

# United States<sup>1</sup>

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N.B. The United States is a federal state.

For comparisons with other countries in this review on leave provision and early childhood education and care services please see the [cross-country tables](#) at the front of the review (also available individually on the Leave Network website). To contact authors of country notes, see the [members page](#) on the Leave Network website.

## 1. Current leave and other employment-related policies to support parents

**Note on United States leave policy:** There is no statutory right to any of the types of leave or other statutory measures covered in the other country notes in this review. The federal Family and Medical Leave Act (FMLA) of 1993 provides unpaid leave for a variety of reasons, including: childbirth or the care of a newborn child up to the age of 12 months; for the placement and care of an adopted or foster child; for the care of a seriously ill child, spouse, or parent; or for a serious health condition of the employee that makes them unable to work their regular schedule. The federal Department of Labor is responsible for the FMLA. In addition, twelve states, the District of Columbia and one territory offer all or some employees the statutory right to partly paid leaves for family reasons. In March

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2022, 25 per cent of all civilian workers had access to paid family leave, and 90 per cent had access to unpaid family leave<sup>2</sup>.

#### *Length of leave (before and after birth)*

- The FMLA provides up to 12 weeks in a 12-month period. Leave is an individual entitlement (for those who are eligible, see below).

#### *Payment and funding*

- Leave under the FMLA is unpaid and job-protected, meaning that employees are guaranteed a return to the same or similar position with the same employer.

#### *Flexibility in use*

- FMLA leave may be taken in one continuous period or divided into several blocks of time.

#### *Regional or local variations in leave policy*

- Twelve states, the District of Columbia, and Puerto Rico have adopted paid leave insurance for pregnancy and/or family caregiving. All leave rights and benefits are granted as individual entitlements. For cross-national comparative purposes, we note that there are no nationality/citizenship-based eligibility requirements. Eligibility requirements concern employment (i.e., number of weeks or hours worked, employer size, etc.). We also note that since the Supreme Court struck down state-level same-sex marriage bans in June 2015, leave to care for one's spouse includes married, same-sex couples, and leave to care for children includes children of same-sex couples where there is legal guardianship. Some states cover leave to care for children for employees standing in *loco parentis* – or acting as parents regardless of legal guardianship. This is noted in the descriptions of state provisions below.
- *California* was the first state to implement a comprehensive paid family leave (PFL) law in 2004, covering all private sector employees. Some public sector employees are covered, and self-employed persons can opt in. PFL insurance allows covered employees, regardless of gender, to receive wage replacement benefits for up to eight weeks. Leave is partially paid at 60 to 70 per cent of earnings, depending on income, up to a maximum of

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<sup>2</sup> Bureau of Labor Statistics (September 2022) *National Compensation Survey: Employee Benefits in the United States, March 2022*. <https://www.bls.gov/ebs/publications/september-2022-landing-page-employee-benefits-in-the-united-states-march-2022.htm>

US\$1,620 [€1,486.37]<sup>3</sup> per week in 2023<sup>4</sup>. Starting in January 2025, the wage replacement rate will increase to 70 to 90 per cent of earnings, depending on income (as a result of new legislation signed in September 2022).<sup>5</sup> Leave is paid for childbirth, adoption, or care of a seriously ill child, grandchild, parent, parent-in-law, grandparent, spouse, or domestic partner. The definition of 'parent' under the law includes individuals serving as a parent to a child without reference to legal guardianship. PFL was created by extending the State Disability Insurance (SDI) programme to cover family caregiving needs. The SDI provides 52 weeks of wage replacement benefits for leave related to employees' own temporary disability, serious illness, or non-work-related injury. PFL and SDI benefits are funded by employee contributions, and benefit levels are adjusted annually as wages increase. The average weekly benefit for family care in 2022 was US\$841 [€771.63]<sup>6</sup>. As an insurance programme, the PFL and SDI programmes do not provide rights to job protection. Job protection is provided under other laws, such as the FMLA or the California Family Rights Act. Under a separate law, pregnant employees have the right to an additional four months of job-protected leave for disability due to pregnancy, childbirth, or related health condition (if they work for an employer with five or more employees). They can receive wage replacement under SDI, typically for four weeks prior to and six weeks after childbirth (and this is in addition to six weeks of benefit payments under the PFL for bonding). Additional weeks can be granted with proper physician certification in cases of difficult pregnancies.

- *Colorado* passed paid family leave in 2020, making Colorado the first state to establish a paid leave insurance programme via ballot initiative. Contributions to the employer-employee jointly-funded program began in January 2023, and employees will be able to access benefits starting in January 2024. The programme provides 12 weeks of paid, job-protected leave to bond with a new child (birth, adoption, foster), for self-care or to care for a family member with a serious illness or health condition, to address issues related to a family member's military service, or to address issues related to surviving domestic violence, stalking, sexual assault or abuse. Family members include a child, spouse, domestic partner, spouse's/partner's parent, grandparent, grandchild, sibling, and other individuals the beneficiary considers family regardless of biological ties. In cases of complications from birth or pregnancy, beneficiaries can access an additional four weeks of leave. Eligibility for paid benefits requires employees to have earned at least US\$2,500 [€2,293.79] at their current job. Eligibility for job protection requires 180 days of employment prior to taking leave. Employees of both the private sector and state and local government are covered, and self-employed individuals can opt in. Benefits pay 90 per cent of previous earnings that are at or below half of the statewide average weekly wage (AWW) *plus* 50 per cent of previous earnings that are above this amount. The benefit ceiling for the

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<sup>3</sup> Conversion of currency undertaken for 06 June 2023, using: <https://sdw.ecb.europa.eu/curConverter.do>.

<sup>4</sup> [https://edd.ca.gov/siteassets/files/pdf\\_pub\\_ctr/de2588.pdf](https://edd.ca.gov/siteassets/files/pdf_pub_ctr/de2588.pdf)

<sup>5</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220SB951](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB951)

<sup>6</sup> [https://edd.ca.gov/about\\_edd/Quick\\_Statistics.htm#DIStatistics](https://edd.ca.gov/about_edd/Quick_Statistics.htm#DIStatistics)

programme's first year is US\$1,100 [€1,009.27], which will be adjusted annually to equal 90 per cent of the statewide AWW<sup>7</sup>.

- *Connecticut* passed two separate laws in 2019: the Connecticut (CT) Family and Medical Leave (CTFMLA) and CT Paid Leave (CTPL). These laws went into effect beginning 1 January 2022. The CTFMLA provides eligible employees with up to 12 weeks of job-protected leave to care for a new child (birth, adoption, foster); to care for one's own health condition; care for a family member (child, parent, spouse, domestic partner, grandparent, grandchild) with a serious health condition; to address issues related to a family member's active military duty; or to serve as a bone marrow or organ donor. The CT Paid Leave Act provides eligible workers with income replacement. Unlike federal FMLA that requires employees to have been employed at least 12 months and at least 1,250 hours in the 12 months immediately preceding the commencement of leave, CT requires one to have been employed at least three months immediately preceding their first date of leave to be eligible for CT state leave.<sup>8</sup> An employee may also be eligible for two additional weeks of CT leave if incapacitated due to a serious health condition that occurs during a pregnancy. State employees are eligible for a maximum of 24 weeks of leave within a two-year period to bond with a new child. Covered employees in Connecticut are eligible for benefits if they have earned wages of at least US\$2,325 [€2,133.22] in one of the five most recently completed quarters. If your wages are less than or equal to the Connecticut minimum wage multiplied by 40, your weekly benefit rate under the PFMLA will be 95 per cent of your average weekly wage. Wage replacement is capped at 60 times the minimum wage for those with earnings above 40 times the minimum wage and 95 per cent of wages for those earning 40 times the minimum wage or less.<sup>9</sup> In July 2022, 60 times the minimum wage was equal to US\$840 [€770.71] weekly, increasing to US\$900 [€825.76] on 1 June 2023. This programme is funded by a withholding tax of 0.5 per cent of earnings. All private sector employees are covered, and self-employed individuals can opt into the programme.
- *Delaware* enacted the Healthy Delaware Families Act in 2022, establishing paid family leave insurance in the state.<sup>10</sup> The insurance program is jointly funded by employees (payroll contributions) and employers. Premiums start in January 2025 and benefits start in January 2026. Eligible employees can access 12 weeks of wage replacement benefits during Parenting leave or six weeks for family or medical leave. Leave is job protected, and employers are required to continue benefit coverage (e.g., health care) during leave. Leave benefits cover 80 per cent of the employee's average weekly wages with a \$100 [€91.75] minimum weekly benefit. In 2026 and 2027, the weekly benefit is capped at \$900 [€825.76]. After 2027, the benefit cap

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<sup>7</sup> <https://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2019-2020/283Final.pdf>

<sup>8</sup> <https://portal.ct.gov/-/media/DAS/Statewide-HR/A---Z-Listing-Task-PDFs/Family-Medical-Love-DAS-General-Letter-39.pdf>

<sup>9</sup> <https://portal.ct.gov/Office-of-the-Governor/News/Press-Releases/2019/06-2019/Governor-Lamont-Signs-Historic-Law-Enacting-Family-and-Medical-Love-in-Connecticut>

<sup>10</sup><https://legis.delaware.gov/json/BillDetail/GenerateHtmlDocumentSessionLaw?sessionLawId=79186&docTypeId=13&sessionLawName=chp301>

increases in proportion to increases in the Consumer Price Index. Eligibility requires employment for 12 months for at least 1,250 hours with an employer before taking leave from that employer. For employers with 10-25 employees, benefits for employees cover Parenting leave only. For employers with more than 25 employees, benefits cover parenting, family, and medical leave. Parenting leave can be used to care for a new born, newly adopted or newly placed foster child. Family leave can be taken to care for a seriously ill parent, spouse or child. Leave can be taken intermittently or used to reduce the employee's regular schedule. Employers are required to post information about these leave rights and benefits in English but also Spanish or other languages if it is the language spoken by at least five per cent of the workforce.

- *Hawaii's* insurance programme, first enacted in 1969, uniquely focuses on pregnancy and childbirth. Hawaii does not have a *paid* family leave program. Hawaii provides up to 26 weeks of partial wage replacement under its Temporary Disability Insurance (TDI) programme for leave to address health issues related to pregnancy and childbirth (certified by a health professional). Benefits are 58 per cent of average weekly wages, paid up to a limit which is set annually. In 2023, that ceiling was US\$765 [€701.90] per week<sup>11</sup>. To be eligible for TDI benefits, employees must be employed and have worked for at least 14 weeks, for at least 20 hours per week for those 14 weeks in the year preceding leave. Under the Hawaii Family Leave Law and rules, an employee may be eligible for up to four weeks of *unpaid* family leave each calendar year for the birth or adoption of a child, or to care for his / her child, spouse, reciprocal beneficiary, or parent with a serious health condition. An employee may substitute accrued paid leave (i.e., vacation or sick leave) for any part of the State Family Leave. However, only the accrued and available sick leave in excess of the 15 days required under the State's self-insured Temporary Disability Benefits Plan, can be applied toward family leave purposes. To be eligible for State Family Leave benefits, an employee must have worked for at least six consecutive months with the State. If an employee qualifies for both State Family Leave and FMLA, both leave periods will run concurrently.
- *Maryland* adopted paid family and medical leave in 2022. Contributions to the state Family and Medical Leave Insurance (FAMLI) Fund will begin October 1, 2023, and workers can submit claims for benefits beginning on January 1, 2025. Eligible employees may take up to 12 weeks to care for a child in the first year following birth or after the placement of a child through foster care, kinship care, or adoption; to care for themselves or a family member with a serious health condition; to care for a service individual who is next of kin; or because of a qualifying exigency arising out of deployment of a service member who is a family member. Covered individuals may take an additional 12 weeks of leave if the individual is eligible for leave both due to bonding with a new child and to care for their own serious health condition. Workers are eligible if they worked at least 680 hours in the year prior to the date on which leave is to begin, and self-employed workers can opt-in. Wage replacement is 90 percent of the worker's AWW up to 65 per

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<sup>11</sup><https://labor.hawaii.gov/dcd/files/2019/11/newWBA.pdf>

cent of the state AWW plus 50 per cent of the worker's AWW that is greater than 65 per cent of the state AWW up to a maximum of US\$1,000 [€917.52] per week. For workers earning less than 65 per cent of the state AWW, wage replacement is 90 per cent. Leave is job protected, although there are certain circumstances in which employers may refuse to protect the job. Funding for FAMLII will come from employees, employers with 15 or more employees, and self-employed individuals who opt-in.<sup>12</sup>

- *Massachusetts* adopted paid family medical leave in 2018. The programme provides: up to 12 weeks to care for a new-born, newly adopted, or newly placed foster child; up to 20 weeks to address one's own serious medical condition, including pregnancy- and childbirth-related health issues; up to 12 weeks to care for a family member (i.e., parent, spouse, child, domestic partner, grandparent, grandchild, sibling, parent-in-law, and domestic partner's parent); up to 26 weeks to address issues related to the military deployment of a family member or a family member's serious illness or injury incurred in active military duty; and up to 26 weeks of combined medical and family caregiving leave. Employees standing in *loco parentis* to a child can take leave to care for the child. The wage replacement rate is 80 per cent of average weekly wages, up to 50 per cent of the state-wide average weekly wage (AWW), plus 50 per cent of wages beyond that amount up to a cap of US\$1,129.82 [€1,036.63] per week.<sup>13</sup> Eligible employees began making payroll contributions to the fund in July 2019 and benefits began in 2021. To be eligible, employees must work at least 15 weeks and earn at least US\$6000 [€5,505.09] in the past year and earned at least 30 times more than they are eligible to receive each week in benefits<sup>14</sup>. The programme covers all private sector and most public sector employees<sup>15</sup>. Self-employed individuals can opt in.
- *New Jersey's* Family Leave Insurance (FLI) provides workers with up to 12 weeks of benefits during leave, covering 85 per cent of prior earnings with a maximum weekly benefit of US\$1,025 (€940.45) in 2023. To qualify, employees must have worked 20 weeks, earning \$260 [€238.55] weekly in 2023, or have earned \$13,000 [€11,927.70] in 2023 for the preceding four quarters. Benefits cover leave to care for a parent, spouse, child, domestic or civil union partner, partner's child, sibling, grandparent, grandchild, parents-in-law, any blood relative, and any person who is considered equivalent to family. The measure is financed by employee payroll deductions and covers all private sector employers, and some public employees.<sup>16,17</sup> Benefit payments for paid family leave do not run concurrent with temporary disability insurance (TDI) benefit payments for leave related to pregnancy and childbirth. Under TDI, pregnant employees can receive

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<sup>12</sup> [https://mgaleg.maryland.gov/2022RS/chapters\\_noln/Ch\\_48\\_sb0275E.pdf](https://mgaleg.maryland.gov/2022RS/chapters_noln/Ch_48_sb0275E.pdf)

<sup>13</sup> [https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-overview-and-benefits#what-is-paid-family-and-medical-leave-\(pfml\)?-](https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-overview-and-benefits#what-is-paid-family-and-medical-leave-(pfml)?-)

<sup>14</sup> [https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-overview-and-benefits#what-is-paid-family-and-medical-leave-\(pfml\)?-](https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-overview-and-benefits#what-is-paid-family-and-medical-leave-(pfml)?-)

<sup>15</sup> <https://www.mass.gov/info-details/your-eligibility-for-paid-family-and-medical-leave-pfml>

<sup>16</sup> <https://www.myleavebenefits.nj.gov/labor/myleavebenefits/worker/fli/>

<sup>17</sup> [http://lwd.dol.state.nj.us/labor/forms\\_pdfs/tdi/FLI%20Summary%20Report%20for%202015.pdf](http://lwd.dol.state.nj.us/labor/forms_pdfs/tdi/FLI%20Summary%20Report%20for%202015.pdf)

wage replacement for four weeks prior to the anticipated delivery date and six weeks after delivery.

- *New York* enacted a comprehensive paid family leave policy in 2016 that was phased in beginning in 2018. It provides 12 weeks of job-protected, paid leave to care for a new child, a seriously ill parent, spouse, domestic partner, child, grandparent, or grandchild, or to relieve family pressures when a spouse, domestic partner, child, parent, or sibling (beginning January 2023) is called to active military service abroad. Employees standing in *loco parentis* to a child can take leave to care for the child. Benefits pay 67 per cent of an employee's AWW, capped at 67 per cent of the state-wide AWW, with a maximum of US\$1,131.08 [€1,037.78] per week in 2023<sup>18</sup>. The paid family leave programme is funded entirely through employee payroll deductions. Employees are eligible to participate after having worked for their employer for 26 weeks full-time or 175 days part-time. In addition to the paid family leave programme, the TDI programme provides up to 26 weeks for pregnancy and childbirth, paid at 50 per cent of average weekly wages up to a cap of US\$170 [€155.98] per week. Benefit payments cover leave for medical issues related to pregnancy and/or childbirth, and requires the submission of medical reports. This leave is managed through the TDI programme, which is jointly funded by employees and employers<sup>19</sup>. Self-employed individuals can opt in to the insurance programmes. As of 1 January 2022, PFL's benefits have been extended to domestic workers who work 20 or more hours a week, provided they have been employed for 26 consecutive weeks<sup>20</sup>.
- *Oregon* passed paid family leave in July 2019. Contributions to Paid Family and Medical Leave Insurance (PFMLI) began January 1, 2023, and benefits will first be disbursed starting September 3, 2023.<sup>21</sup> Eligible employees may take up to 12 weeks in a benefit year to care for themselves or a family member, and up to two additional weeks for pregnancy, childbirth, or related circumstances. In some situations, up to 18 weeks may be taken in a benefit year, though four of those weeks may be unpaid<sup>22</sup>. Wage replacement is 65 per cent of state AWW plus 50 per cent of wages above the state AWW up to a maximum of US\$1,469.78 [€1,348.55] per week.<sup>23</sup> Low-income workers will receive 100 per cent of their AWW. This program will be funded by a payroll tax, with employees paying 60 per cent and employers paying 40 per cent (businesses with fewer than 25 employees will be exempt from paying taxes though their employees will still be covered). Employees who earned at least US\$1,000 [€917.52] in the year they apply for paid leave are eligible for benefits, meaning that almost all employees, including part-time employees, are covered<sup>24</sup>.
- *Rhode Island's* paid family leave programme (referred to as Temporary Caregiver Insurance) went into effect in 2014 and provides job protection and extends the state's existing TDI programme to provide paid leave to

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<sup>18</sup> <https://paidfamilyleave.ny.gov/2023>

<sup>19</sup> <http://www.wcb.ny.gov/content/main/DisabilityBenefits/Employer/introToLaw.jsp>

<sup>20</sup> <https://paidfamilyleave.ny.gov/2022>

<sup>21</sup> [https://www.oregon.gov/employ/PFMLI/Documents/Milestone%20Newsletter\\_Final.pdf](https://www.oregon.gov/employ/PFMLI/Documents/Milestone%20Newsletter_Final.pdf)

<sup>22</sup> [https://www.oregon.gov/employ/PFMLI/Documents/PFMLI\\_003\\_0921.pdf](https://www.oregon.gov/employ/PFMLI/Documents/PFMLI_003_0921.pdf)

<sup>23</sup> <https://www.thehartford.com/paid-family-medical-leave/or>

<sup>24</sup> [https://www.oregon.gov/employ/PFMLI/Documents/PFMLI\\_003\\_0921.pdf](https://www.oregon.gov/employ/PFMLI/Documents/PFMLI_003_0921.pdf)

care for a new child or a parent, spouse, child, domestic partner, grandparent, or parent-in-law with a serious health condition. The programme is financed by employee payroll deductions and provides up to six weeks of leave paid at 60 per cent of previous weekly earnings with a maximum of US\$1,007 [€923.94] per week beginning on or after 1 July 2022.<sup>25</sup> It covers all private sector employees and some public sector employees. Pregnant employees qualify separately for job-protected paid leave through the TDI programme. TDI covers leave to address medical issues related to pregnancy and childbirth (child bonding is covered by the Temporary Caregiver Insurance). The weekly benefit rate is 4.62 per cent of previous earnings in the highest-earning quarter of the employee's base period (i.e., first four of the previous five quarters of employment).

- The *state of Washington* adopted paid family leave insurance in 2017. Employees began contributing to the insurance fund in 2019, and, starting in 2020, the programme provides wage replacement during leave to: care for a new-born, newly adopted, or newly placed foster child; or a parent, spouse, domestic partner, child, grandchild, grandparent, or sibling with a serious health condition; or to address issues related to a family member's active military duty. Employees standing in *loco parentis* to a child can take leave to care for the child. Leave can also be used to address an employee's own health issues, including those related to pregnancy or childbirth. Benefits pay 90 per cent of the employee's average weekly wages for employees who earn 50 per cent or less of the state-wide AWW. Employees who earn more receive 90 per cent of their AWW, up to 50 per cent of the state-wide AWW, then 50 per cent of their AWW that exceeds 50 per cent of the state-wide AWW. In 2022, the maximum weekly benefit is US\$1,427 [€1,309.29]. Benefits are paid for up to 12 weeks for either medical or family leave, 16 weeks for combined self-care and family caregiving, or for up to 18 weeks to address a serious pregnancy-related health condition combined with family caregiving needs. To be eligible, employees must have worked at least 820 hours in four out of five previous quarters. Rights to job protection cover only employees in establishments of 50 or more employees, plus require 12 months and 1,250 hours of employment. Self-employed individuals can opt in<sup>26</sup>. The program is funded through premiums paid by both employees and employers. As of 1 January 2023, the premium rate is 0.80 per cent of each employee's gross wages, not including tips, up to the 2023 Social Security cap (US\$160,200 [€146,985.96]). Employers with 50+ employees will pay up to 27.24 per cent and employees will pay 72.76 per cent.<sup>27</sup>
- The *District of Columbia* passed the Universal Paid Leave (UPL) Amendment Act in 2017. The benefits were phased in, and beginning 1 October 2022, UPL allows up to 12 weeks of paid parental leave for a new-born, newly adopted, or newly placed foster child; 12 weeks of family leave to care for a parent, spouse, child, domestic partner, grandparent, or sibling; 12 weeks of medical leave to address one's own serious health condition; and two

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<sup>25</sup><https://dlt.ri.gov/individuals/temporary-disability-caregiver-insurance>

<sup>26</sup> <https://paidleave.wa.gov/find-out-how-paid-leave-works/>

<sup>27</sup> <https://paidleave.wa.gov/updates/>



weeks prenatal leave<sup>28</sup>. Employees standing in *loco parentis* for a child can take leave to care for the child. The Act covers all private sector employees covered by the D.C. Unemployment Compensation Act. Self-employed individuals can opt in. Leave is job-protected, and benefit payments are 90 per cent of the employee's AWW, up to a cap of US\$1,049 [€962.47] per week.<sup>29</sup>

- *Puerto Rico's Working Mothers Act* (1942) provides an eight-week maternity leave at 100 per cent of earnings that must begin one to four weeks prior to the expected delivery date. The disability law permits employee contributions at the rate of 0.3 per cent of wages up to US\$9,000 [€8,257.64]. The maximum weekly benefit is US\$113 [€103.68] (US\$55 [€50.46] for agricultural workers). These statutory amounts have not changed since July 1972<sup>30</sup>. A female employee who adopts a child under the age of six is entitled to the same leave benefits as a person who gives birth<sup>31</sup><sup>32</sup>. In 2020, the Working Mothers Act was updated to extend the right to up to five weeks of maternity leave to working mothers who adopt children six years of age and older. The law does not extend the right to the leave to working fathers<sup>33</sup>.

#### *Eligibility (e.g., related to employment or family circumstances)*

- The federal FMLA covers all employees (including foreign workers who have a valid work visa<sup>34</sup>) who work for a covered employer (see 'additional note' below) and who have worked for that employer for at least one year (even if not for a continuous period) for at least 1,250 hours over the preceding 12 months.
- FMLA defines a child as a biological, adopted, or foster child, stepchild, legal ward, or a child of a person standing *in loco parentis*<sup>35</sup>. As such, a same-sex parent may take leave under FMLA to care for their child, even if they are not an adoptive parent.
- Because of the qualifying conditions, only about 58 per cent of workers in private firms are eligible for federal FMLA, with lower coverage for low-wage workers, workers with young children, and working welfare recipients<sup>36</sup>.

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<sup>28</sup> <https://does.dc.gov/page/dc-paid-family-leave>

<sup>29</sup> <https://dcpaidfamilyleave.dc.gov/workers/>

<sup>30</sup> <https://www.mercer.com/our-thinking/law-and-policy-group/2023-state-paid-family-and-medical-leave-contributions-and-benefits.html>

<sup>31</sup> <http://www.oslpr.org/download/en/2000/0120.pdf>

<sup>32</sup> <http://www.oslpr.org/download/en/2000/0425.pdf>

<sup>33</sup> <https://www.littler.com/publication-press/publication/puerto-rico-enacts-law-extending-maternity-leave-mothers-adopting>

<sup>34</sup> <https://www.dol.gov/whd/regs/compliance/FactSheet62/whdfs62I.pdf>

<sup>35</sup> <https://www.dol.gov/whd/fmla/adultchildfaqs.htm>

<sup>36</sup> Council of Economic Advisors (2014) *The Economics of Paid and Unpaid Leave*. Washington, DC: Office of the President.

*Variation in leave due to child or family reasons (e.g., multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the mother*

- None.

*Additional note (e.g., if leave payments are often supplemented by collective agreements; employer exclusions or rights to postpone)*

- The Federal Employee Paid Leave Act (FEPLA) provides federal employees up to 12 weeks of paid time off for the birth of a child or the placement of a child for adoption or foster care. Federal employees became eligible to take leave beginning October 2020. Leave may be used only during the 12-month period beginning on the date of the birth or placement involved as long as an employee has a continuing parental role with the child whose birth or placement was the basis for the leave entitlement. To receive paid leave benefits under FEPLA, federal employees must meet FMLA eligibility requirements.
- The majority of US workers lack access to paid family leave from any source. Only 24 per cent of private sector employees have access to paid family leave through their employers and 27 per cent of state and local government workers do<sup>37</sup>.
- Federal FMLA exempts private employers and non-profit organisations with fewer than 50 employees within a 75-mile radius (all public sector employees are covered).
- New Hampshire provides paid family leave to all state employees. New Hampshire has also created a voluntary paid family and medical leave (PFLM) insurance program for private employers and employees. This program provides either 6 or 12 weeks of leave to bond with a child during the first year of birth including placement for adoption or fostering; to care for themselves or a family member with a serious health condition; to care for a service individual who is a family member or next of kin; or for any qualifying urgent demand due to a family member being a covered service member. Individuals with PFLM insurance receive 60 per cent wage replacement up to the social security wage cap. Employers who purchase PFLM for their employees are eligible for a 50 per cent tax credit on premiums paid<sup>38</sup>.
- Vermont established the Vermont Family and Medical Leave Insurance Plan (VT-FMLI) in 2022. State employees will be covered beginning in 2023, but VT-FMLI is a voluntary insurance program for private employers and employees. Employers can opt-in beginning in 2024, and non-covered individuals can opt-in beginning in 2025. VT-FMLI provides six weeks of leave to bond with a child during the first year of birth, including placement for adoption or fostering; to care for themselves or a family member with a serious health condition; to care for a service individual who is a family member or next of kin; or for any qualifying urgent demand due to a family

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<sup>37</sup> Bureau of Labor Statistics (March 2022). Employee Benefits in the United States. <https://www.bls.gov/ebs/latest-numbers.htm>

<sup>38</sup> <https://www.paidfamilymedicalleave.nh.gov/>

member being a covered service member. Individuals with VT-FMLI insurance receive 60 per cent wage replacement<sup>39</sup>.

### *Specific provision for (breast)feeding*

- The Fair Labor Standards Act, amended by the Affordable Care Act in 2010, requires that employers provide hourly workers with reasonable break time for an employee to express breast milk for her nursing child up to one year after the child's birth and a place, other than a bathroom, that is private and free from intrusion to be used by an employee to express breast milk. Employers with fewer than 50 employees may seek to be excused from these requirements if they can show that these requirements would impose an undue hardship on the employer<sup>40</sup>.
- The Fifth Circuit of the federal Court of Appeals recently decided that discriminating against a female employee because she is lactating or seeking to express breast milk may constitute sex discrimination under the Pregnancy Discrimination Act and Title VII of the Civil Rights Act.

### *Flexible working*

- The U.S. Department of Labor states that flexible work arrangements are 'a matter of agreement' between employers and employees<sup>41</sup>.
- Some states have 'fair workweek laws', but many of these laws only provide employees the right to request schedule changes without retaliation or protect against employer-driven flexibility, such as advanced scheduling or partial compensation when shifts are cancelled or reduced<sup>42</sup>.

## **2. Relationship between leave policy and early childhood education and care policy**

- There is no statutory entitlement to paid leave or to Early Childhood Education and Care (ECEC).
- For ECEC attendance levels, see 'relationship between leave and ECEC entitlements' on the [cross-country comparisons](#) page.

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<sup>39</sup> <https://governor.vermont.gov/press-release/governor-phil-scott-launches-voluntary-paid-family-and-medical-leave-program>

<sup>40</sup> U.S. Department of Labor (January 2023). Fact Sheet #73: FLSA Protections for Employees to Pump Breast Milk at Work. <https://www.dol.gov/agencies/whd/fact-sheets/73-flsa-break-time-nursing-mothers>.

<sup>41</sup> See: <https://www.dol.gov/general/topic/workhours/flexibleschedules>

<sup>42</sup> <https://www.abetterbalance.org/wp-content/uploads/2021/08/Updated-Fair-Flexible-Fact-Sheet.pdf>

### **3. Changes in policy since April 2022 (including proposals currently under discussion)**

#### *Federal leave*

Support is building for a federal paid leave initiative, yet the partisan divide in Congress and debates about funding a federal paid leave policy pose notable barriers to passing legislation.

In February 2023, marking the thirtieth anniversary of the FMLA, members of the 118<sup>th</sup> Congress announced plans to introduce a set of three bills to reform federal leave provisions<sup>43</sup>. At the time of this report, two bills have been introduced, and a third is still planned:

1) Representative Casten and Senator Duckworth introduced the Education Support Professionals (ESP) Family Leave Act (H.R.770 and S.226)<sup>44</sup>, which would extend FMLA coverage to education support professionals and school support staff;

2) Representative Underwood and Senator Smith introduced the Job Protection Act (H.R.694 and S.210)<sup>45</sup>, which would reduce the FMLA eligibility requirement from 12 months to 90 days of employment prior to taking leave and extend FMLA coverage to all employers (as opposed to covering employers with 50 or more employees as it stands currently); and

3) Representative DeLauro and Senator Gillibrand announced plans to re-introduce the FAMILY Act. The previously introduced legislation (H.R. 804/S.248 in the 117<sup>th</sup> Congress) would create a national paid family leave insurance program modelled after state programs. The jointly employer-employee funded program would provide workers with up to 12 weeks of wage replacement benefits during leave for pregnancy, to care for a newborn or newly adopted child, to recover from a serious illness or injury, or to care for a seriously ill family member. The coverage would include the self-employed and would be portable, meaning that workers can keep their benefits if they change jobs. Benefits would provide 66 per cent wage replacement with a monthly cap of US\$4,000 [€3,670.06]. This bill has not yet been re-introduced.

#### *State level*

- In 2022, two more states established paid family and medical leave insurance programs. Maryland became the 10<sup>th</sup> state to enact a state-level paid family leave policy with the Time to Care Act, and Delaware adopted the Healthy Delaware Families Act, creating a similar program for this state.

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<sup>43</sup> <https://delauro.house.gov/media-center/press-releases/ahead-30th-anniversary-fmla-democratic-lawmakers-hold-press-conference>.

<sup>44</sup> The House Bill (H.R.770) can be read here: <https://www.congress.gov/118/bills/hr770/BILLS-118hr770ih.pdf>; The Senate Bill (S.226) can be read here: <https://www.congress.gov/118/bills/s226/BILLS-118s226is.pdf>

<sup>45</sup> The House Bill (H.R. 694) can be read here: <https://www.congress.gov/118/bills/hr694/BILLS-118hr694ih.pdf>; the Senate Bill (S.210) can be read here: <https://www.congress.gov/118/bills/s210/BILLS-118s210is.pdf>

For details on each of these state programs, see “*Regional or local variations in leave policy*” under Section 1 above.

- Of the states that already provide paid family leave, only California passed additional reforms. In September 2022, California passed a law (SB 951) to increase the wage replacement rate for paid family leave (effective 1 January 2025). In a separate reform, California also extended existing rights to paid sick leave and (unpaid) job-protected leave (under the California Family Rights Act), allowing leave to be used to care for a “designated person” who is either blood-related or in a family-like relationship with the employee taking leave (AB 1041, signed in September 2022)<sup>46</sup>.

## 4. Uptake of leave

- A 2018 survey found that only 15 per cent of US workers eligible for the federal FMLA took leave in the past year for any covered reason. Of these, about half took leave for their own illness; 25 per cent took leave for reasons related to a new child; and about a third took multiple occasions of leave for the same reason<sup>47</sup>. Though the law provides *de facto* parental leave entitlements, studies have found it has had generally small effects on mothers’ likelihood of taking time off from work at childbirth<sup>48 49</sup>, and little or no effects on time off taken by new fathers<sup>9 10</sup>. Based on two national surveys, only 4-6 per cent of fathers take more than two weeks of Paternity leave<sup>50</sup>. This suggests there are limits to the extent to which families are willing and able to use unpaid leave. In contrast, evidence suggests that workers are much more likely to use paid leave. A recent report shows that among workers who have access to paid family or parental leave, 87 per cent of women and 59 per cent of men use at least half of the paid parental/family leave that they have access to (66 per cent of women and 36 per cent of men use all available paid leave)<sup>51</sup>. Also, implementation of California’s PFL law increased the leave-taking of new fathers by 46 per cent and new mothers by 13 per cent<sup>52</sup>.

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<sup>46</sup>[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB1041](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1041)

<sup>47</sup> Brown, S., Herr, J., Roy, R., and Klerman, J.A. (2020). *Employee and Worksite Perspectives of the Family and Medical Leave Act: Results from the 2018 Surveys*. Washington, D.C.: Abt Associates. [https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHD\\_FMLA2018SurveyResults\\_FinalReport\\_Aug2020.pdf](https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHD_FMLA2018SurveyResults_FinalReport_Aug2020.pdf)

<sup>48</sup> Han, W.J. and Waldfogel, J. (2003) ‘Parental leave: The impact of recent legislation on parents’ leave-taking’, *Demography*, 40(1): 191-200.

<sup>49</sup> Han, W.J., Ruhm, C., and Waldfogel, J. (2009) ‘Parental leave policies and parents’ employment and leave-taking’, *Journal of Policy Analysis and Management*, 26(1): 29-54.

<sup>50</sup> Petts, R. J., Knoester, C., and Li, Q. (2020) ‘Paid paternity leave-taking in the United States’, *Community, Work & Family*, 23(2): 162-183.

<sup>51</sup> <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Documents/2017%20Employee%20Benefits%20Report.pdf>

<sup>52</sup> Bartel, A. P., Rossin-Slater, M., Ruhm, C. J., Stearns, J., and Waldfogel, J. (2018) ‘Paid family leave, fathers’ leave-taking, and leave-sharing in dual earner households’, *Journal of Policy Analysis and Management*, 37: 10-37.