

PAID FAMILY AND MEDICAL LEAVE STATE LAW OVERVIEW

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Provided by Lawley

Paid Family and Medical Leave—State Law Overview

As a growing trend, states across the country are enacting paid employee leave laws. Currently, three states (Massachusetts, New York and Washington) and the District of Columbia have paid family and medical leave laws. In general, these laws provide employees with paid time off from work to care for an injured or ill family member or for their own medical conditions.

In addition, California, New Jersey and Rhode Island have family leave insurance programs that provide partial wage replacement for employees on family leave.

Each of these leave laws or programs has its own rules for eligible employees, qualifying reasons for leave and amount of paid leave. Employers in these states should become familiar with their compliance obligations and employees' available benefits. This Compliance Overview provides a high-level summary of current statewide paid family and medical leave laws and insurance programs.

LINKS AND RESOURCES

- [District of Columbia Office of Paid Family Leave](#)
- [Massachusetts Department of Family and Medical Leave](#)
- [New York Paid Family Leave: Information for Employers](#)
- [Washington Employment Security Department](#)

This Compliance Overview is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

HIGHLIGHTS

PAID LEAVE LAWS

The following states have paid family and medical leave laws:

- District of Columbia (paid leave benefits begin July 1, 2020)
- Massachusetts (paid leave benefits begin Jan. 1, 2021)
- New York
- Washington (paid leave benefits begin Jan. 1, 2020)

WAGE REPLACEMENT PROGRAMS

The following states have family leave insurance programs that provide partial wage replacement:

- California
- New Jersey
- Rhode Island

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STATE PAID FAMILY LEAVE LAWS AND PROGRAMS

STATE	KEY REQUIREMENTS
<p>California</p> <p>Paid family leave insurance program</p>	<p>Type of benefit: Partial wage replacement program administered by a state agency. It does not guarantee employer-approved time off or job protection. However, an employee may have leave rights under the federal FMLA or the California Family Rights Act.</p> <p>Eligible employees: Employees must have contributed to the state disability insurance program through mandatory payroll deductions during the prior 18 months. Employers may require employees to use up to two weeks of unused vacation leave or paid time off before receiving paid family leave benefits.</p> <p>Paid leave duration: An employee may receive up to six weeks of paid family leave benefits during a 12-month period in order to:</p> <ul style="list-style-type: none"> • Bond with a new child (either by birth, adoption or foster care placement); or • Care for a seriously ill family member (child, parent, parent-in-law, grandparent, grandchild, sibling, spouse or registered domestic partner). <p>Effective Jan. 1, 2021, the paid family leave insurance program will also provide benefits to participate in a qualifying exigency related to the covered active duty (or call to covered active duty) of the employee’s spouse, domestic partner, child or parent in the U.S. Armed Forces.</p> <p>Paid leave benefits: The weekly benefit amount is approximately 60 to 70 percent (depending on income) of wages earned 5 to 18 months before an individual’s claim start date, up to the maximum weekly benefit amount. Weekly benefits range from \$50 to a maximum of \$1,252.</p> <p>Program funding: The paid leave program is funded by employees through state disability insurance deductions from their paychecks. The withholding rate is 1 percent, which includes both disability insurance and paid family leave.</p> <p>Benefit administration: California’s paid family leave program is administered by the state’s Employment Development Department (EDD).</p>
<p>District of Columbia</p> <p>Universal Paid Leave Act</p> <p>The District will start collecting employer payroll tax contributions on July 1, 2019</p> <p>Workers can begin</p>	<p>Type of benefit: Paid family and medical leave with benefits funded through employer payroll taxes and administered by a District agency.</p> <p>Eligible employees: To be eligible, an employee must have spent more than 50 percent of his or her work time working in the District during some or all of the 52-week period before the leave event.</p> <p>Paid leave duration: Paid leave is limited to eight weeks during any 52-week period in any combination of the following leave types:</p> <ul style="list-style-type: none"> • Eight weeks of parental leave (within one year following birth or placement of child); • Six weeks to care for a family member with a serious health condition; and

<p>collecting benefits on July 1, 2020</p>	<ul style="list-style-type: none"> • Two weeks for an employee’s own serious health condition. <p>Paid leave benefits: 90 percent of the employee’s average weekly wage for an employee who earns no more than 150 percent of the District’s minimum wage.</p> <p>An employee whose wage is more than 150 percent of the District’s minimum wage is entitled to (i) 90 percent of 150 percent of the District minimum wage; plus (ii) 50 percent of the amount by which the employee’s average weekly wage exceeds 150 percent of the District minimum wage.</p> <p>All eligible workers are limited to a maximum weekly benefit of \$1,000, adjusted for inflation beginning Oct. 1, 2021.</p> <p>Program funding: Effective July 1, 2019, covered employers will be required to make contributions of 0.62 percent of the wages paid to eligible employees. These contributions will be pooled into a collective fund for the paid leave program.</p> <p>Benefit administration: The paid family and medical leave benefits will be administered by the District of Columbia Office of Paid Family Leave.</p>
<p>Massachusetts Paid family and medical leave law</p> <p>Employers must begin withholding contributions for paid leave benefits by Oct. 1, 2019, and remitting them to the state by Jan. 1, 2020.</p> <p>Workers will be eligible for paid leave benefits effective Jan. 1, 2021.</p>	<p>Type of benefit: Paid family and medical leave with benefits funded through employer and employee payroll taxes and administered by a state agency.</p> <p>Eligible employees: Virtually all employees working in the state.</p> <p>Paid leave duration: The paid family and medical leave program provides the following leave amounts for each benefit year:</p> <ul style="list-style-type: none"> • Family leave: Up to 12 weeks (26 weeks to care for a covered service member); • Medical leave: Up to 20 weeks; and • Combined family/medical leave: Up to 26 weeks. <p>Paid leave benefits: 80 percent of the employee’s salary up to 50 percent of the average weekly wage, plus 50 percent of the employee’s salary exceeding 50 percent of the average weekly wage, up to a maximum of \$850 per week. Weekly benefit payments begin after an initial seven-day waiting period.</p> <p>Program funding: The paid family and medical leave program is funded by a mandatory payroll tax of 0.63 percent of employees’ wages, to be adjusted annually. The payroll tax will be split between employers and employees. However, for employers with fewer than 25 employees, no employer contribution is required.</p> <p>Benefit administration: The state’s paid family and medical leave program will be administered by the Massachusetts Department of Family and Medical Leave.</p>
<p>New Jersey Family leave insurance</p>	<p>Type of benefit: Partial wage replacement program administered by a state agency. It does not guarantee employer-approved time off or job protection. However, an employee may have leave rights under the federal FMLA or the New Jersey Family Leave Act.</p> <p>Eligible employees: To be eligible, an employee must have paid into the insurance program (either the state plan or an approved private plan) through his or her employer and meet minimum gross earnings requirements. These requirements may change year to year. For</p>

2019, an employee must have worked at least 20 weeks earning \$172 or more per week, or have earned at least \$8,600 in the past 12 months to be eligible.

Paid leave duration: An employee may receive up to **six weeks** of cash benefits in a 12-month period to bond with a newborn, newly adopted child or newly placed foster child or to provide care for a seriously ill or injured family member (spouse, domestic partner, civil union partner, parent, child, sibling, parent-in-law, grandparent, grandchild, other blood relative and any other individual who has a close association with the employee that is the equivalent of a family relationship).

Effective **July 1, 2020**, employees may receive up to **12 weeks** of family leave benefits in a 12-month period.

Paid leave benefits: The weekly benefit for family leave insurance is based on an employee's average weekly wage. Claimants are paid two-thirds of their average weekly wage, up to a maximum set at the beginning of each calendar year. For 2019, the maximum weekly benefit is \$650.

For leave periods beginning on or after **July 1, 2020**, the amount of weekly paid family leave benefits will increase from two-thirds of an employee's average weekly wage to 85 percent of that wage, subject to a maximum amount. The maximum amount will be 70 percent of the statewide average weekly wage for all workers. Using data from this year, the maximum possible benefit would go up from \$650 a week to \$860.

Program funding: The paid leave program is funded by employees through payroll deductions. For 2019, each employee contributes 0.08 percent of the taxable wage base. For 2019, the taxable wage base is the first \$34,400 in covered wages earned during this calendar year, and the maximum yearly deduction for family leave insurance is \$27.52. The taxable wage base changes each year.

Benefit administration: New Jersey's family leave insurance program is administered by the state's [Department of Labor and Workforce Development](#).

New York [Paid family leave law](#)

Type of benefit: Paid family leave with benefits funded through employee payroll deductions and provided through an insurance policy (typically a rider to an existing disability insurance policy).

Eligible employees: Any employee who works at least 20 hours per week if the employee works for a covered employer for at least 26 consecutive weeks. A part-time employee (an employee who works fewer than 20 hours per week) is eligible for paid family leave after he or she has worked for a covered employer for 175 days.

Paid leave duration and benefits: When fully implemented in 2021, eligible employees may receive up to 12 weeks of paid family leave at 67 percent of their average weekly wages (AWW). The duration and amount of paid family leave benefits will be phased in as follows:

- **Jan. 1, 2018:** Eight weeks; 50 percent of employee's AWW
- **Jan. 1, 2019:** 10 weeks; 55 percent of employee's AWW
- **Jan. 1, 2020:** 10 weeks; 60 percent of employee's AWW

- **Jan. 1, 2021:** 12 weeks; 67 percent of employee's AWW

Employees may receive paid family leave benefits for the following types of leave:

- Leave to participate in providing care, including physical or psychological care, to a family member with a serious health condition;
- Leave to bond with the employee's child during the first 12 months after the child's birth, or after the placement of the child for adoption or foster care with the employee;
- Leave taken because of any qualifying exigency as interpreted under the federal FMLA arising out of the fact that the spouse, domestic partner, child or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the U.S. Armed Forces; or
- Leave to help a family member prepare for, and recover from, surgery related to organ or tissue donation (effective Feb. 3, 2019).

Program funding: Paid family leave is funded entirely through employee payroll deductions. For 2019, employers may deduct 0.153 percent of an employee's weekly wages up an annual maximum of \$107.97. Employers are not required to contribute to or fund the paid family leave benefit.

Benefit administration: Paid family leave coverage is usually a rider to the employer's disability insurance coverage. For more information, see New York's [Paid Family Leave: Information for Employers](#) and [Weekly Payroll Deduction Calculator](#).

Rhode Island

[Temporary caregiver insurance](#)

Type of benefit: Partial wage replacement program administered by a state agency. Employers must hold an employee's position, or offer a comparable position, upon the employee's return.

Eligible employees: To be eligible for temporary caregiver insurance (TCI) benefits, employees must have earned wages in Rhode Island and paid into the state's TCI/disability fund. Employees must also meet certain earnings requirements.

Paid leave duration: An employee may receive up to **four weeks** of paid family leave benefits during a benefit year in order to:

- Care for a seriously ill child, spouse, domestic partner, parent, parent-in-law or grandparent; or
- Bond with a newborn child, new adopted child or new foster-care child.

Paid leave benefits: An insured's weekly benefit rate is equal to 4.62 percent of the worker's wages in the highest quarter of his or her base period. For 2019, \$852 is the maximum benefit rate and \$98 is the minimum benefit rate.

Program funding: The TCI program is funded by employees through state disability insurance deductions from their paychecks. The withholding rate is 1.1 percent of the first \$71,000 earned, which includes both disability insurance and TCI coverage.

Benefit administration: Rhode Island's TCI program is administered by the state's [Department of Labor and Training](#).

Washington

[Paid family and medical leave law](#)

Payroll deductions began **Jan. 1, 2019**

Beginning **Jan. 1, 2020**, eligible workers may receive paid family and medical leave benefits

Type of benefit: Paid family and medical leave with benefits funded through employer and employee payroll taxes and administered by a state agency.

Eligible employees: Any employee who works at least 820 hours during the “qualifying period” is eligible for paid family and medical leave benefits. The qualifying period is defined as the first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately before the employee’s application for leave.

Paid leave duration: The paid family and medical leave program provides the following leave amounts during a consecutive 52-week period:

- **Family leave:** Up to 12 weeks;
- **Medical leave:** Up to 12 weeks (14 weeks if the employee experiences a serious health condition with a pregnancy that results in incapacity); and
- **Combined family/medical leave:** Up to 16 weeks (18 weeks if the employee experiences a serious health condition with a pregnancy that results in incapacity).

Paid leave benefits: An eligible employee may receive up to 90 percent of his or her average weekly wage (AWW), based on the employee’s AWW in comparison to the state AWW, up to the maximum weekly benefit, as follows:

- An employee whose AWW is 50 percent or less than the state AWW will receive 90 percent of his or her AWW.
- An employee whose AWW is greater than 50 percent of the state AWW average weekly wage will receive a weekly benefit that is the sum of 90 percent of the employee’s AWW up to 50 percent of the state AWW and 50 percent of the employee’s AWW that is greater than 50 percent of the state average weekly wage.

In any case, the **maximum weekly benefit for paid family and medical leave is \$1,000**, adjusted annually beginning Sept. 30, 2020.

Program funding: The paid family and medical leave program will be funded with employer and employee payroll contributions. Beginning Jan. 1, 2019, through Dec. 31, 2020, the **total premium** amount is **0.4 percent of an employee’s wages**.

Employers with **fewer than 50 employees** employed in the state are not required to pay the employer portion of premiums for family and medical leave. However, if an employer with fewer than 50 employees chooses to pay the premiums, the employer will be eligible for grant assistance.

Benefit administration: The state’s paid family and medical leave program will be administered by the [Washington Employment Security Department](#).