT PERMIT ADDITIONAL USES FOR LEAVE

STATE	ADDITIONAL USES
Maine	Death of employee's family member if that family member is a servicemember killed while on active duty <sup>54</sup>
Oregon	Care of a child with an illness, injury or condition that is not serious but requires home care <sup>55</sup>

## "SMALL NECESSITIES" LAWS

STATE	EMPLOYERS COVERED, BY SIZE	AVAILABLE LEAVE	PERMISSIBLE USES
California	25 or more employees <sup>56</sup>	40 hours per year <sup>57</sup>	To participate in a child's school activities <sup>58</sup>
Colorado	50 or more employees <sup>59</sup>	18 hours per year <sup>60</sup>	To attend an academic activity for or with a child <sup>61</sup>
Massachusetts	50 or more employees <sup>62</sup>	24 hours per year <sup>63</sup>	To participate in a child's school activities, or to accompany a child or elderly relative to medical or dental appointments <sup>64</sup>
Minnesota	Any size <sup>65</sup>	16 hours per year <sup>66</sup>	To attend a child's school conferences or school-related activities <sup>67</sup>
Nevada	50 or more employees <sup>68</sup>	4 hours per year, per child <sup>69</sup>	To attend parent-teacher conferences, school-related activities or school-sponsored events, or to volunteer at a child's school <sup>70</sup>
North Carolina	Any size <sup>71</sup>	4 hours per year <sup>72</sup>	To attend or otherwise be involved at a child's school <sup>73</sup>
Rhode Island	50 or more employees <sup>74</sup>	10 hours per year <sup>75</sup>	To attend a child's school conferences or other school-related activities <sup>76</sup>
Vermont	15 or more employees <sup>77</sup>	24 hours per year <sup>78</sup>	To participate in a child's school activities, to accompany a family member to medical or dental appointments, or to respond to a family member's medical emergency <sup>79</sup>
District of Columbia	Any size <sup>80</sup>	24 hours per year <sup>81</sup>	To attend or participate in a child's school-related events <sup>82</sup>

## Modernizing Unemployment Insurance Programs to Protect Caregivers

### FEDERAL UNEMPLOYMENT INSURANCE FUNDS AND THE RECOVERY ACT

Too often, workers lose or need to leave their jobs when serious family caregiving needs arise. Until recently, these workers could not access unemployment insurance because state unemployment insurance programs generally denied benefits to workers who voluntarily left their jobs, unless there was "good cause," which did not include caring for an ill family member.

The American Recovery and Reinvestment Act of 2009 (ARRA) offered states incentive payments in the form of federal unemployment insurance funds to modernize their unemployment insurance systems. One qualifying type of modernization was to define "good cause" for leaving employment to include certain compelling family reasons. The incentives increased the number of states offering unemployment benefits to workers who lose their jobs due to a family member's illness or disability, bringing the number of states that offer such benefits to 21 plus the District of Columbia. These programs provide much-needed economic security to workers who need to leave work to care for an ill relative.

## STATE UNEMPLOYMENT INSURANCE PROGRAMS THAT COVER JOB LOSS DUE TO AN ILLNESS OR DISABILITY IN THE FAMILY

STATE	PERMITS “GOOD CAUSE” FOR SEPARATING FROM WORK TO INCLUDE CARING FOR ILL FAMILY MEMBER
Alaska	Caring for an immediate family member (parent, child, spouse, sibling, grandparent or grandchild) with a disability or illness <sup>83</sup>
Arizona	The illness of an immediate family member (spouse, parent, child, sibling or any other person with a similar relationship to the worker) or providing care for a family member <sup>84</sup>
Arkansas	The illness, injury, pregnancy or disability of an immediate family member (spouse, child, parent, sibling, grandchild or grandparent) <sup>85</sup>
California	Caring for an elderly family member or a family member with a serious physical or mental illness <sup>86</sup>
Colorado	An immediate family member (spouse, parent or minor child) is suffering from an illness or disability <sup>87</sup>
Connecticut	Caring for a spouse, child or parent with an illness or disability <sup>88</sup>
Delaware	Caring for a spouse, minor child or parent with an illness or disability <sup>89</sup>
Hawaii	The illness or disability of an immediate family member <sup>90</sup>
Illinois	Caring for a spouse, child or parent who is in poor physical or mental health or is mentally or physically disabled <sup>91</sup>
Maine	The illness or disability of an immediate family member <sup>92</sup>
Minnesota	Providing necessary care because of the illness, injury or disability of an immediate family member (spouse, parent, stepparent, child, stepchild or grandchild) <sup>93</sup>
Nevada	Providing care for an immediate family member (spouse, parent, domestic partner, grandparent, sibling or child) who is ill or has a disability <sup>94</sup>
New Hampshire	The illness or disability of an immediate family member <sup>95</sup>
New York	The illness or disability of an immediate family member <sup>96</sup>
North Carolina	The disability or health condition of a minor child, a parent who has a disability or is aged, or a member of the individual’s immediate family (spouse, parent, sibling, child, grandparent or grandchild, whether the relationship is biological, step, half or in-law) who has a disability <sup>97</sup>
Oklahoma	The illness or disability of an immediate family member (spouse, parent or minor child) <sup>98</sup>
Oregon	The illness or disability of an immediate family member (spouse, domestic partner, parent or minor child) <sup>99</sup>
Rhode Island	Caring for an immediate family member (spouse, parent, parent-in-law or minor child) due to illness or disability <sup>100</sup>
South Carolina	The illness or disability of an immediate family member (spouse, parent or minor child) <sup>101</sup>
Texas	The illness of a minor child or terminal illness of a spouse where reasonable alternative care is not available <sup>102</sup>
Washington	The illness or disability of an immediate family member <sup>103</sup>
Wisconsin	The illness or disability of an immediate family member (parent, spouse, child or any other person for whom the employee is and has been the source of care) <sup>104</sup>
District of Columbia	Caring for a family member (spouse, domestic partner, dependent child or any other individual related by blood to the individual, spouse, domestic partner or child) who is ill or has a disability <sup>105</sup>

### What’s Next?

The state laws profiled here not only help workers in these states, they can also serve as models for other states and for national leaders. Working caregivers and their families have too much at stake to wait much longer. The time for action is now.<sup>106</sup>

## Endnotes to Special Section

- <sup>1</sup> National Alliance for Caregiving. (2009, November). *Caregiving in the U.S. 2009* (p.4). National Alliance for Caregiving, AARP Publication. Retrieved 11 October 2011, from [http://www.caregiving.org/data/Caregiving\\_in\\_the\\_US\\_2009\\_full\\_report.pdf](http://www.caregiving.org/data/Caregiving_in_the_US_2009_full_report.pdf)
- <sup>2</sup> *Ibid.*, pp. 52-53.
- <sup>3</sup> *Ibid.*, p. 18.
- <sup>4</sup> *Ibid.*, p. 15.
- <sup>5</sup> *Ibid.*, p. 14.
- <sup>6</sup> Centers for Disease Control and Prevention & the Merck Company Foundation. (2007). *The State of Aging and Health in America 2007* (p. iii). The Merck Company Foundation Publication. Retrieved 11 October 2011, from [http://www.cdc.gov/aging/pdf/saha\\_2007.pdf](http://www.cdc.gov/aging/pdf/saha_2007.pdf)
- <sup>7</sup> MetLife Mature Market Institute. (2011, June). *The MetLife Study of Caregiving Costs to Working Caregivers* (p. 10). MetLife Mature Market Institute Publication. Retrieved 11 October 2011, from <http://www.caregiving.org/wp-content/uploads/2011/06/mmi-caregiving-costs-working-caregivers.pdf>
- <sup>8</sup> See note 1, p. 54.
- <sup>9</sup> U.S. Bureau of Labor Statistics. (2011, March). *Employee Benefits Survey Table 33. Leave benefits: Access, private industry workers, National Compensation Survey*. Retrieved 24 October 2011, from <http://www.bls.gov/ncs/ebs/benefits/2011/ownership/private/table21a.pdf>
- <sup>10</sup> See note 1, p. 54.
- <sup>11</sup> Galinsky, E., Sakai, K., & Wigton, T. (2008). *National Study of the Changing Workforce: Workplace Flexibility Among Small Employers* (p. 5). Families and Work Institute Publication. Retrieved 11 October 2011, from [http://www.familiesandwork.org/site/research/reports/nscw08\\_workflex\\_DOL\\_101018.pdf](http://www.familiesandwork.org/site/research/reports/nscw08_workflex_DOL_101018.pdf)
- <sup>12</sup> A "serious health condition" is defined at 29 C.F.R. § 825.113. The FMLA only covers caregiving leaves for children under certain circumstances. FMLA leave is available to parents to care for minor children and for adult children with disabilities. An employer is not required to provide FMLA leave to workers to care for a previously healthy but now seriously ill adult child unless that adult child has a disability. 29 C.F.R., § 825.122.
- <sup>13</sup> Family and Medical Leave Act of 1993, 29 C.F.R. § 825.124.
- <sup>14</sup> For more information on both of these provisions, see U.S. Department of Labor. (2010, February). *Fact Sheet #28A: The Family and Medical Leave Act Military Family Leave Entitlements*. Retrieved 11 October 2011, from <http://www.dol.gov/whd/regs/compliance/whdfs28a.htm>
- <sup>15</sup> Waldfogel, J. (2001, September). Family and Medical Leave: Evidence from the 2000 Surveys. *Monthly Labor Review*, (p.19). Retrieved 3 October 2011, from <http://www.bls.gov/opub/mlr/2001/09/art2full.pdf>
- <sup>16</sup> See note 1, p. 18.
- <sup>17</sup> Cal. Unemp. Ins. Code § 3301(a)(1).
- <sup>18</sup> N.J. Stat. Ann. §§ 43:21 et seq.
- <sup>19</sup> D.C. Code § 32-131.01(4), §32-131.02(b).
- <sup>20</sup> 2011 Conn. Acts 11-52 (Reg. Sess.). Effective January 1, 2012.
- <sup>21</sup> Calif. Fam. Code § 297.5.
- <sup>22</sup> Calif. Gov't Code § 12945.2(c)(7).
- <sup>23</sup> Conn. Gen. Stat. §§ 31-51kk. Effective October 1, 2010, all couples who entered into civil unions in Connecticut were deemed to be married. Conn. Gen. Stat. § 46b-38r. An employee is thus permitted under the plain meaning of Connecticut's family and medical leave statute to take leave to care for a same-sex spouse or the child of a same-sex spouse.
- <sup>24</sup> Conn. Gen. Stat. § 31-51kk(7).
- <sup>25</sup> *Ibid.*
- <sup>26</sup> Haw. Rev. Stat. Ann. § 398-1.
- <sup>27</sup> *Ibid.*
- <sup>28</sup> *Ibid.*
- <sup>29</sup> *Ibid.*
- <sup>30</sup> *Ibid.*
- <sup>31</sup> Haw. Rev. Stat. Ann., § 398-3.
- <sup>32</sup> Me. Rev. Stat. Ann. tit. 26, § 843(4).
- <sup>33</sup> *Ibid.*
- <sup>34</sup> Me. Rev. Stat. Ann. tit. 26, § 843(4), (8).
- <sup>35</sup> N.J. Stat. Ann. §§ 34:11B-3(a), 37:1-31.
- <sup>36</sup> N.J. Stat. Ann. § 34:11B-3(h).
- <sup>37</sup> *Ibid.*
- <sup>38</sup> Ore. Rev. Stat. § 106.340.
- <sup>39</sup> Ore. Rev. Stat. § 659A.150(4).
- <sup>40</sup> *Ibid.*
- <sup>41</sup> *Ibid.*
- <sup>42</sup> *Ibid.*
- <sup>43</sup> R.I. Gen. Laws § 28-48-1(5).
- <sup>44</sup> *Ibid.* Rhode Island also allows state employees to take family leave to care for seriously ill domestic partners.
- <sup>45</sup> Vt. Stat. Ann. tit. 15 § 1204(e)(12).
- <sup>46</sup> Vt. Stat. Ann. tit. 21 § 471(3)(B).
- <sup>47</sup> Vt. Stat. Ann. tit. 21 § 472(a).
- <sup>48</sup> Wash. Rev. Code § 49.78.020(1), (7), (17); § 49.78.904.
- <sup>49</sup> Wis. Stat. § 103.10(1).
- <sup>50</sup> *Ibid.*
- <sup>51</sup> D.C. Code § 32-501(4)(A).
- <sup>52</sup> D.C. Code § 32-501(4)(B).
- <sup>53</sup> D.C. Code § 32-501(4)(C).
- <sup>54</sup> Me. Rev. Stat. Ann. tit. 26 § 843(4)(F).
- <sup>55</sup> Ore. Rev. Stat. § 659A.159(1)(d).
- <sup>56</sup> Calif. Lab. Code § 230.8.
- <sup>57</sup> *Ibid.* Certain state executive branch employees may get an additional 20 hours of leave per year. Calif. Code Regs. tit. 2 § 599.912.
- <sup>58</sup> Calif. Lab. Code § 230.8.
- <sup>59</sup> Colo. Rev. Stat. § 8-13.3-102(4).
- <sup>60</sup> Colo. Rev. Stat. § 8-13.3-103.
- <sup>61</sup> *Ibid.*
- <sup>62</sup> Mass. Gen. Laws ch. 149, § 52D.
- <sup>63</sup> *Ibid.*
- <sup>64</sup> *Ibid.*
- <sup>65</sup> Minn. Stat. § 181.940 (Subd. 3).
- <sup>66</sup> Minn. Stat. § 181.9412.
- <sup>67</sup> *Ibid.*
- <sup>68</sup> Nev. Rev. Stat. §§ 392.457, 394.179.
- <sup>69</sup> *Ibid.*
- <sup>70</sup> *Ibid.*
- <sup>71</sup> N. C. Gen. Stat. § 95-28.3.
- <sup>72</sup> *Ibid.*
- <sup>73</sup> *Ibid.*
- <sup>74</sup> R. I. Gen. Laws § 28-48-1(3)(i).
- <sup>75</sup> R. I. Gen. Laws § 28-48-12.
- <sup>76</sup> *Ibid.*
- <sup>77</sup> Vt. Stat. Ann. tit. 21 § 471(1).
- <sup>78</sup> Vt. Stat. Ann. tit. § 472a.
- <sup>79</sup> *Ibid.*
- <sup>80</sup> D. C. Code § 32-1201(1).
- <sup>81</sup> D. C. Code § 32-1202.
- <sup>82</sup> *Ibid.*
- <sup>83</sup> Alaska Admin. Code tit. 8 § 85.095.
- <sup>84</sup> Ariz. Admin. Code § R6-3-50155(F).
- <sup>85</sup> Ark. Code Ann. § 11-10-513(b)(2).
- <sup>86</sup> Calif. Code Regs. tit. 22 § 1256-10.
- <sup>87</sup> Colo. Rev. Stat. § 8-73-108(4)(v).
- <sup>88</sup> Conn. Gen. Stat. § 31-236(a)(2).
- <sup>89</sup> Del. Code Ann. tit. 19 § 3314(1).
- <sup>90</sup> Haw. Rev. Stat. § 383-7.6.
- <sup>91</sup> 820 Ill. Comp. Stat. 405/601(B)(1).
- <sup>92</sup> Me. Rev. Stat. Ann. tit. 26 § 1193(1)(A)(1).
- <sup>93</sup> Minn. Stat. §§ 268.035, 268.095(7).
- <sup>94</sup> Letter from Cynthia Jones, Deputy Director, Nevada Department of Employment, Training and Rehabilitation, to Cheryl Atkinson, Administrator, U.S. Department of Labor. (2009, May). Retrieved 11 October 2011, from <http://www.doleta.gov/recovery/pdf/NV2-3.pdf>
- <sup>95</sup> N.H. Rev. Stat. Ann. § 282-A:32(I)(a)(6).
- <sup>96</sup> N.Y. Lab. Law § 593(1)(b)(ii).
- <sup>97</sup> N.C. Gen. Stat. §§ 96-8(27), 96-14(1).
- <sup>98</sup> Okla. Stat. tit. 40 § 2-210.
- <sup>99</sup> Ore. Admin. R. 471-030-0038(1).
- <sup>100</sup> R. I. Gen. Laws § 28-44-17(a)(3).
- <sup>101</sup> S. C. Code Ann. § 41-35-125(B).
- <sup>102</sup> Tex. Lab. Code Ann. §§ 207.046(a)(3), 207.045(d)(1), 207.045(e).
- <sup>103</sup> Wash. Rev. Code § 50.20.050(1)(b)(ii).
- <sup>104</sup> Wis. Stat. § 108.04(7)(c); State of Wisconsin Department of Workforce Development. (2011, August). *Wisconsin's Unemployment Insurance Handbook for Employers (UCB-201)*. Retrieved 14 October 2011, from <http://dwd.wisconsin.gov/ui201/b7201.htm>
- <sup>105</sup> D.C. Code §§ 2-1401.02(11B), 51-110(d)(5).





1875 Connecticut Avenue, NW | Suite 650 | Washington, DC 20009  
202.986.2600 | [www.NationalPartnership.org](http://www.NationalPartnership.org)

