State Action on Family Leave Benefits

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Legislative Summary

JUNE 2001

Family and Medical Leave Bill Summary

Since the federal Family and Medical Leave Act (FMLA) passed in 1993, it has helped more than 35 million Americans take up to 12 weeks of unpaid, job-protected leave to care for new babies and sick family members and to recover from their own serious illnesses. Yet, millions of American workers who qualify for this leave don't take time off, and 88 percent of them say they would take time off if given some benefit during their leave.

Support for family leave benefits (paid family leave) has grown dramatically over the past four years, from two states introducing bills in 1998 to 22 states introducing 38 separate bills. The common methods of payment being considered for family leave are unemployment insurance (UI) and temporary disability insurance (TDI), mostly for leave to care for a newborn or newly adopted baby. However, new systems of payment have been proposed as well, including new insurance funds that would provide benefits for leave taken. Most of these paid family leave policies would allow employees to take paid maternity and paternity leave; a few proposals would also offer partial wage replacement for personal illness or to care for sick family members.

At least 13 states **(CT, FL, HI, IL, IN, MA, MD, NE, NH, NM, TX, VT and WA)** held hearings to date, with IL and MA holding hearings in both Houses, regarding different state proposals.

Unemployment Insurance

Sixteen states introduced family leave benefit proposals that would allow a working parent to take leave under the federal FMLA and receive some payment during that period through their UI system. Although the majority of these bills have introduced benefits specific to birth and adoption leave, unemployment insurance could also be used for leave to care for an ill family member and one's own serious illness in four states (GA, HI, IN and TX). In total, 19 UI bills have been introduced. **(AZ[1], FL[2], GA, HI, IL, IN, KS, LA, MA, MD, MN, NE, NJ[3], NM, OR and TX)**

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Temporary Disability Insurance (TDI)

Two states also introduced proposals to use an existing (**NJ**) or newly created (**MA**) TDI system. The proposals would offer benefits, paid through the TDI system, for leave due to birth, adoption or serious family illness (**MA** also includes foster care). Both bills would offer up to 12 weeks of leave.

Combination

NJ also introduced a bill combining both UI and TDI. The benefits would be for workers to care for sick family members (TDI) or birth or adoption (UI). This bill would provide up to 12 weeks of benefits.

Alternative Payment Systems

Use of Accrued Sick/Vacation Leave for Family Leave

Five states introduced bills that would allow the use of accrued sick and/or vacation leave to pay for leave under the FMLA. If passed, employees would be able to use their accrued sick or vacation leave to care for a newborn or newly adopted child, or to care for a family or personal illness, thereby getting paid during that period. Both **IA**'s and **OK**'s proposals apply to state employees only. **TX** includes foster care and **IA** provides reimbursed leave only for the adoption of a child. **AZ** (use of sick leave only), **OK** and **TX** would offer up to 12 weeks leave, **CT** would offer 16 weeks, and **IA** would offer six weeks.

New Systems of Payment

Five states proposed new systems of payment for family leave benefits. **HI** introduced two companion bills[4] that would create a "family leave insurance fund," as part of their worker's compensation system, to finance family leave benefits. Both the employee and the employer would contribute one cent each per hour to the fund or no more than $2000 each per year. **IL** introduced a proposal that would create the "Shared-Cost Family Leave Program Act." An employer would pay two-thirds of an employee's wage, the state would reimburse the employer one-half of that payment (up to $250) and the employee would forego one-third of her/his wages. **NH** would establish a "Family and Disability Leave Trust Fund." The bill would create a TDI system in the state; however, it would be financed through a new employee payroll tax. This fund would enable workers to take paid leave to care for a newborn or newly adopted child or to care for a family or personal illness. Benefits would be offered up to 26 weeks.

VT proposes to provide paid parental leave for up to 12 weeks during the first year after birth or adoption of a child. While the benefits would be dispersed through the state's UI system, it would be paid for with state general funds. Finally, **WA** has introduced three bills[5] that would establish a "Family Leave Insurance Fund." The fund would be administered like UI and would provide up t $250 per week for full time workers, for leave taken to care for a newborn, newly adopted or foster child, a serious family illness or one's own personal illness. Both the employee and

employer would contribute one cent each per hour worked, up to a maximum of 40 hours per week.

State Incentives for Employers who Provide Benefits

Three states introduced proposals that offer incentives for employers to voluntarily provide paid family leave to their employees. Two approaches have been presented, both offering leave for birth or adoption of a child. **HI**[6] introduced companion house and senate bills that would provide a tax credit to employers who employ 100 or more employees and provide an employee with a total of four weeks of paid family and medical leave during any calendar year. The bill includes leave to care for a spouse, child or parent, or for an employee's own care. **MO** introduced a maternity leave bill which would offer an employer a tax credit in an amount equal to 50 percent of the amount of the maternity leave wages paid to the employee for the first six months of the leave. **MN** proposes a voluntary paid parental leave under which the state would reimburse an employer one-half of the wages paid to an employee on leave to care for a new or adopted child. Reimbursement of up to $250 per week for up to 26 weeks of paid leave would be provided to an employee, excluding sick or vacation leave time.

Expansion of Coverage Beyond FMLA in States

Seven states introduced bills that expand on the federal Family and Medical Leave Act (FMLA) that was passed in 1993, primarily by providing leave for purposes beyond those included in the FMLA, as described below.

Domestic Violence

Four states (**GA**, **HI**[7], **MN** and **PA**) have introduced five bills that would offer leave benefits for survivors of domestic violence. **GA** introduced a bill that would provide unemployment compensation for an employee who is a victim of domestic violence and becomes unable to continue working. [This provision is included in the same **GA** bill that provides for UI benefits for an employee who takes leave for a serious family illness or one's own illness.] The two companion **HI** bills would qualify a survivor of domestic violence for unemployment benefits. **MN** introduced a bill that would provide eligibility for UI benefits for certain victims of domestic abuse. If an employee is forced to quit their job due to domestic violence, they are still eligible for benefits. **PA** would establish the "Victims of Domestic Violence Employment Leave Act." The bill would implement a 30-day leave with or without pay and employees can choose or an employer can require an individual to take accrued vacation, personal or family leave.

Leave for School and Child or Elder Care

Four states (**CO**, **MS**, **PA**, **TX**) have introduced five bills that deal specifically with parent/teacher conferences and/or school-related activities; **PA**'s bill would also include unpaid leave to accompany an elderly relative to routine medical or other professional appointments. **CO** would create a tax credit for an employer of ten employees or more whose employees take leave to participate in school-related activities. The employer would receive a credit of $100 for each employee who took parental leave during the tax year. Along with the employer tax credit,

an employee may elect to substitute accrued sick/vacation or other leave for unpaid leave. A limit of five hours per month can be taken to attend school-related activities for their child. **MS** would entitle all employees to 24 hours of unpaid leave per any 12-month period, in addition to use of accrued sick, personal or administrative leave, to participate in any school activity including parent-teacher conferences and interviewing for a new school. **TX** introduced two companion unpaid leave bills[8] that would entitle any employee to one-hour leave per calendar month to participate in certain school and childcare facility activities without having to take vacation, personal or compensatory time.

PA also introduced a bill that extends the coverage of the federal FMLA. Additional unpaid leave of up to 24 hours during any 12-month period would be allowed to participate in school activities of an employee's child; to accompany the child to routine medical or dental appointments; to accompany an elderly relative to routine medical appointments or those for other professional services related to an elder's care, such as interviewing nursing or group homes. **PA** would allow an employee to elect, or an employer to require, the use of paid vacation leave, personal leave or family leave for any part of the 24-hour period used to participate in these activities.

About the Center for Policy Alternatives. The Center for Policy Alternatives is the nation's leading nonpartisan progressive public policy and leadership development center serving state legislators, state policy organizations and state grassroots leaders. For more information on family leave and other leading progressive state issues, refer to www.stateaction.org.

[1] H.B. 2458 & S.B. 1059 (companion bills)
[2] S.B. 500 & H.B. 1245 (companion bills)
[3] A.B. 3049 & S.B. 1923 (companion bills)
[4] S.B. 892, H.B. 31 (companion bills)
[5] S.B. 5420, H.B. 1520 (companion bills)
[6] S.B. 165 & H.B. 89 (companion bills)
[7] S.B. 893, H.B. 29 (companion bills)
[8] H.B. 758, H.B. 55 (companion bills)