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## Best Practices for Paid Family Leave Policies for State Government Employees

A Better Balance works with states and cities across the country to craft and pass strong paid family & medical leave policies. State governments in over 20 states—from New Mexico, Utah, and Kansas to South Carolina, Pennsylvania, and Michigan—have led the way on this issue by enacting paid family leave policies for their own employees to care for a new child or a seriously-ill loved one. These state public sector policies can set a strong example for private-sector employers and help lay the groundwork for more comprehensive paid family leave programs.

### Are there cost savings associated with providing paid family leave? Can federal American Rescue Plan funds be used to support the costs of paid family leave policies?

Yes! As detailed throughout this guide, any cost-benefit analysis of providing paid family leave must account for the significant benefits and cost savings to state government employers. Paid family leave is an important tool for state governments to recruit and retain employees, especially by making public sector employment more attractive and competitive with the private sector.<sup>1</sup> Moreover, paid leave has been shown to enhance employee productivity, decrease the incidence of on-the-job injuries, and improve job satisfaction and retention—all outcomes that can improve an employer's bottom line.<sup>2</sup>

In addition, states currently have an [incredible opportunity](#) to leverage federal funds, made available by the American Rescue Plan (ARP), for paid family and medical leave. Among other uses, these funds may be used to support efforts to implement public sector paid family and medical leave policies. The Treasury Department's final rule implementing the ARP makes clear that state fiscal recovery funds can be used to create, expand, or financially support paid sick time, paid family leave, and paid medical leave.<sup>3</sup> This means that states looking to create paid family and medical leave programs for their own employees could use these funds to support those efforts in a number of ways, for example:

- Funding the initial phase of a new or expanded paid leave program for government employees
- Creating a pilot paid leave program for government employees
- Covering the start-up costs for a new paid leave program for government employees

### What are the key policy considerations for a state government paid family leave policy?

Because state public sector paid family leave policies are often groundbreaking within a state and can be a model for many employers in the private sector, it is important that state governments set high standards for

these programs. The following recommendations aim to help policymakers and advocates craft the strongest, most inclusive paid family leave policies possible.

## 1. Aim for at least 12 weeks.

Providing at least 12 weeks of paid family leave has a range of benefits for new parents and their children. Children whose mothers do not return to work full time in the first 12 weeks after their birth are more likely to receive medical checkups and critical vaccinations.<sup>4</sup> Mothers who take at least 12 weeks of leave are also more likely to breastfeed, which has lasting health benefits for both mothers and babies.<sup>5</sup> Fathers who take longer leaves experience greater engagement in their children’s lives;<sup>6</sup> greater paternal engagement has cognitive and developmental advantages for children.<sup>7</sup> For new birth mothers, having less than 12 weeks of family leave is associated with increased symptoms of postpartum depression.<sup>8</sup> Providing 12 weeks of leave to new parents is also critical due to the severe shortage of accessible, quality child care for newborn infants.<sup>9</sup>

The duration of paid leave is equally important for those providing care to a loved one recovering from a serious illness or a major medical procedure. For example, in a 2021 survey conducted by the American Cancer Society, a substantial majority of cancer patients reported missing more than four weeks of work due to their illness.<sup>10</sup> As discussed in greater detail below, guaranteeing at least 12 weeks of paid leave helps ensure that family caregivers for loved ones with serious health issues like cancer can remain in the workforce, reducing employee turnover costs. Finally, for all types of paid family and medical leave, it is important to allow employees to take the leave on an intermittent basis if needed, rather than all at once.

## 2. Consider providing paid leave for additional purposes—including family caregiving, a worker’s own serious medical condition, needs related to the military deployment of a loved one, and needs related to domestic and sexual violence—in addition to parental leave.

Providing paid parental leave is absolutely critical, allowing new birth, adoptive, or foster parents time to recover from childbirth and bond with their new children without sacrificing their economic security. However, it is equally important to extend coverage beyond new parents to include those with other family caregiving responsibilities and medical needs.

**Family Caregiving:** According to a 2018 report by the AARP, “trends suggest that an increasing share of family caregivers will be in the labor force in the future, facing the dual demands of employment and caregiving responsibilities for aging relatives.”<sup>11</sup> Workers may also need paid leave to care for a spouse, an adult child with a serious illness, or other loved ones.



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Family caregivers can help ill and aging individuals recover more quickly and spend less time in hospitals, leading to financial savings and a decreased burden on overcrowded health care facilities.<sup>12</sup> Guaranteeing paid leave and job protection for workers' family caregiving needs can also help boost employee retention. A recent study found that after one state implemented a paid family leave program, the labor force participation of family caregivers increased by 14 percent.<sup>13</sup> This research suggests that by allowing workers to balance their family caregiving needs while still earning an income, paid family leave programs can help keep people working, which reduces turnover and training costs for employers.

**Workers' Own Serious Medical Needs:** According to the U.S. Department of Labor, about half of FMLA-type leaves are taken for a worker's own serious illness.<sup>14</sup> Thus, it is important for state governments to find a way to provide paid medical leave, which gives workers extended time off to deal with a serious health need of their own. This may include acute conditions like cancer, chronic conditions like diabetes or asthma, or recovering from an accident or serious injury. For those facing such serious health challenges, a limited number of paid sick days is often not enough. And when workers do not have adequate leave, they may not seek necessary medical treatment.<sup>15</sup> Paid medical leave allows workers to get the treatment they need, when they need it. It can also help fight the opioid epidemic by protecting workers' jobs and income while they seek residential treatment, which can be highly effective in treating addiction.<sup>16</sup>

State governments may choose to combine their paid medical and family leave policies into one, or they may provide paid medical leave separately. Whatever the mechanism, guaranteeing adequate paid leave for a worker's own serious illness must be part of any state government's conversation around improved work-family policies.

**Military Deployment:** In addition, it is critical to include coverage for those with needs related to the military deployment of a loved one. These needs may include making financial or childcare arrangements for a family member who is deployed; attending military-related events and activities; spending time with a loved one who is on temporary rest and recuperation leave during deployment; and providing care for a loved one with an injury or illness sustained while on active military duty.<sup>17</sup> The federal Family and Medical Leave Act (FMLA) already provides *unpaid* leave for these types of needs. Typically, military-related needs make up a very small portion of paid family leave cases, but providing coverage for these circumstances makes a world of difference for those affected by the deployment of a loved one.

**Safe Leave:** While many state government employees can use existing paid leave or sick leave to address qualifying medical needs resulting from domestic violence, an increasing number of paid leave laws and policies explicitly cover broader "safe leave" purposes; these "safe leave" provisions enable individuals to



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address other needs related to a worker’s or family member’s abuse—such as obtaining a protective order, accessing social services, or relocating to safety. Four states—Oregon, Colorado, Connecticut, and New Jersey—have enacted paid family and medical leave policies that include safe leave purposes.<sup>18</sup>

Americans lose a total of nearly 8 million days of work, or \$727.8 million in lost wages, each year due to domestic violence.<sup>19</sup> Without legal protections, victims also risk job loss: a study of female workers experiencing domestic violence found that 60% had lost a job due to abuse.<sup>20</sup> Furthermore, financial dependence on their partners is one of the major reasons victims stay in abusive relationships.<sup>21</sup> Inclusion of paid safe leave in a paid family and medical leave policy means that workers can take the time they need without losing their paycheck or their job, preventing impossible choices between physical safety and economic security. Providing paid safe leave helps victims escape abuse so that they can be more productive workers, and creates a safer work environment for everyone. Employers often bear costs resulting from such abuse—costs which add up to about \$4.1 billion each year.<sup>22</sup> Providing paid safe leave may reduce insurance costs to businesses in the long run, in addition to overall savings from employee retention, productivity, and safety.

### **3. Use inclusive family definitions.**

In defining family members for whom a worker can take leave to provide care, some states rely on the definition of family laid out in the FMLA. However, under the FMLA, workers generally only have the right to take leave to care for a spouse, parent, or child who is under the age of 18 or who is unable to care for themselves due to a disability. This narrow definition of family excludes unmarried partners, siblings, children over 18 years old, and extended family members such as grandparents, aunts, uncles, and cousins. The FMLA definition also excludes other loved ones with whom the employee has a close, personal relationship, regardless of any biological or legal connection, such as a long-term dating relationship. Research shows that these close, loving relationships can be especially important to those in the LGBTQ+ community, who may face stigma and/or geographic separation from their biological families, and people with disabilities, who are often supported by a network of loved ones for care when necessary.<sup>23</sup>

Through their paid family leave policies, state governments have an exciting and important opportunity to redefine and expand the definition of family. A state public sector policy that covers all the diverse types of families in our communities sets a strong example for other local and state policies. Several states have enacted paid family leave policies with inclusive family definitions that include all loved ones, including Oregon, Colorado, Connecticut, and New Jersey.<sup>24</sup> And a growing number of cities and states, including the State of Arizona, guarantee paid sick time to workers to care for loved ones using a model, inclusive family definition.<sup>25</sup>



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In addition, the federal government, our nation’s largest employer with more than two million employees, has also used and repeatedly expanded an inclusive family definition for more than 50 years. In contrast to the limited, unrealistic family definition in the FMLA, the federal workforce’s family definition for leave includes individuals’ spouses, domestic partners, adult and minor children, parents, grandparents, grandchildren, siblings, and those whose close association with the federal employee is the equivalent of a family relationship (event absent a blood/legal relationship). Today, federal workers are entitled to use up to 12 weeks of sick leave a year to care for a family member—including extended relatives and other loved ones who aren’t biologically or legally related—with a serious health condition. The long-time experience of the federal government, and the increasing number of states and cities that use an inclusive family definition for paid leave, shows that this model is working well around the country.

When crafting a state public sector policy, A Better Balance encourages state governments to consider how these states and the federal government define covered family members in an inclusive way, without any evidence that it leads to problems, cost issues, or misuse.<sup>26</sup>

#### **4. Provide full wage replacement.**

In order to ensure that workers at all income levels are able to access the paid leave they need, it is critical for state governments to provide eligible employees with their full, regular pay while on leave. There is a strong precedent for this approach, as the majority of states with public sector paid family leave policies currently in place do provide full wage replacement.

The federal FMLA only guarantees unpaid leave, and many workers, especially those with lower incomes, are simply unable to forego weeks of income in order to provide much-needed care for a new child or a seriously ill loved one.<sup>27</sup> Evidence from one state with a paid family leave program shows that without full wage replacement, many low-wage workers do not take leave for which they are eligible because the risk of financial instability is too great.<sup>28</sup>

#### **5. Cover all workers.**

Lower-income and part-time workers often have the greatest need for paid family leave, in part because they are less likely to be able to afford to take unpaid leave. Yet nationally, these workers have less access to the benefit on average.<sup>29</sup> Narrow eligibility requirements that restrict coverage to workers who have been with the employer for a certain amount of time, or who have worked a certain number of hours in the past year, often

create barriers that prevent lower-income and part-time workers from accessing paid family leave, since turnover in lower-wage jobs is often so high.

It is critical for state governments to strive to cover as many workers as possible by broadening their eligibility requirements. A Better Balance strongly urges coverage of both full-time and part-time employees. If a waiting period for new employees is necessary, we recommend state governments to use the shortest eligibility window possible (such as covering all workers who have worked for the state for 30 days); this waiting period should not exceed 90 days. In addition, states should explore ways to extend paid leave coverage to workers who perform public functions through government contracts.

**If you would like further information, have questions, or need assistance  
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<sup>1</sup> The Business Case for Paid Family and Medical Leave, A Better Balance (May 2022), <https://www.abetterbalance.org/resources/the-business-case-for-paid-family-and-medical-leave/>.

<sup>2</sup> *Ibid.*

<sup>3</sup> A State and Local Opportunity to Advance Paid Leave for Workers: American Rescue Plan State and Local Funds Can Be Used for Paid Leave, A Better Balance (January 26, 2022), <https://www.abetterbalance.org/resources/arp-funds-for-paid-leave/>.

<sup>4</sup> Lawrence M. Berger, Jennifer Lynn Hill, and Jane Waldfogel, Maternity Leave, Early Maternal Employment and Child Health and Development in the US, *The Economic Journal* 115, no. 501 (2005).

<sup>5</sup> *Ibid.*

<sup>6</sup> Maria del Carmen Huerta et al., Fathers' Leave, Fathers' Involvement and Child Development: Are They Related? Evidence from Four OECD Countries (2013),

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<sup>15</sup> *Ibid* at 46.

<sup>16</sup> Nat'l Inst. on Drug Abuse, Treatment Approaches for Drug Addiction, (revised January 2018), <https://www.drugabuse.gov/publications/drugfacts/treatment-approaches-drug-addiction>.

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<sup>18</sup> Comparative Chart of Paid Family and Medical Leave Laws in the United States, A Better Balance (October 2022), <https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/>.

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<sup>22</sup> Ctrs. for Disease Control & Prevention, *supra* note 19, at 30.

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<sup>25</sup> *Ibid*.

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