

Paid Family and Sick Leave: The California Experience and a Federal Framework

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Paid Leave Issues

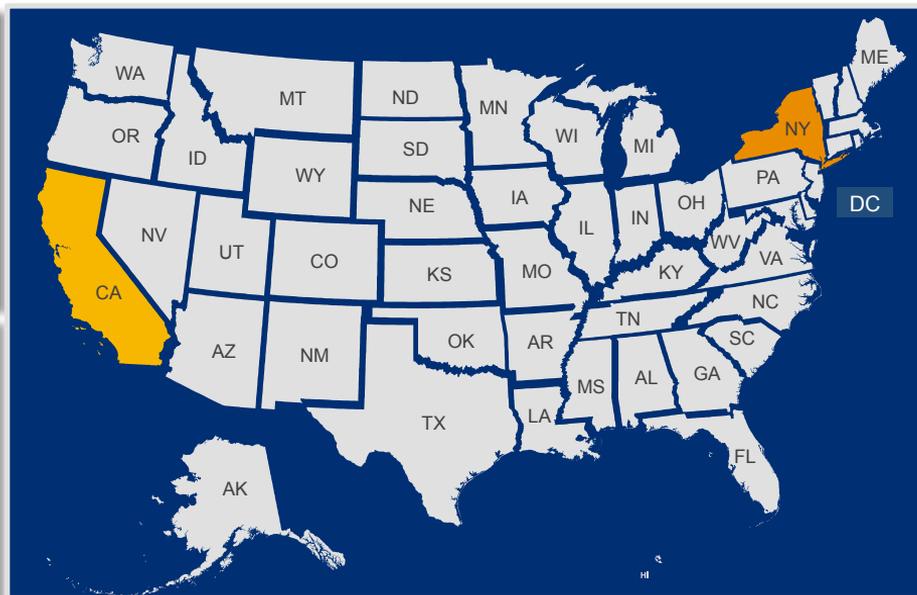
Mandatory Paid Family Leave State Policies

Four States & D.C. will Offer Paid Parental Leave to New Parents

Other Attempts at Legislation

In 2007, Washington passed a paid parental leave law, which was supposed to be implemented in 2009. However, the legislation has been postponed until a funding mechanism is identified

Currently, only **California, New Jersey, Rhode Island and New York** (will go into effect in 2018) mandate partially paid family leave. All 4 states fund their programs through payroll taxes

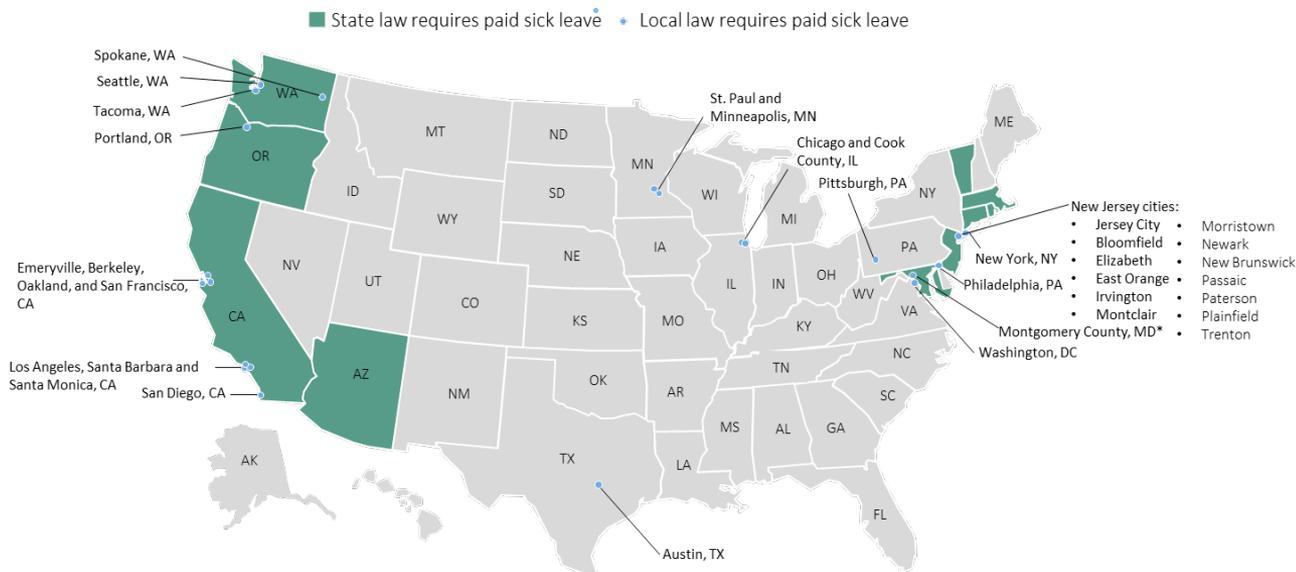


- No Paid Leave Legislation
- Family Leave Policy, Joint Employer-Employee Payroll Contributions
- Family Leave Policy, Employee Payroll Contribution
- Family Leave Policy, Employer Payroll Contributions

Source: "Paid Family Leave," National Conference of State Legislatures, 2017.

Paid Leave Issues

Paid Sick Leave Mandates Gain Momentum



- **The Rhode Island General Assembly** approved a measure for paid sick leave effective July 1, 2018.
- **Maryland** approved a measure for paid sick leave effective February 11, 2018.
- **Austin, TX** passed a measure for paid sick leave effective October 1, 2018.
- **The New Jersey state legislature** passed a measure creating a statewide paid sick leave policy on April 11, 2018.

Source: Work Place Fairness, "State and local paid sick leave laws," Your Rights, 2017; "Paid sick leave," National Conference of State Legislatures," February 8, 2017; National Partnership for Women and Families, 2017; The National Law Review, "Austin adopts paid sick and safe leave," March 5, 2018; JD Supra, "Maryland paid sick leave law now in effect," March 5, 2018; Kate King, "New Jersey lawmakers pass raft of bills-from nuclear subsidies to paid sick leave," The Wall Street Journal, April 12, 2018.

Paid Leave Issues

Comparison of Federal Paid Leave Proposals

2018 Public Policy Agenda: Paid Leave

President Trump's FY 2019 budget proposal

- Provides **6 weeks paid leave** for new mothers and fathers (including adoptive parents)
- Proposes that state governments establish individual programs **fully funded by unemployment insurance**

Ivanka Trump/ Sen. Rubio (R-FL) proposal

- Provides up to **12 weeks paid leave** for new parents
- Requires workers to withdraw from their Social Security benefits during time off and delay receiving retirement benefits by the amount of leave taken

Sen. Gillibrand's (D-NY) FAMILY Act

- Provides up to **12 weeks paid leave** for family and medical reasons, including taking care of a sick family member
- Allows workers to earn 66% of their income during time off, paid for by a **payroll tax** of 2 cents per \$10 of income

Healthy Families Act Sponsored by Rep. Rosa DeLauro (D-CT)

- Requires that employers provide up to **7 days paid sick leave** for workers in businesses with 15 or more employees
- Would not pre-empt state and local paid sick leave laws

Sources: Seung Min Kim, "Ivanka, Rubio find a new project: paid family leave," Politico, February 4, 2018; Demetri Economou, "Trump's paid family leave plan: what it is, and what it isn't," Kane Russell Coleman Logan, February 13, 2018; National Partnership, "The Family and Medical Insurance Leave (FAMILY) Act," September 2017.



Paid Leave Issues

Tax Cuts, Jobs Act (P.L. 115-97)

- The Tax Cuts, Jobs Act creates a tax credit against wages, ranging from 12.5 percent to 25 percent of wages, for employers who provide an eligible employee paid FMLA leave.
- Employers that claim the credit must provide at least two weeks of paid leave and pay employees a minimum of 50 percent of their regular pay during the leave period.
- Employers may only apply credits to both full- and part-time employees earning less than \$72,000 and who have been employed for at least one year.
- Part-time employees must be allowed to take a commensurate amount of paid leave, determined on a prorated basis.
- The tax credit applies to wages paid between January 1, 2018, and December 31, 2019.



Paid Leave Issues

Workflex in the 21st Century Act of 2017 (H.R.4219)



- Representative Mimi Walters (R-CA) along with Representatives Elise Stefanik (R-NY) and Cathy McMorris Rodgers (R-WA), introduced SHRM-developed legislation that expands paid leave and workplace flexibility opportunities for all employees.



- Employers that choose to participate by offering a minimum threshold of paid leave and a flexible work option will satisfy state and local paid sick leave law and federal contractor requirements.



- Amends ERISA, providing employers flexibility and predictability in workplace flexibility programs, rather than a patchwork of conflicting government mandates.
- Congressional action still anticipated this year.



Paid Leave Issues

Number of Employees Employed by an Employer	Minimum Number of Compensable Days of Leave per Plan Year	
	Employees with 5 or more years of service with the employer as of the beginning of the plan year	Employees with fewer than 5 years of service with the employer as of the beginning of the plan year
1000 or more	20 days	16 days
250 to 999	18 days	14 days
50 to 249	15 days	13 days
Less than 50	14 days	12 days



Paid Leave Issues

- Compensable leave defined as paid time off, sick leave, personal leave, or vacation and number of compensable days available determined by employer size and employee tenure.
- Employees would have the flexibility to decide how/when they use the leave, unless an employer determines that the leave use would unduly disrupt the business operations.
- A Flexible Work Arrangement (FWA) must be offered to each eligible employee and may include:
 - Compressed work schedule;
 - Biweekly work program;
 - Telecommuting program;
 - Job-sharing program;
 - Flexible scheduling; or
 - Predictable scheduling





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