



Family, Medical, and Sick Leave Laws

By Luisa Altmann and Anne Wallace

This *issue brief* provides an overview of federal and state family, medical, and sick leave laws.

Federal Law

Family and Medical Leave Act. The U.S. Family and Medical Leave Act of 1993 (FMLA) allows eligible employees to take up to 12 weeks of leave per year for specified circumstances.¹

FMLA applies to most employers with 50 or more employees. To be eligible for leave, an employee must have worked for at least 1,250 hours with the employer during the prior 12-month period and have at least 12 months of service. Employers may provide leave under FMLA as either unpaid or paid time off, and may require that an employee use accrued vacation or sick time during leave in certain instances.

Circumstances covered under FMLA include time off for the birth, adoption, or foster placement of a child; a spouse, child, or parent who has a serious health condition; an employee's own serious health condition; or an urgent need due to an immediate family member's active duty service.

Tax incentives. In 2017, the Tax Cuts and Jobs Act created a tax credit for tax years 2018 and 2019 for businesses that provide qualifying paid family and medical leave to eligible employees. This was subsequently extended to include tax year 2020. The tax credit covers 12.5 percent to 25.0 percent of the wages paid to an employee on leave.²

Federal employee paid leave. The National Defense Authorization Act for FY 2020, signed in December 2019, allows federal employees to take up to 12 weeks of paid parental leave for the birth of a child or the placement of an adoptive or foster child beginning in October 2020. Employees must have worked for the federal government for at least one year and commit to returning to work following the paid leave for at least 12 weeks.³

COVID-19 response. The Families First Coronavirus Response Act, signed in March 2020, created expanded paid sick and family leave for specific reasons due to the COVID-19 pandemic. The paid leave requirements under the bill ended on December 31, 2020, though employers are eligible for tax credits for certain leave paid through March 31, 2021.

Colorado Law

Colorado Family Care Act. The Colorado Family Care Act adds an employee's civil union or domestic partner as a qualifying immediate family member for the purposes of the FMLA, if the partner has a serious health condition.⁴

Domestic violence. Colorado law permits an eligible employee to take up to three days of leave in any 12-month period if the employee is a victim of domestic abuse, stalking, sexual assault, or another crime with a domestic violence component. The leave may be paid or unpaid and must be used to seek a civil protection order, obtain medical care or mental health counseling, make the employee's home secure, or seek legal assistance.⁵

¹29 U.S.C. § 2601, *et seq.*

²26 U.S.C. § 45S.

³S. 1790, Sec. 7601.

⁴Section 8-13.3-201, *et seq.*, C.R.S.

⁵Section 24-34-402.7, C.R.S.

FAMLI Task Force. Senate Bill 19-188 created the Family and Medical Leave Implementation Task Force, consisting of 15 members representing various stakeholders. The task force's recommendations were provided on January 6, 2020. Documents related to the task force are available here:

<https://sites.google.com/state.co.us/famli/home>

Paid family and medical leave. In 2020, Colorado voters passed Proposition 118, which creates the Paid Family and Medical Leave Insurance Program in the Colorado Department of Labor and Employment. The program will provide up to 12 weeks of paid leave per year for Colorado employees beginning in 2024. The total benefit will be calculated based on an individual's average weekly wage, and capped at \$1,100 per week in 2024. Leave may be taken to care for an employee's serious health condition or a family member with a serious health condition, or to care for a new child. Leave is also available if an employee or a family member is a victim of sexual assault or domestic violence, or if a family member is called to active military duty. The law includes job protection for eligible employees taking leave. The program will be funded through a payroll premium on most employers and employees in Colorado. The premium, which is set at 0.9 percent of wages for the first two years, will be collected beginning January 1, 2023. Employers with ten or more employees are responsible for at least half of the premium amount.

Paid sick leave. Beginning January 1, 2021, [Senate Bill 20-205](#) requires employers with 16 or more employees to provide one hour of paid sick leave for every 30 hours worked, up to a maximum of 48 hours per year.⁶ Beginning January 1, 2022, this requirement applies to all employers in the state. Paid sick leave may be used for: the employee's own health or health care, or that of a family member or other individual for whom the employee is responsible for providing care; or absences related to specified incidences of domestic abuse, sexual assault, or harassment. The bill also includes additional requirements for paid sick leave during public health emergencies, including when a public

official has ordered the closure of the employee's workplace or child's school or child care facility.

Other State Laws

Paid family and medical leave laws. In addition to Colorado, eight other states have enacted paid family and medical leave (PFML) laws.⁷ Additionally, Hawaii has a paid medical leave law. California, New Jersey, New York, and Rhode Island enacted temporary disability insurance laws in the 1940s. Hawaii later followed in the 1960s. The laws in California, New Jersey, and Rhode Island created state-run programs to provide partial wage-replacement benefits in the event of a worker's own non-work related injury, illness, or pregnancy. The PFML programs in these states often expanded the existing state temporary disability insurance program, or used the same state agency to administer the new program. More information about these laws can be found here:

<http://leg.colorado.gov/publications/state-paid-family-and-medical-leave-laws>

Paid sick leave laws. In addition to Colorado, 14 other states have enacted paid sick leave laws requiring private sector employers to provide employees with a certain amount of paid sick time.⁸ Paid sick leave is intended to allow employees to take time off for short-term health needs and preventive care compared with the longer-term needs covered by family and medical leave. The laws in six of these states apply to all private sector employers, while the other laws exempt employers with fewer than 10 or 15 employees. These laws allow employees to accrue one hour of paid sick leave for every 30 to 52 hours worked, which can be used after a typical waiting period of 90 days.

⁶Section 8-13.3-401, *et seq.*, C.R.S.

⁷California, Connecticut, Massachusetts, New Jersey, New York, Oregon, Rhode Island, and Washington.

⁸Arizona, California, Connecticut, Maine, Maryland, Massachusetts, Michigan, Nevada, New Jersey, New York, Oregon, Rhode Island, Vermont, and Washington.