

# United States<sup>1</sup>

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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.

**Note on United States leave policy:** The United States is a federal state. 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. Federal, state and local leave policies tend to provide coverage for care of a new child and time to care for a seriously ill member of one's family or oneself. 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 new-born 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, eight states, the District of Columbia and one territory offer all or some employees the statutory right to partly compensated leaves for family reasons. In March 2018, 17 per cent of all civilian workers had access to paid family leave, and 89 per cent had access to unpaid family leave.<sup>2</sup>

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<sup>2</sup> Bureau of Labor Statistics (September 2018). National Compensation Survey: Employee Benefits in the United States, March 2018, Bulletin 2789. <https://www.bls.gov/ncs/ebs/benefits/2018/home.htm>

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

### *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*

- Eight 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. Any 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 six weeks. On July 1, 2020, leave will increase to eight weeks. Leave is partially paid at 60 to 70 per cent of earnings, depending on income, up to a

maximum of US\$1,300 [€1,097.23]<sup>3</sup> per week in 2020. 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 December 2018 was US\$670<sup>4</sup> [€565.50]. 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.

- **Massachusetts** adopted paid family medical leave in 2018. The programme provides: up to 12 weeks to care for a newborn, 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\$850 [€717.42] per week. Eligible

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<sup>3</sup> Conversion of currency undertaken for 31 July 2020, using: [https://www.ecb.europa.eu/stats/policy\\_and\\_exchange\\_rates/euro\\_referen ce\\_exchange\\_rates/html/eurofxref-graph-usd.en.html](https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_referen ce_exchange_rates/html/eurofxref-graph-usd.en.html)

<sup>4</sup> [https://www.edd.ca.gov/about\\_edd/pdf/qspfl\\_Avg\\_WBA.pdf](https://www.edd.ca.gov/about_edd/pdf/qspfl_Avg_WBA.pdf)

employees began making payroll contributions to the fund in July 2019 and can start receiving benefits in January 2021 (but for family caregiving purposes, benefits start in July 2021). To be eligible, employees must work at least 15 weeks and earn at least US\$4700 [€3,966.91] in the 12-month period prior to taking leave. The programme covers all private sector and most public sector employees.<sup>5</sup> Self-employed individuals can opt in.

- **New Jersey** implemented paid family leave insurance in 2009. The legislation extends the state's existing TDI system (which previously provided paid leave to address medical issues related to pregnancy and childbirth) to provide workers with up to six weeks of benefits. The maximum weekly benefit levels are \$881 (€743.59) per week. Benefits cover leave to care for a parent, spouse, child, domestic or civil union partner, or partner's child, including care for a child for an employee with a parent-child relationship regardless of legal guardianship. The measure is financed by employee payroll deductions and covers all private sector employers, and some public employees.<sup>6,7</sup> Benefits payments for paid family leave do not run concurrent with TDI benefit payments for leave related to pregnancy and childbirth. Under TDI, pregnant employees can receive wage replacement for four weeks prior to the anticipated delivery date and six weeks after delivery.
- **New York** implemented its paid family leave programme in January 2018. The programme provides 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, or parent is called to active military service abroad. Employees standing in *loco parentis* to a child can take leave to care for the child. In 2019, the programme provided job protection and wage replacement for ten weeks. In 2021, the duration should increase to 12 weeks, at which point the programme will be fully phased-in. Benefits pay 60 per cent of an employee's AWW, capped at 60 per cent of the state-wide AWW, with a maximum of US\$840.70<sup>8</sup> [€709.57] per week in 2020. When fully implemented in 2021, the programme will provide 67 per cent of the employee's AWW, capped at 67 per cent of the state-wide AWW. The paid family

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<sup>5</sup> <https://www.mass.gov/info-details/paid-family-medical-leave-for-employees-faq>

<sup>6</sup> <https://myleavebenefits.nj.gov/worker/fli/>

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[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)

<sup>8</sup> <https://paidfamilyleave.ny.gov/2019>

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 [€143.48] 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>9</sup> Self-employed individuals can opt in to the insurance programmes.

- **Rhode Island's** paid family leave programme (referred to as Temporary Caregiver Insurance) was implemented in 2014. The legislation provides job protection and extends the state's existing TDI programme to provide four weeks of paid leave to 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 60 per cent of previous weekly earnings, with a maximum of US\$867 [€731.77] per week in 2020.<sup>10</sup> It covers all private sector employees and some public sector employees. In 2018, the average weekly benefit was US\$551 [€465.06] for caregiving.<sup>11</sup> 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 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 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.

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

<sup>10</sup> [http://www.dlt.ri.gov/News\\_Releases/NR062818.htm](http://www.dlt.ri.gov/News_Releases/NR062818.htm)

<sup>11</sup> <http://www.dlt.ri.gov/lmi/pdf/tdi/2018.pdf>

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. Benefits are paid for up to 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.

- The **District of Columbia** passed the Universal Paid Leave Amendment Act in December 2016, which provides eight weeks of paid Parental leave for a new-born, newly adopted, or newly placed foster child; six weeks of family leave to care for a parent, spouse, child, domestic partner, grandparent, or sibling; two weeks of medical leave to address one's own serious health condition; and up to eight weeks in total of combined medical and family caregiving leave. 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. In July 2019, employees started contributing to the fund through payroll deductions and, beginning in July 2020, employees can receive benefits. Leave is job-protected, and benefit payments are 90 per cent of the employee's AWW, up to a cap of US\$1,000 [€844.02] per week.<sup>12</sup> For employees with average weekly wages above US\$1000 [€844.02], the wage replacement rate is 80 per cent.<sup>13</sup> Beginning in 2021, the maximum benefit will be increased annually to account for inflation.<sup>14</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. A female employee who adopts a child under the age of six is entitled to the same leave benefits as a mother who gives

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[https://does.dc.gov/sites/default/files/dc/sites/does/publication/attachments/PFL%20Employee%20FAQ\\_0.pdf](https://does.dc.gov/sites/default/files/dc/sites/does/publication/attachments/PFL%20Employee%20FAQ_0.pdf)

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[https://does.dc.gov/sites/default/files/dc/sites/does/page\\_content/attachments/PFL%20Sample%20Benefit%20Amount%20Chart.pdf](https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/PFL%20Sample%20Benefit%20Amount%20Chart.pdf)

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<http://www.nationalpartnership.org/research-library/work-family/paid-leave/state-paid-family-leave-laws.pdf>

birth.<sup>15,16</sup> In addition to these states, **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 2018, that ceiling was US\$620<sup>17</sup> [€523.29]. 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, and have earned at least US\$400 [€337.61] 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 fifteen (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.

*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>18</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); and 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>19</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

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<sup>15</sup> <http://www.oslpr.org/download/en/2000/0120.pdf>

<sup>16</sup> <http://www.oslpr.org/download/en/2000/0425.pdf>

<sup>17</sup> <http://labor.hawaii.gov/dcd/frequently-asked-questions/tdi/>

<sup>18</sup> <https://www.dol.gov/whd/regs/compliance/FactSheet62/whdfs62I.pdf>

<sup>19</sup> <https://www.dol.gov/whd/fmla/adultchildfaqs.htm>

coverage for low-wage workers, workers with young children, and working welfare recipients.<sup>20</sup>

*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 majority of US workers lack access to paid family leave from any source. The 2011 *American Time Use Survey* provided detailed information on employees' access to paid family leave, through statutory provision in the states that provide paid leave, collective bargaining agreements, or individual workplace policies. Twenty-eight per cent of employees indicated they had access to paid leave for childcare, while 43 per cent had access to leave to care for an ill family member.<sup>21</sup> Only 17 per cent of workers in the United States have access to paid family leave through their employers; 16 per cent of private sector employees have access to paid family leave through their employers; and 25 per cent of state and local government workers do.<sup>22</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).

*Flexible working*

- None.

*Specific provision for (breast)feeding*

- The Fair Labour Standards Act, amended by the Affordable Care Act in 2012, requires that an employer with 50 or more employees must provide its hourly workers with: a reasonable break 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.

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<sup>20</sup> Council of Economic Advisors (2014) *The Economics of Paid and Unpaid Leave*. Washington, DC: Office of the President.

<sup>21</sup> An update of this survey was conducted in 2017, but data was not released until after this report was completed (Summer 2018).

<sup>22</sup> U.S. Department of Labor (2018) *National Compensation Survey: Employee Benefits in the United States – March 2018*. Bulletin 2789.



- 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.

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

There is no statutory entitlement to leave or ECEC. Levels of attendance at formal ECEC services for children under three years of age are above average both for the countries participating in this review and for OECD countries, but below average for children over three years of age. For actual attendance levels, see 'relationship between leave and ECEC entitlements' on [cross-country comparisons](#) page.

## **3. Changes in policy since April 2019 (including proposals currently under discussion)**

### Federal leave

Support is building for a federal paid leave initiative yet the partisan divide in Congress is likely to prevent legislation from being passed by the current Congress, where Democrats hold the House and Republicans control the Senate. Paid-family-leave proposals could become an issue in the 2020 presidential and congressional campaigns.

A number of proposals have been introduced or reintroduced in Congress including:

- *The Family and Medical Insurance Leave (FAMILY) Act* provides partial wage replacement for all FMLA qualifying events funded by a payroll tax on employers and employees. With 179 Democratic co-sponsors the legislation is expected to pass the House but it has no Republican support and has little chance in the Republican controlled Senate.
- *The Working Parents Flexibility Act of 2019* would establish tax-exempt parental leave savings accounts for childcare funded by employees and employers. This measure has some bipartisan support. It was first introduced in 2016.
- *The New Parents Act* allows new parents to draw from their Social Security for paid leave lasting one, two or three months in exchange for delaying or reducing future Social Security benefits. Parents also could choose to keep working full-time or part-time and use the extra funds to pay for childcare expenses. Those using the benefit would increase their Social Security retirement age by three to six months per benefit taken or receive a proportionate reduction in monthly retirement benefits for the first five years of retirement, as

determined by the Social Security Administration (SSA) each year. This bill has no Democrat supporters.

- *The Child Rearing and Development Leave Empowerment (CRADLE) Act* would let parents receive up to three months of paid leave and require parents to take leave from work in order to receive the benefit. Those receiving leave would delay receipt of their Social Security benefits for two, four or six months. It has no Democratic co-sponsors.

In addition, paid leave for families and access to quality childcare has become one of the top priorities for Ivanka Trump, the President's daughter and advisor. In the past year, she met with dozens of lawmakers on both sides of the aisle to push federal paid leave, influenced her father to secure paid Parental leave for all federal employees and address it in his State of the Union 2020 address. The *Federal Employee Paid Leave Act*, which President Trump signed into law in mid-December 2019, grants employees up to 12 weeks of paid time off for the birth, adoption or foster of a new child. The law applies to leave taken in connection with a birth or placement of a child occurring on or after October 1, 2020. President Trump is also supporting a bill introduced in Congress in December 2019 that would allow qualifying workers who become new parents to receive \$5,000 during the year following a child's birth or adoption, which parents would repay over the following decade through cuts in their Child Tax Credit. Families that earn too little to qualify for the full Child Tax Credit would receive a payment replacing 100 percent of their wages for up to 12 weeks, capped at \$5,000, which they would repay through cuts in their Child Tax Credit over 15 years. Critics have argued that the bill is a loan not paid leave, does not include job guarantees and only covers leave for new-borns or newly adopted children.

### State level

Some states and local governments have passed laws to establish new paid family leave insurance programmes. Connecticut passed paid family leave in June 2019 and benefits will begin in 2022. Oregon passed paid family leave in July 2019 and benefits will begin in 2023.

- **Connecticut** passed a paid family and medical leave law in June 2019. This policy provides up to 12 weeks of paid leave to care for a new child (birth, adoption, foster); care for one's own health condition; care for a family member (child, parent, spouse, domestic partner, grandparent, grandchild) with a serious health condition; address issues related to a family member's active duty; or serve as a bone marrow or organ donor. Wage replacement is 60 per cent of earnings up to 60 times the minimum wage for those with earnings above the minimum wage and 95 per cent of 40 times the minimum wage for those earning

minimum wage.<sup>23</sup> This programme will be 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. Payroll contributions begin January 1, 2021 and benefits begin on January 1, 2022.

- **Oregon** passed paid family leave in July 2019. This policy will provide up to 12 weeks of paid leave for new parents; for those who need to take care of their own or a family member's serious health condition; and for victims of domestic or sexual violence. 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\$1,215 per week.<sup>24</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). Almost all employees, including part-time employees, will be covered. This policy will go into effect on January 1, 2023.

Some states with paid family leave insurance programmes have expanded their programmes. New Jersey increased the wage replacement rate, benefit duration, and added family members. Beginning 1 July 2020, paid family leave will be extended to 12 weeks with paid benefits up to 85 percent of the employee's average weekly wage with a maximum benefit equal to 70 per cent of the state's average weekly wage. In addition, added family members include siblings, grandparents, grandchildren, parents-in-law, any blood relative, and any person who is equivalent to family.

Twenty states have introduced legislation on paid family leave in recent years, and 11 states have legislation on paid family leave that is still under consideration by state legislatures. In 2019, the legislatures in Tennessee, New Mexico, Michigan and Idaho implemented or expanded paid leave for state employees.

## **Policy response to the Covid-19 pandemic up to end June 2020**

### *Childcare and schools*

- The closure of ECEC and schools is based on state level decisions. Almost all states ordered schools to close in mid-March 2020 and

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<sup>23</sup> <https://portal.ct.gov/Office-of-the-Governor/News/Press-Releases/2019/06-2019/Governor-Lamont-Signs-Historic-Law-Enacting-Family-and-Medical-Leave-in-Connecticut>

<sup>24</sup> <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/oregon-passes-generous-paid-family-leave-law.aspx>

then, by the end of April 2020, ordered schools to remain closed for the remainder of the academic year.<sup>25</sup>

### *Parental leave*

- There is no statutory entitlement.

### *Other measures for parents and other carers*

- In response to COVID-19, Congress enacted three bills in March 2020. Two of them, the *Families First Coronavirus Response Act* (Family First) and the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) include temporary measures to extend paid family and medical leave in the United States.
- Through the end of 2020, the 'Family First Act' allows for employees of private businesses of less than 500 employees to receive up to 12 weeks of paid leave who are 'unable to work due to a need for leave to care for their child because the school or day care has been closed or the childcare provider is unavailable due to a public health emergency.' The CARES Act requires that the paid leave benefit must be equal to at least two-thirds of regular pay, but employers do not have to pay more than \$200 per day and \$10,000 in total per employee. Employers are not required to pay during the first ten days of leave. Businesses with fewer than 50 employees may be exempted as well as executive branch federal employees.<sup>26</sup>
- In addition, the Family First Act makes paid sick time available to employees through to 31 December 2020 for up to 80 hours if an employee is unable to work or telework because the employee is: 1) subject to quarantine or isolation order (or caring for someone who is subject to quarantine or isolation order); 2) has been advised by a health care provider to self-quarantine due to coronavirus concerns; 3) is experiencing symptoms of coronavirus and seeking a medical diagnosis; 4) caring for their child if their school or day care has been closed, or the child care provider is unavailable, due to coronavirus precautions.
- The benefit must be equal to at least two-thirds of regular pay, but employers do not have to pay more than \$511 per day and \$5,100 in total per employee. For paid sick leave taken to care for someone else, employers do not have to pay more than \$200 per day and \$2,000 in total. The exclusions are similar to those referenced above for Paid Family and Medical. A refundable tax credit against payroll taxes owed by employers to cover 100

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<sup>25</sup> <https://www.edweek.org/ew/section/multimedia/map-coronavirus-and-school-closures.html>

<sup>26</sup> <https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

per cent of the cost of required leave. Leave pay is also available to self-employed via tax credit.

#### 4. Uptake of leave

A 2012 survey found that only 16 per cent of US workers eligible for the federal FMLA took leave for any covered reason. Of these, about half took leave for their own illness; 21 per cent took leave for reasons related to a new child; and the remainder took leave to care for an ill family member (which could be a spouse or child).<sup>27</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>28 29</sup> and little or no effects on time off taken by new fathers.<sup>9 10</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>30</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>31</sup>

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<sup>27</sup> Klerman, J. A., Daley, K. and Pozniak, A. (2013) *Family and Medical Leave in 2012: Technical report*. Washington, D.C.: Abt Associates.

<sup>28</sup> Han, W.J. and Waldfogel, J. (2003) 'Parental leave: The impact of recent legislation on parents' leave-taking', *Demography*, vol.40, 1: 191-200.

<sup>29</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*, vol.26, 1: 29-54.

<sup>30</sup> <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Documents/2017%20Employee%20Benefits%20Report.pdf>

<sup>31</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.