

# Parameters for paid family and medical leave legislation

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The purpose of this document is to summarize the various comprehensive paid family and medical leave provisions in states that have these programs or are proposing them. By better understanding these provisions, we can better design a simulation model that can take into account the various provisions currently operating or being considered.

Paid FMLA advocates and policy makers have outline various mechanisms for funding a paid leave program, although the only ones in full operation to date are in states that had existing Temporary Disability Insurance (TDI) systems in place. They have extended their TDI systems to include new child bonding and caring for seriously ill family members. The states that have current legislation are ones that either already have a TDI system or are proposing a new group insurance type program that emulates a TDI system. All of those states are summarized below. There are other mechanisms that we may want to consider as we construct the simulation model. These include using existing Unemployment Insurance systems to cover various components of family and medical leave and establishing a tax credit for either wages paid for family/parental leave or for short-term pregnancy-related disability leave.

The following tables outline the basic features of TDI type systems currently established (CA,NJ, RI, WA) or proposed (CO, CT, HI, MA, NY, Federal).\*

\*Prepared for Massachusetts Executive Office of Labor and Workforce Development by Randy Albelda and Alan Clayton-Matthews, with Mary Kreps.

State	Legislative Status	Basic definitions		Employee Eligibility	
		Reason for Leave	Family member covered under family care provisions	Work/earnings/payment experience	Employees covered
CA	TDI enacted 1946; Bonding and family care enacted 2002 and implemented 2004	Care for a new child (birth, adoption, foster); Care for a family member with serious health condition; Care for own disability (includes pregnancy)	Employee child, parent, spouse, domestic partner, grandparent, grandchild, sibling, and parent-in-law	Must have received \$300 in gross wages over base period	All private sector; some public sector; self employed can opt in
CO	Proposed 2015 <a href="#">HB1258</a>	Bond with a new child; recuperate from a serious health condition/domestic violence/abuse; care for a family member with a serious health condition; handle qualifying exigencies arising out of a family member's military service/injury	Employee child, spouse, or parent (FMLA definition)	Has contributed for at least a year and worked at least 680 hours within the last year	FMLA employers (50 employees within 75 mile radius); self employed can opt in (receive payments after 3 years)
CT	Taskforce submitted a <a href="#">report</a> to Legislature in Fall 2014. Proposed 2015 [need docket number]	Worker's serious illness or need to take care of an ill family member, an injured service member, or a new child	FMLA plus employee sibling, grandparent or grandchild, regardless of the age of the child or grandchild	Must earn \$9,300 in a 12 month base period, can be with multiple employers	All employees, including state and municipal workers; self-employed persons can opt in
HI	TDI enacted 1968; Bill proposed 2015 <a href="#">HB 535</a> . Bill amends Chapter 398, Hawaii Revised Statutes.	Birth, adoption, or placement through foster care, caring for a new child during the first year after birth, adoption or placement; family member with a serious health condition; is caring for a qualifying service member who is the employee's next of kin; or has a qualifying exigency	Employee child, parent, step-parent, parent-in-law, grandparent, spouse (or reciprocal beneficiary)	Worked 6 consecutive months prior to requesting leave	All employees

MA	Proposed 2015 <a href="#">HB1718</a>	Own serious illness or injury, to care for a seriously ill or injured family member, or for a newborn, newly adopted or new foster child	Employee spouse, child, parent, parent of spouse, grandparent, or grandchild of an individual seeking leave or disability benefits	Has worked at least 1,250 hours for same employer	All employees
NJ	TDI enacted 1948: Bonding and Family Care Enacted 2008 and implemented 2009	Care for a new child (birth, adoption, foster); care for a family member with serious health condition; care for own disability (includes pregnancy)	Child, parent, spouse, domestic partner, civil union partner	20 weeks of covered employment, each receiving more than \$165 or more, and paid \$8,300 or more in the base period	All employers are covered for family care; all private sector but not all public sector employees covered for own disability
NY	TDI enacted 1949; Family care proposed 2015 <a href="#">A03870/S03004 2015</a>	Own disability; care for a family member with serious health condition; bond with new child within 12 months of birth/adoption/foster care; and care due to family being in active duty	Child, step-child, spouse or domestic partner; parent; grandchild; grandparent; sibling; or parent of a spouse or domestic partner	Work for a covered employer for 4 or more consecutive weeks	All private sector; some public sector; self-employed can opt in; some employees are not covered.
RI	TDI enacted 1942: Family Care Enacted 2013 and implemented 2014	Bonding with new child (birth, adoption, foster); Care for a family member with a serious health condition; Care for own disability	Child, parent, parent-in-law, grandparent, spouse, domestic partner	Paid wages in RI and paid into fund, plus at least \$10,800 in base period (partially unemployed workers may be able to claim benefits)	All private sector; some public sector; self-employed can opt in
WA	Birth or Adoption care: Enacted 2007 but not implemented due of lack of funding	Birth or adoption of new child	New child	Worked 4 out of 5 quarters prior to application, employed for at least 600 hours	All employers; self-employed can opt in
Federal (proposed) Family and Medical Insurance Act (The FAMILY Act)	S.786	Own serious health condition, including pregnancy and childbirth recovery; birth or adoption of a child; care for family member with serious health condition; serious health; and for a family member's military service; (more leave is available for employees who need to care for a family member who was seriously injured on active military duty)	Employee child, parent, spouse or domestic partner	Insured for Social Security Disability Insurance, has earned income in the 12 months prior to applying; has filed application for insurance benefits; is/was engaged in qualified caregiving	All employed individuals that are insured for disability insurance benefits under the Social Security Act.

State	Program Characteristics				Funding Mechanism	Other
	Waiting Period	Payment	Maximum leave	Job Protection		
CA	One week	Typical benefit is 55 percent of weekly salary, up to a maximum of \$1,104 in 2015	52 weeks for own disability; 6 week for family care	No more than FMLA or CFRA	Own disability and family care – employee-only payroll	
CO	Seven consecutive days in application year but reimbursed if 10+ days are taken	Replaces 66-95% of workers wages up to \$1000 per week maximum (95% if yearly earnings <=20% of median annual wage; 90% if >20% but <=30%; 85% if >30% but <=50%; 65% if >50%)	Up to 12 weeks of leave in a 12-month period	No more than FMLA	Employee premium	No payments until one year after the date on which the division starts collecting premiums
CT	5 days	100% of salary up to \$1,000 a week	Up to 12 weeks in a 12 month period.	No more than the FMLA; Measures to prevent retaliation against workers that take leave	Employee only	
HI	None	No more than 66% of monthly wage	Up to 12 weeks in any 12 month period	No more than the FMLA	Employee and employer contributions	Establishes “partial wage replacement for leave trust fund”
MA	7 consecutive days	Replaces 66-95% of average weekly wages up to \$1000 per week. Replacement ratio varies based on employee income relative to area median income (AMI) as follows: 95% replacement if income is <=30% of AMI; 90% replacement if income is >30% but < 50% of AMI; 80% replacement if income is > 50% but < 80% of AMI; and 66% replacement if income is >80% of AMI	26 weeks for own disability; 12 weeks for family care	All leaves up to 12 weeks (health benefits protected too); prohibits discrimination and retaliation	Employer contributions	Establishes Family and Employment Trust Fund (managed by the Treasurer of the Commonwealth)

NJ	Seven days, but if disability lasts three weeks, the worker gets paid for those seven days	66% of average weekly wage up to \$604	26 weeks for own disability; 6 weeks for family care	No more than FMLA and NJ FMLA	Own disability by employee/employer contributions; family care funded by employee contribution	
NY	7 days	2/3 average weekly wage, not to exceed 35% of statewide average weekly wage in 2016 (rising to 40% in 2017; to 45% in 2018; and to 50% in 2019)	Over 52 week period: 26 weeks for own health (including pregnancy); 12 weeks for family care	Yes	Own disability by employee/employer contributions; family care funded by employee contribution	
RI	7 days for caregiver/bonding claims	4.62% of wages paid in highest quarter of base period up to \$770/week. Minimum amount is \$84/week)	30 weeks for own disability; 4 weeks for family care (not more than 30 weeks for combined own disability and family care)	Yes (health benefits protected too)	Own disability and family care funded by employee only contributions	
WA	One week	\$250 per week for FT (35 hours or more) workers; pro-rated for PT	5 weeks		Not yet determined	
Federal: Family and Medical Insurance Act (The months for FAMILY Act)	5 days (waived if engaged in qualified caregiving for 15 days in previous month)	66% of highest annual earnings over last 3 years [Monthly benefit calculated as (annual earnings x 1/18) x (days out in a month/20)], with a maximum payment of \$4,000 per month and a minimum of \$580	60 days (12 weeks) over a one year period, with no more than 20 days per month	Prohibits discharge or discrimination for those applying for or using benefits	Equal employer and employee payroll contributions (full amount for self-employed)	Administered through new Office of Paid Family and Medical Leave

Sources: For CA, NJ, RI, and WA: National Partnership for Women and Families, State Paid Family Leave Insurance Laws (February 2015) retrieved March 25, 2015 at <http://www.nationalpartnership.org/research-library/work-family/paid-leave/state-paid-family-leave-laws.pdf>; TDI enactment dates from US Social Security Administration, Social Security Programs in the United States (July 1997), Temporary Disability Insurance, pp 44-45 retrieved March 25, 2015 at <http://ssa.gov/policy/docs/progdesc/sspus/tempdib.pdf>; RI Department of Labor and Training (<http://www.dlt.ri.gov/tdi/>).

Sources for Colorado: House Bill 15-1258 A Bill for an Act concerning the creation of a Family and medical leave insurance program, retrieved April 3, 2015 at [http://www.leg.state.co.us/clics/clics2015a/csl.nsf/fsbillcont3/63AD9D4A5FC6A3CA87257DB10065C86D?open&file=1258\\_01.pdf](http://www.leg.state.co.us/clics/clics2015a/csl.nsf/fsbillcont3/63AD9D4A5FC6A3CA87257DB10065C86D?open&file=1258_01.pdf); Small Business Majority, The Need for Paid Leave in Colorado: What Businesses Need to Know, retrieved March 25, 2015 at [www.smallbusinessmajority.org/small-business-resources/workforce/colorado-family-leave-program.php](http://www.smallbusinessmajority.org/small-business-resources/workforce/colorado-family-leave-program.php)

Sources for Connecticut: News Release, Connecticut General Assembly Permanent Commission on the Status of Women, "On the Eve of 22<sup>nd</sup> Anniversary of FMLA. Nation's Eyes are on Connecticut's Pending Paid Family Leave Legislative Proposal." February 4, 2015 <https://ctpcsw.files.wordpress.com/2010/07/connecticut-leads-the-way-in-paid-leave-proposals-2-4-15.pdf>.

Sources for Hawaii: Hawaii House Bill 535 <https://legiscan.com/HI/text/HB535/id/1090754>; State of Hawaii Wage Standards Division, "Hawaii Family Leave: Frequently Asked Questions on the Hawaii Family Leave Law Chapter 398, Hawaii Revised Statutes" <http://labor.hawaii.gov/wsd/hawaii-family-leave/>.

Sources for Massachusetts: HB1715 An Act establishing a family and medical leave and temporary disability leave insurance program, retrieved April 10, 2015 at <https://malegislature.gov/Bills/189/House/H1718>

Sources for FAMILY Act: National Partnership for Women and Families, Family and Medical Insurance Leave Act, Legislative Section-by-section Summary, March 2015, retrieved April 10, 2015 at <http://www.nationalpartnership.org/research-library/work-family/paid-leave/family-and-medical-insurance-act-section-by-section.pdf>.