

## The Vermont Legislative Research Service

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#### Paid Family Leave

Family and medical leave policies allow employees extended time off work to care for themselves and their families in times of birth, adoption, or serious illness. While the Family and Medical Leave Act (FMLA) of 1993 requires twelve weeks of unpaid leave per year for specific conditions,<sup>1</sup> this regulation does not cover all employees. According to the United Nations International Labor Office, the United States and Papua New Guinea are the only two countries in the world<sup>3</sup> that do not mandate paid maternity leave. Five states have passed paid family and/or sick leave legislation in the United States.<sup>4</sup> H. 339, an act relating to paid family leave, would institute this policy in Vermont.<sup>5</sup>

#### Benefits of Paid Family Leave

A study of OECD nations found that increasing the length of job-protected paid leave after the birth of a child significantly decreases the infant mortality rate.<sup>7</sup> After controlling for characteristic variables of different countries the effects of paid family leave on infant mortality shows that for every ten week extension in paid leave for families, a 2.5% drop in infant mortality can be predicted.<sup>8</sup> This trend does not hold true when leave is not

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<sup>1</sup> 29 CFR § Part 825, The Family and Medical Leave Act of 1993, retrieved from <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=d178a2522c85f1f401ed3f3740984fed&rgn=div5&view=text&node=29:3.1.1.3.54&idno=29>

<sup>2</sup> The Council of Economic Advisors, "The Economics of Paid and Unpaid Leave," June 2014, accessed April 17, 2014, [https://www.whitehouse.gov/sites/default/files/docs/leave\\_report\\_final.pdf](https://www.whitehouse.gov/sites/default/files/docs/leave_report_final.pdf).

<sup>3</sup> Out of 185 countries surveyed

<sup>4</sup> United Nations International Labor Office, "Maternity and Paternity at Work: Law and Practice Across the World," Conditions of Work and Equality Department, 2014, accessed April 17, 2015, [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_242617.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_242617.pdf).

<sup>5</sup> The Council of Economic Advisors, "The Economics of Paid and Unpaid Leave."

<sup>6</sup> Vermont General Assembly, "H. 339: An act related to paid family leave," introduced February 26, 2015, accessed April 17, 2014, <http://legislature.vermont.gov/bill/status/2016/H.339>.

<sup>7</sup> Tanaka, Sakiko. "Parental Leave and Child Health." *The Economic Journal* 115, no. 501 (Feb, 2005): F28.

<sup>8</sup> Tanaka, Sakiko. "Parental Leave and Child Health"

accompanied with payment<sup>9</sup> Also found is that postneonatal mortality rates, or deaths of infants between 28 and 365 days, is decreased by 4.1% for every ten weeks of paid family leave.<sup>10</sup> Research supports the notion that more time with children after childbirth helps the health of the child, something which is allowed to be lengthened with paid family leave.

As well as benefiting children when family leave is taken, there are tangible benefits to the employees when paid family leave is increased. In a study done in California after the state enacted paid family leave, it was shown that use of maternity leave use doubled, with an average of six weeks of maternity leave for new mothers, up from three weeks. It also did not affect future employment probabilities, and shows that mothers who utilized family leave worked 10-17 percent more hours one to three years after the birth compared to the hours women were working before paid family leave was in place. Other works have shown that the inside of the workplace, paid leave helps attract and retain employees at a company.<sup>12</sup> After instituting paid family leave in California led to either no noticeable or a positive effect on profitability, turnover, and moral in the work place for over 90 percent of employers surveyed!<sup>13</sup> An increase in paid family leave allows more people to take the leave without effecting their future employment.

### Paid Leave in the United States

According to the Bureau of Labor Statistics' National Compensation Survey, fewer workers receive paid family leave than all other types of leave.<sup>14</sup>

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time employees receive paid family leave, only 5% of part-time employees have this benefit.<sup>15</sup>

## Federal Legislation and Action

### Family and Medical Leave Act

The FMLA applies to private employers with fifty or more employees and all public employers. Employees must work for the employer for one year for at least 1,250 hours to be eligible for coverage. It allows up to twelve weeks of unpaid leave for the adoption, birth, or foster care placement of a child or in the instance of serious illness in the employee or her child, spouse, or parent.<sup>16</sup> President Bush expanded the law to include military family leave provisions in 2008.<sup>17</sup>

In 2000, one analysis of the regulation found that 83.7% of all employers covered by the law offered all benefits, while only 33.5% of employers not covered by the law offered all benefits.<sup>18</sup> Most covered employers reported that complying with FMLA “had no noticeable effect on their business as regards profitability, productivity, and growth.”<sup>19</sup> While about 60% of all employees worked for covered employers, only 46.9% of employees were eligible for the benefits.<sup>20</sup> Another analysis conducted in 2012 found that this number had increased to 59%.<sup>21</sup> While trends are moving towards greater employee coverage, there is still a large sector of the US workforce that is uncovered.

### Current Action

The Obama Administration has undertaken several initiatives to improve the United States’ policy on family and medical leave.<sup>22</sup> On January 15, 2015, President Obama released a memorandum requiring federal agencies to grant employees six weeks of paid family leave.<sup>23</sup> In accordance with this memorandum, H.R. 532 was introduced in Congress, which

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<sup>15</sup> Bureau of Labor Statistics, “Leave Benefits: Access.”

<sup>16</sup> 29 CFR § Part 825.

<sup>17</sup> Department of Labor, “Military Family Leave Provisions of the FMLA,” accessed April 21, 2015, <http://www.dol.gov/whd/fmla/finalrule/MilitaryFAQs.pdf>.

<sup>18</sup> Jane Waldfogel, “Family and Medical Leave: Evidence from the 2000 Survey,” *Monthly Labor Review* 124(2001): 17-23, accessed April 17, 2015, <http://www.bls.gov/opub/mlr/2001/09/art2full.pdf>.

<sup>19</sup> Jane Waldfogel, “Family and Medical Leave: Evidence from the 2000 Surveys.”

<sup>20</sup> Jane Waldfogel, “Family and Medical Leave: Evidence from the 2000 Surveys.”

<sup>21</sup> Jacob Alex Klerman, Kelly Daley, and Alyssa Pozniak, “Family and Medical Leave in 2012: Technical Report”, Abt Associates Inc updated April 18, 2014, accessed April 17, 2015, [http://www.dol.gov/asp/evaluation/fmla/FMLA\\_2012-TechnicalReport.pdf](http://www.dol.gov/asp/evaluation/fmla/FMLA_2012-TechnicalReport.pdf).

<sup>22</sup> Council on Women and Girls, “Obama Administration Initiatives Fact Sheet,” The White House Administration, accessed April 17, 2015, <https://www.whitehouse.gov/administration/eop/cwg/work-flex-kit/get-started/factsheet>.

<sup>23</sup> Barack Obama, “Presidential Memorandum—Modernizing Federal Leave Policies for Childbirth, Adoption and Foster Care to Recruit and Retain Talent and Improve Productivity,” The White House Office of the Press Secretary January 15, 2015, accessed April 14, 2015, <https://www.whitehouse.gov/the-press-office/2015/01/15/presidential-memorandum-modernizing-federal-leave-policies-childbirth-ad>.

would allow eligible employees to “substitute any available paid leave for leave without pay” in the event of new or seriously ill family members.<sup>24</sup> Obama also called for support of S. 497, the Healthy Families Act, which would allow eligible employees to earn one hour of paid sick leave for every thirty hours worked.<sup>25</sup> Further, he promotes the creation of a Department of Labor State Paid Leave Fund to help states undertake paid family leave initiatives.<sup>26</sup>

## State Legislation

### California

Since 2004, California law has provided employees with partial pay when they take time off to care for a seriously ill child, parent, spouse or domestic partner. Employees may also take time off to bond with a new child. Under this law, employees receive approximately 55% of their usual compensation, ranging from \$50 to more than \$900 per week.

Employees can receive pay for six weeks of leave in a 12-month period, and the program is funded through paycheck withholding. There is a seven-day wait period before the benefits start to apply. Also, an employer may require employees to use up to two weeks of their paid leave program before they can start to receive state benefits.

### Washington

In 2007, Washington passed a paid family leave law. The law was scheduled to go into effect in 2009, but was postponed until 2012, and then pushed again until 2015, due to budget shortfalls.<sup>29</sup>

Washington’s law applies only to parental leave. Eligible employees may receive partial pay when they take time off to care for a newborn or newly adopted child. Employees are eligible if they worked at least 680 hours during the prior year (the year ending three months before their leave starts). Employees working at least 35 hours a week will receive \$250 per week on their leave. Those that work less than 35 hours per week will receive a prorated amount.<sup>30</sup>

## New Jersey

Since 2009, the New Jersey paid family leave policy has been in effect. Employees may receive partial pay to take time off to care for a child, parent, spouse, domestic partner, or civil union partner with a serious medical condition. Leave may also be taken to bond with a new child before they are a year old or within twelve months of their placement or adoption.<sup>31</sup>

Employees can receive benefits for up to six weeks of leave, which can be taken intermittently if it is necessary. These employees receive two-thirds of their usual wages with a maximum of \$572 per week. Employees have a seven-day waiting period before they receive these benefits and employers may require them to use up to two weeks of their paid leave before they start receiving benefits.<sup>32</sup>

parents or family members to leave work for up to twelve weeks a year if there is either an emergency medical condition in the immediate family of the employee, the birth of a child, or the adoption of a child without the employee fearing loss of their job<sup>36</sup>.

### Proposed Vermont Law

The current act relating to family leave proposed, H.339, uses similar language as the current laws in place on unpaid leave. However, employees who are eligible to enter the fund the act sets up in order to receive paid family leave only need to have worked for 20 hours a week on average for the past six months, and employers do not need to meet a minimum number of employees for the leave to be eligible. Employees who wish to use the fund must pay in to the fund 0.63% of their paychecks while working in order to receive paid family leave. While on leave, which may consist of six weeks in any combination over a 12 month period, they will receive their average weekly wage. The maximum wage the fund will pay out over the course of the year is the equivalent to six 40-hour workweeks at double the minimum hourly wage. The employee is free to return to either the same, or a comparable, position as long as the employee did not perform a unique service that required the employer to replace the employee during their leave of absence. Unpaid short term familial leave and leave for up to twelve weeks, with those going over the six weeks of the paid leave receiving up to six weeks of unpaid leave, is still available for employees who are eligible.

### Conclusion

The United States is one of the few countries worldwide that does not offer paid maternity leave. Current research indicates that paid family leave policies benefit workers and their families without disadvantaging their employers. The Obama Administration is working towards providing paid family leave for federal workers, and supports legislation to extend this benefit to eligible private sector workers. Five states have passed legislation to give workers paid family leave, and Vermont is currently considering legislation.

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This report was completed on May 10, 2015 by Megan Noonan, Allie Van Sickle, and Jack Vest under the supervision of Professors Jack Gierzynski, Robert Bartlett and Eileen Burgin.

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Disclaimer: This report has been compiled by undergraduate students at the University of Vermont under the supervision of Professor Anthony Jack Gierzynski, Professor Robert Bartlett and Professor Eileen Burgin. The material contained in the report does not reflect the official policy of the University of Vermont.

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<sup>36</sup> Vt. Gen. Stat. § 472.

<sup>37</sup> Vermont General Assembly, "H. 339: An act related to paid family leave," introduced February 26, 2015, accessed April 17, 2014, <http://legislature.vermont.gov/bill/status/2016/H.339>.