

# PAID FAMILY LEAVE POLICIES: OVERVIEW AND IMPACT

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## SUMMARY

- Missouri can be a leader in supporting working families by adopting paid family leave policies. Only four states have adopted statewide paid family leave programs, Missouri is not one of them.<sup>1</sup>
- One study found women who utilize paid family leave are 39 percent less likely to receive public assistance or food stamps in the year following a child's birth, compared to women who take no leave.<sup>2</sup>
- The economic impact of paid leave on families includes some income during the employee's absence for those utilizing paid leave and an increased likelihood that women will still be working nine to twelve months after the birth of a child.<sup>3,4</sup>
- Families need access to paid family leave to care for children and the elderly. Nationwide, the percentage of married-couple families with children under 18, in which both parents work, increased from 58 percent in 2010<sup>5</sup> -to 60 percent in 2014.<sup>6</sup> More than 16 percent of the U.S. population are eldercare providers.<sup>7</sup>
- Research shows that paid family leave policies had a "positive effect" or "no noticeable effect" on productivity, profitability, turnover, and employee morale,<sup>8</sup> -also long-term productivity can increase due to improved recruitment, retention, and employee motivation.<sup>9</sup>
- A study of California's paid family leave program found that male utilization increased in the state. From the inception of the program in 2004 claims filed by males constituted 17 percent of all claims; by 2013 that percentage had risen to 30 percent.<sup>10</sup>
- The Family Medical Leave Act allows for unpaid leave for eligible employees, still 23 percent of U.S. workers have no access to even unpaid leave.<sup>11</sup>

## INTRODUCTION

This brief synthesizes research on paid family leave policies and practices and highlights the current status of paid family leave legislation in Missouri. First, some clarification of terms:

Paid Family Leave: A portion of the employee's wages are paid if he or she takes leave from work for the birth or adoption of a child or to care for an ill or injured family member. In some cases, paid family leave has been extended to include leave taken for situations related to domestic violence such as court proceedings or relocation, or in support of a family member who is on active military duty. For example, Missouri Senate Bill 907 would allow for any person employed by a public or private employer with at least 15 employees be entitled to unpaid leave if the person or a family member is the victim or

domestic violence, sexual assault, or human trafficking.<sup>12</sup> The bill was voted out of the Small Business, Insurance, and Industry Committee in April, 2016.

Currently, only four states in the U.S. have programs for paid family leave. Employees who utilize paid family leave only have a percentage of their wages replaced during their absence. The amount of wage replacement a person is paid varies from 50-66 percent for four to eight weeks. Table 1 describes the policies by state.

**TABLE 1: State Paid Family Leave Benefits**

State	Percentage of wage replacement	Duration
California	55%	6 weeks
New Jersey	66%	6 weeks
New York (takes effect 2018)	50%	8 weeks
Rhode Island	60%	4 weeks

Paid Medical or Sick Leave: An employee who is experiencing personal illness or injury can take paid medical or sick leave. Often this type of leave has to be accrued by the employee and can be used for personal medical issues or, if allowed by the employer, to care for a sick child or relative.

It is estimated that more than 43 million workers in the U.S. do not have access to paid medical or sick leave.<sup>13</sup> In Missouri, researchers estimate that more than one million workers in the private sector cannot earn paid sick leave from their employers.<sup>14</sup>

This brief focuses exclusively on paid family leave and the impact on families in the U.S. and Missouri.

## **THE SHIFTING COMPOSITION OF THE AMERICAN WORKFORCE AND HOUSEHOLD**

In the U.S. in 2014, 53.5 percent of women sixteen and older were employed in the civilian labor force.<sup>15</sup> Not surprisingly, the economic contribution of working women to their household is on a general upward trend as well. The earnings of wives in married-couple families went from constituting 27 percent of family income in 1970 to 37 percent in 2012.<sup>16</sup>

Nationwide, the percentage of married-couple families with children under 18, in which both parents work, increased from 58 percent in 2010<sup>17</sup> to 60 percent in 2014<sup>18</sup>. The same holds true for households with minor children maintained by non-married women, where in 2010, 67 percent<sup>19</sup> of mothers were employed; this number rose to 69 percent by 2014.<sup>20</sup>

These trends in workforce and family incomes are occurring at the same time as notable demographic changes – the growing number of elderly adults and the growing number of working Americans in adult caregiver roles. In 2014, there were about 46.2 million people aged 65 or older in the U.S.; by 2060 it is estimated that there will be about 98 million people 65 or older.<sup>21</sup> In Missouri, the senior population is projected to increase from 15 percent of the total population in 2000 to over 20 percent by 2030.<sup>22</sup>

Missouri's rural seniors are more likely to lack convenient access to health care, and transportation and be more reliant on retirement income than their urban counterparts.<sup>23</sup>

As outlined in a report by the U.S. Council of Economic Advisers, the caregiver role has expanded for both men and women to include the provision of care to other family members such as aging parents, grandparents, and parents-in-law. A new subgroup of the population has emerged in recent years, referred to as the "sandwich generation": people who are responsible for the care of their parents and their children.<sup>24</sup> According to the American Time Use Survey produced by the Bureau of Labor Statistics, more than 16 percent of the population nationwide are eldercare providers.<sup>25</sup>

These facts collectively paint a picture of a population of working families that stand to suffer the most financially in the event of a prolonged absence from work without pay, and therefore stand to benefit from paid leave policies that allow them to care for themselves and their families.<sup>26</sup>

## THE IMPACT OF PAID FAMILY LEAVE

### Economic Impact

Paid family leave policies have an economic impact on both the employer and the employee. In 2011, the Center for Economic and Policy Research analyzed survey data from California employers and workers after paid family leave requirements had been in place for about six years. According to the study employers initially feared "catastrophic effects" on business in the state, however this 2011 review of the state's policy indicate that those fears have not materialized.<sup>27</sup> The study found the following results:

"Paid Family Leave had either a "positive effect" or "no noticeable effect" on:

- Productivity (89 percent responded positive effect or no noticeable effect)
- Profitability/performance (91 percent responded positive effect or no noticeable effect)
- Turnover (96 percent responded positive effect or no noticeable effect )
- Employee morale (99 percent responded positive effect or no noticeable effect )"<sup>28</sup>

A recent report on the economics of leave programs found that long-term productivity can increase due to improved recruitment, retention, and employee motivation.<sup>29</sup> The White House report also indicates that businesses might be reluctant to invest in paid family leave policies because of the fear of initial and ongoing expenses without a complete understanding of the potential long-term benefits.<sup>30</sup>

The economic benefits to workers that have access to paid family leave programs include an increased level of wage replacement during leave<sup>31</sup> and an increased likelihood that women will be working nine to twelve months after a child's birth, compared to women who take no leave.<sup>32</sup> Additionally, one study found women who utilize paid family leave are 39 percent less likely to receive public assistance or food stamps in the year following a child's birth, compared to women who take no leave.<sup>33</sup>

### Health

There is strong evidence that paid family leave programs can have a positive impact on the health and well-being of families. Rossin (2011) finds that maternity leave has led to "increases in birth weight,

decreases in the likelihood of a premature birth, and substantial decreases in infant mortality for children of college-educated and married mothers.”<sup>34</sup> Maternity leave can also lead to increased rates and duration of breastfeeding.<sup>35</sup> The Office of Women’s Health reports that breastfeeding provides essential nutrients and antibodies that protect babies from illness and breastfeeding can help a mother’s health and healing following childbirth.<sup>36</sup>

A study by Chatterji and Markowiz (2012) found that for “mothers who worked prior to childbirth and who returned to work in the first year, having less than twelve weeks of maternal leave and having less than eight weeks of paid maternal leave are both associated with increases in depressive symptoms, and having less than eight weeks of paid leave is associated with a reduction in overall health status.”<sup>37</sup>

### **Lack of Coverage**

As a developed country the United States stands out globally in that it has no nationwide policy concerning paid family or medical leave.<sup>38</sup> In the private sector alone, 88 percent of workers lack any access to paid family leave.<sup>39</sup> During the 2016 election campaign, both major party candidates have announced support for paid family leave policies.<sup>40</sup>

The only nationwide policy that seeks to protect employees who face health or medical issues is the Family and Medical Leave Act of 1993 (FMLA). The act requires employers to allow employees up to twelve weeks unpaid leave for specific family and medical reasons in a 12-month period and still retain his or her job.

### **THE FAMILY AND MEDICAL LEAVE ACT OF 1993**

The document that would become the FMLA was first drafted in 1984 by the Women’s Legal Defense Fund, now known as the National Partnership for Women and Families. The bill finally gained enough bipartisan support to become law in 1993, after nearly a decade of discussion and debate.<sup>41</sup> The purpose of FMLA, is “to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity.”<sup>42</sup>

In order to access the benefits of the FMLA, two important and distinct criteria must be met: employer coverage and employee eligibility.

#### **Employer Coverage**

Any employee wanting to take FMLA leave must work for a covered employer. In the private sector, this is an employer with 50 employees or more working at least 20 workweeks during either the year the leave is taken or the previous year. All public agencies and public or private schools are classified as covered employers.<sup>43</sup>

Those working for a covered employer must also meet eligibility requirements as an employee. To be eligible, an employee:

- Must have worked for their covered employer for at least 12 months
- Must have worked at least 1,250 hours in the 12 months prior to actually taking leave
- Must currently work for the covered employer at a location where at least 50 other employees are working within a 75 mile radius <sup>44</sup>

Those who meet the necessary requirements are guaranteed by FMLA to take up to 12 weeks of unpaid leave for specifically covered reasons. Chief among these are:

- The birth, adoption, or foster-care placement of an employee’s child
- To address an employee’s own serious health condition (one which renders the employee unable to complete essential tasks of his or her job)
- To care for a spouse, son, daughter, or parent with a serious health condition<sup>45</sup>

The FMLA also guarantees up to 26 weeks of unpaid leave for employees caring for family members on active duty in the military with serious health conditions related to their service. Any employee who takes FMLA leave is required under the law to be restored to their original job or an equivalent position in terms of pay and benefits, with group health insurance coverage as if the leave had never occurred.<sup>46</sup>

Care for only the four explicitly mentioned types of family members is protected under the FMLA. Care for grandparents, parents-in-law, stepparents or siblings is not protected. Since the 2015 Supreme Court decision that struck down Section 3 of the Defense of Marriage Act, the definition of “spouse” under FMLA has been amended to include same-sex married couples.<sup>47</sup>

### **Criticism**

Since its passage, two particular aspects of the FMLA have been the subjects of criticism. One is the exclusivity of its coverage requirements. Data show that limitations on coverage and eligibility ultimately allow access to FMLA leave for only 60 percent of employees in America.<sup>48</sup> Nationwide, 77 percent of workers report that they have some form of unpaid leave either through FMLA or their employer, however, 23 percent of workers have no access to even unpaid leave.<sup>49</sup>

The other aspect of FMLA that has been criticized is that the unpaid aspect of the policy limits its ability to respond to the changing social and economic nature of American families.<sup>50</sup> Ultimately, many families are not in a position to take advantage of the unpaid leave benefits afforded by FMLA because of the financial strain of lost income.

### **APPROACHES TO PAID FAMILY LEAVE IN THE UNITED STATES**

The case for paid family and medical leave in the United States has grown in strength over the last two decades. In 2002, California became the first state to pass paid family and medical leave legislation. At present, four states have passed legislation providing paid family leave. Additionally the Family and Medical Leave Insurance Act, passed in Washington State in 2007, established a paid family leave insurance program which was never implemented and has been indefinitely postponed by subsequent legislation.<sup>51</sup> A complete summary of the provisions of all state policies can be found in Appendix A.

## California

California's Senate Bill 1661 was implemented in July, 2004 and provides paid family leave. Eligibility to take leave is solely based on the status of the employee, unlike the FMLA, which takes some employer criteria into account. The law entitles eligible workers to six weeks of leave for birth or adoption, or to care for a seriously ill spouse, parent, child, or domestic partner. In 2014, the law was expanded to allow an employee to take leave to care for an ill grandparent, grandchild, parent-in-law, or sibling.<sup>52</sup> Benefit amounts are paid up to 55 percent of the employee's earnings.<sup>53</sup>

The California Family Development Division administers paid benefits for family leave, through Family Temporary Disability Insurance. The program runs much like the state disability insurance program and is funded from the same pool of employee payroll deductions as general disability and unemployment insurance. Due to this structure, the law stipulates that all employees who receive family leave must have had state disability insurance deductions from their paycheck, and no single employee can take Unemployment Insurance or Disability Insurance benefits while simultaneously receiving Family Temporary Disability Insurance benefits.<sup>54</sup>

California's Paid Family Leave 10-Year Anniversary Report states that from 2004 to 2013, an estimated \$4.6 billion in Paid Family Leave benefits have been authorized for 1.8 million claims.<sup>55</sup> Only 10 percent of these claims were made for leave to care for a family member. The rest were used to give birth or to bond with a new child. Also notable was the dramatic increase in male participation over that relatively short span of time. In 2004, family leave claims filed by males constituted 17 percent of all claims; by 2013 that percentage had risen to 30 percent.<sup>56</sup>

In addition to Senate Bill 1661, California has in place a paid medical leave policy, known as the Healthy Workplaces, Healthy Families Act of 2014. The law went into effect in July, 2015 and essentially mandates worker-accrued sick leave for personal illness to be entirely paid by the employer. Under the law, employers must allow employees working in the state for more than 30 days each year (regardless of employment status: part-time, full-time, seasonal, or otherwise) to earn one hour of sick leave for every 30 hours worked at a 100 percent wage replacement rate.<sup>57</sup> An employer can also elect to provide a flat amount of 24 hours for every year worked by an employee. The eligible reasons for using this earned leave differ slightly from those eligible for Paid Family Leave. In this case an employee can actually use their leave for preventive healthcare treatments such as doctor's checkups, as well as for theirs or their families' own serious illness. Leave taken for any reason related to an employee's experience with domestic violence, stalking, or sexual assault is also covered.<sup>58</sup>

## New Jersey

In 2009, New Jersey became the second state to begin implementing a paid family leave policy, with its Family Leave Insurance Program. Similarly to California, it is also funded from employee contributions, not directly from the state's disability insurance pool; instead workers incur a separate deduction of their taxable wages.<sup>59</sup> The wage replacement rate for these benefits is two-thirds of weekly earnings. Up to six weeks of leave can be taken to care for a seriously ill child, spouse, partner, or parent, or to bond with a newly born or newly adopted child.<sup>60</sup>

A 2014 report released by the New Jersey Division of Temporary Disability Insurance counted 32,168 paid family leave claims filed, 82 percent of which were for bonding with a child. The payments for these claims totaled about \$84 million, with benefits averaging \$500 per week.<sup>61</sup>

### **Rhode Island**

Rhode Island's paid family leave legislation went into effect in 2014 and is called the Temporary Caregiver Insurance Program. Employee eligibility includes anyone who has paid into Rhode Island's Temporary Disability Insurance fund through payroll taxes. The amount of leave offered, up to four weeks, is the lowest of all the states with paid leave. Covered reasons for leave include birth and adoption, or care for a sick child, spouse, parent, in-law, grandparent, or domestic partner.<sup>62</sup>

Like California, paid family leave benefits are administered as a form of Temporary Disability Insurance called Temporary Caregiver Insurance. These benefits are sourced from disability payroll taxes and paid at approximately 60 percent of the wage replacement rate.<sup>63</sup>

### **New York**

New York's Paid Family Leave Act is the newest enacted policy, which was passed in 2016 and set to take effect in 2018. When it goes into effect it will provide the longest paid leave provision in the country. Any employee covered under the state's disability insurance law who has been working more than 26 consecutive weeks will be eligible to take up to eight weeks of paid leave (to be phased up to 12 weeks by 2021).<sup>64</sup> Eligible reasons for taking leave are: to care for an infant, to care for a family member with a serious health condition, or to relieve family pressures when someone is called to active military service.<sup>65</sup>

Leave benefits are paid at 50 percent wage replacement, to be phased up over the next three years to 67 percent. Benefits are funded through employee payroll deductions and employees are eligible for the program after six months of work with their employer.<sup>66</sup>

## **LEGISLATIVE EFFORTS IN MISSOURI**

Several efforts related to paid family leave were introduced in the Missouri General Assembly in 2016. The proposed legislation sought to provide paid leave for birth or adoption, family member illness, or for medical or legal reasons related to the incidence of domestic violence.

In January 2016, Representative Jay Barnes introduced HB 2228 which would allow state employees to receive ten paid days of work leave upon the birth or adoption of a child. This legislation does not require an employee to use all or any portion of accrued vacation or sick leave before being allowed to use this paid parental leave.<sup>67</sup> The bill was voted out of the Government Oversight and Accountability Committee in March, 2016.

In February 2016, Senator Jill Schupp introduced legislation to establish the Missouri Earned Family and Medical Leave Act through Senate Bill 1049.<sup>68</sup> Additionally, Representative Tracy McCreery introduced a very similar bill, House Bill 2536.<sup>69</sup> The Act offered a guarantee of up to 30 days of leave at a wage-replacement rate of 100 percent, with eligibility for any employee in the state. These benefits would be administered by the Missouri Department of Labor, and funded by automatically deducted employee contributions equaling .025 percent of average daily pay.<sup>70</sup>



One month later, in March 2016, Representative Stacey Newman introduced the Missouri Family Leave Act, HB 2806.<sup>71</sup> It proposed a guarantee of six weeks paid leave benefits for any employee, to be paid at a replacement-rate of one-seventh of an employee’s weekly wage for each day of leave taken. These benefits would be funded by employer contributions at a rate of .008 percent of employee earnings, similar to their requirements for unemployment insurance.<sup>72</sup>

By August 2016, Senate Bill 1049 had been referred to the Small Business Insurance and Industry Committee, House Bill 2806 had been referred to the Children and Families Committee and House Bill 2536 had been referred to the Workforce Standards and Development Committee.<sup>73</sup>

Table 2 summarizes some of the key provisions in previously proposed Missouri legislation. Appendix B provides a complete summary of the previous proposed Missouri legislation.

**Table 2. Key Provisions of Previous Missouri Legislation Proposals for Paid Family Leave**

Bill	Provision	Location
HB 2536	Requires the State Auditor to monitor the effectiveness of the program and to report back to the legislature	HB 2536 section 285.414 part 2
HB 2536	Reference standards of the Family and Medical Leave Act (FMLA) as base for qualification	HB 2536 section 285.405 part 8
HB 2806	Defines terms such as “family member” and “serious health condition”	HB 2806 section 285.400 part 2
HB 2806	Listing clear responsibilities and enforcement guidelines for MO DOL	HB 2806 section 285.405 part 5
HB 2536	Cannot discriminate against an employee that has applied for leave benefits	HB 2536 section 285.413 section 1
HB 2536	Provisions for an outreach program to spread awareness of the new benefit to employees	HB2536 section 285.414 part 1
All	Exempt those already receiving unemployment or disability payments	All

### APPROACHES TO PAID FAMILY LEAVE INTERNATIONALLY

The U.S. is the only developed country that does not require cash benefits be paid for maternity leave. Despite the recent increase in the number of countries offering this coverage, there are still more countries that pay little or nothing during maternity leave than countries that do.

Per the most recent comprehensive survey, conducted by the United Nations agency in 2013, 93 countries had some kind of leave policies that meet or exceed standards of 14 weeks and 60 countries (including the U.S.) provided 12 to 13 weeks.<sup>74</sup> Twenty-seven countries provide less than 12 weeks. In total, 180 countries surveyed had laws on the books guaranteeing leave from work for the birth of a child. These numbers indicate a strong global consensus regarding the necessity of maternity leave for working mothers.

However, the fact that a country provides leave does not mean that leave is paid. When that component is examined, the picture becomes slightly less clear. The ILO found that from 2010 to 2013 the number



of countries that provide cash benefits meeting the Convention standard of two-thirds wage-replacement increased by 3 percent - to a total of 74 countries.<sup>75</sup>

## **CONCLUSION**

While legislation has been introduced in the Missouri General Assembly to implement paid family leave policies, no progress has been made on the legislation to this point. Paid family leave policies have been shown to provide health and economic benefits to employees and have positive or no noticeable impact on productivity, profitability and turnover. Missouri has the opportunity to be a leader in supporting working families by providing access to paid family leave.

## Appendix A: Summary of Missouri Paid Family Leave Legislation Proposals

Sponsor	Bill Number (2016)	Date of Last Action	Wage Replacement	Length	Funding Mechanism	Status
Rep. Barnes	HB 2228 - State employees only	3/8/2016	100%	10 days	Paid Leave accrued similar to sick leave	Voted Do pass from Govt. Oversight & Accountability
Rep. McCreery	HB 2536	5/13/2016	100%	30 days	Employee funded through payroll tax at .025%	Referred to Workforce Standards & Development
Rep. Newman	HB 2806	5/13/2016	1/7 Weekly wage	6 weeks	Employer funded at .008%	Referred to Children and Families
Sen. Nasheed	SB 983	1/28/2016	65% (or \$300/week, whichever is greater)	16 weeks	Employer funded (no rate provided)	Referred to Seniors, Families & Children
Sen. Schupp	SB 1049	2/22/2016	100%	30 days	Employee funded through payroll tax .025%	Referred to Small Business, Insurance & Industry

Source: <http://house.mo.gov/> and <http://www.senate.mo.gov/BTSSearch/Default.aspx>

## Appendix B: Summary of Paid Family Leave Policies in the U.S.

State	Year of Enactment	Wage Replacement	Length	Funding Mechanism	Administered by
California	2004	55%	6 weeks	Employee contributions at 0.90% payroll tax.	Administered by California Family Temporary Disability Insurance Program
New Jersey	2009	66%	6 weeks	Employee payroll deductions at 0.08% of the taxable wage base	Administered by New Jersey Division of Temporary Disability Insurance
New York	2018	50% (67% by 2021)	8 weeks (12 weeks fully implemented)	Employee payroll deductions (amount of deduction has not yet been determined)	Deduction determined by New York Superintendent of Financial Services.
Rhode Island	2014	60%	4 weeks	Employee contributions at 1.20% payroll tax.	Administered by Rhode Island Temporary Caregiver Insurance Fund

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