



# AN ACT ESTABLISHING A FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

[H.2172](#) (filed by Rep. Kenneth Gordon) and [S.1048](#) (filed by Sen. Karen Spilka)

Nearly all workers need time off from work at some point in their careers to care for a new child or deal with their own or a loved one’s serious illness or injury. Yet in Massachusetts, as in most states, there is no insurance system that can provide partial wage replacement for workers when they need to take time off for such serious and inevitable family and health events. With most employers not offering paid family and medical leave, workers report negative effects on their careers, finances, and health. Employers can suffer when family and medical concerns force workers to quit. Paid family and medical leave (PFML) provides workers with job protection, partial wage replacement, and flexibility to address their own serious illness or injury, or that of a loved one, and to bond with a new child. When we can remove obstacles to balancing work and family life, we expand opportunity and the economic security of workers, their children, and their aging parents.

## THE BASICS OF PAID FAMILY AND MEDICAL LEAVE (PFML):

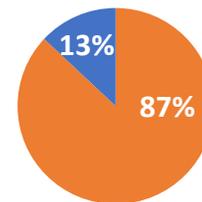
PFML allows workers to take paid time off in order to address a serious health condition, support a family member with a serious health condition, or care for a new child. Access to paid leave can be offered voluntarily by individual employers or required by law.

Overall, PFML laws provide two types of leaves:

- **Family leave** allows workers to care for a family member with a serious health condition and to bond with and care for a new child through birth, foster care, or adoption. In New England, 87 percent of civilian workers lack access to paid family leave.<sup>1</sup>
- **Medical leave** allows workers to address their own serious medical condition, pregnancy, or post-partum recuperation. In New England, roughly 39 percent of workers indicate that they have access to personal medical leave through short-term disability insurance policies in 2015.<sup>2</sup>

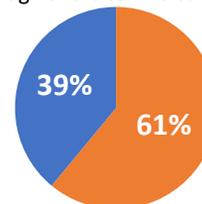
Each year, about 1 in every 8 workers in the state find themselves in a situation where they have to take some extended leave.<sup>3</sup> They do this mostly by cobbling together and using up their vacation and sick time or by taking unpaid leave.<sup>4</sup> It is estimated that each year over 100,000 workers in the state are unable to take any leave they need at all because they cannot afford unpaid time off for an extended period or cannot risk losing their job.<sup>5</sup>

Most New England Workers Lack Access to Paid Family Leave



Most New England Workers Lack Access to Paid Medical Leave

Medical leave through short-term disability insurance



About 1 in 8 MA Workers Take Family or Medical Leave Annually



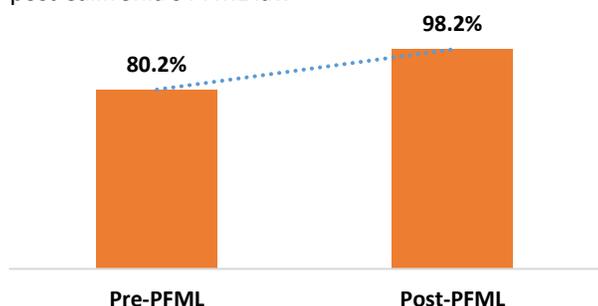
## PFML BENEFITS WORKERS AND THEIR FAMILIES:

Paid family and medical leave enables workers to better balance work obligations with family responsibilities by supporting workers in important ways:

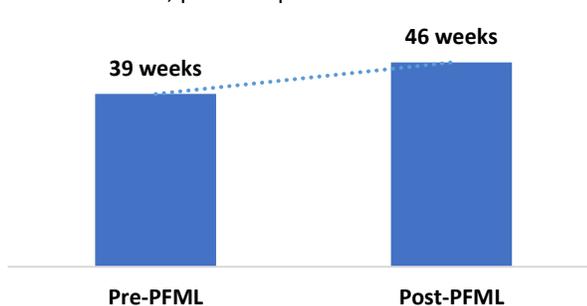
**Helps women remain in the labor force and retain their earning capacity over the long-term:** Workers welcoming new children into their families commonly face challenging decisions about balancing their careers with caregiving responsibilities. New mothers who lack access to paid leave are more likely to lose their jobs in order to care for a newborn child. For instance, research in California, which has had a statewide PFML law since 2002, finds that new mothers were 18 percentage points more likely to be working a year after birth as compared to a pre-program baseline of 80.2 percent (see below).<sup>6</sup> This research also finds an increase of 7.1 weeks and 2.8 hours per-week worked during the second year of a new child's life compared to pre-program baselines (see below).<sup>7</sup> This suggests long-term economic benefits for working mothers and employers.

### PFML makes it more likely that new mothers are able to return to and stay in the labor force after birth

Percent of mothers working a year after birth, pre- and post California's PFML law



Weeks worked by mothers during the second year of a new child's life, pre- and post California's PFML law



Source: Baum C., & Ruhm, C. (2016) *The Effects of Paid Family Leave in California on Labor Market Outcomes*.

*These analyses focused on mothers with considerable amounts (at least 20 weeks) of work experience during pregnancy.*

**Increases parents' ability to bond with new children:** PFML policies provide parents with time to bond with and care for a new child as well as to recover from childbirth. When families are able to build strong relationships from the start, children are more likely to have healthy, social, and emotional outcomes and less likely to have behavioral and adjustment problems as adolescents and adults.<sup>8</sup> In California, which has the longest standing statewide PFML law in the country, prior to implementation of its PFML law, new mothers took around 3 weeks of maternity leave.<sup>9</sup> After the program was enacted, use of maternity leave increased to 6 or 7 weeks, on average.<sup>10</sup> Under the law, father's bonding time with new children increased by 46 percent (or 2 to 3 extra days).<sup>11</sup>

**Improves health of babies and mothers:** Access to job-protected paid leave is associated with improved child health and development as well as maternal health in the following ways:

- It can remove obstacles to breastfeeding. Breastfeeding provides numerous short-term and long-term health benefits to babies, such as reducing infections, lowering risks of asthma, childhood leukemia, and obesity.<sup>12</sup> Breastfeeding also provides long-term health benefits to mothers by lowering risks of ovarian cancer, certain types of breast cancer, and Type 2 diabetes.<sup>13</sup> One study found that the rates of breastfeeding increased for working mothers in California after the PFML law came into effect. Before the law, 44 percent of mothers were breastfeeding in the first three months and 28 percent at six months. After the law came into effect, these rates increased to 60 percent and 45 percent, respectively.<sup>14</sup>
- It can increase the probability that children will receive necessary immunizations and regular checkups, contributing to lower infant mortality and morbidity rates.<sup>15</sup>
- When parents are able to take paid leave after birth or adoption, kids benefit with better physical, cognitive, and behavioral outcomes.<sup>16</sup>

**Supports eldercare.** The Census Bureau estimates that the elder population over 80 years old will double over the next 25 years.<sup>17</sup> As this population ages, the pressure on adult children to care for their aging parents will continue to grow. Currently, an estimated 14 percent of U.S. adults (34.2 million) provide unpaid care for another person over the age of 50, who are mainly parents or parents-in-law.<sup>18</sup>

**Promotes economic stability among workers:** Access to PFML can reduce the risk of bankruptcy and job loss. For instance, in 2007, 62 percent of all bankruptcies were due to medical reasons.<sup>19</sup> And income loss due to illness is a contributing factor for 38 percent of people who declared bankruptcy for medical reasons.<sup>20</sup> Statewide PFML laws also include job-protection provisions to ensure a worker completing leave can return to their previous position, with the same status, pay, and benefits.

**CURRENT MASSACHUSETTS AND FEDERAL LAWS LEAVE BIG GAPS:**

PFML fills in the gaps that other leave public policies leave behind. Neither Massachusetts nor federal laws guarantee access to job-protected, paid leave when a worker has a serious illness or a new child arrives to the family. While some workers have access to unpaid family and medical leave through the Federal Family and Medical Leave Act (FMLA) and the Massachusetts Parental Leave law (MPLL), these laws do not cover all workers. For instance, FMLA only covers workers in firms of 50 or more, along with other requirements, and MPLL only covers parental leave for workers in firms with six or more. And neither of these laws provides wage replacement. PFML enables workers to address serious health issues and allows the time to bond with a child without having to sacrifice their jobs or wages. While Massachusetts’ recently passed Earned Sick Time (EST) law provides wage replacement for up to five days for workers in firms with more than 10 people, it does not help workers recover from longer-term, serious illnesses through extended time off. EST is designed to provide workers with a few days to deal with short-term illnesses, such as the flu. While FMLA, MPLL, and EST policies are each a form of leave law, they fulfill different kinds of needs for workers. To learn more about these policies, see MassBudget’s report [“Paid Family & Medical Leave and Related Policies Explained.”](#)

**OTHER STATES’ EXPERIENCE WITH STATEWIDE PFML PROGRAMS:**

Statewide PFML systems are financed by insurance premium payments and provide partial wage replacement to covered employees. Currently, California, New Jersey, and Rhode Island (and New York starting in 2018) administer paid medical leave through disability insurance programs.

Current Statewide Paid Family and Medical Leave Laws in the U.S.				
	California	New Jersey	Rhode Island	New York
<b>Effective Date</b>	2002	2009	2014	2018
<b>Length of Family Leave</b>	6 weeks	6 weeks	4 weeks	8 weeks (rising to 12 wks by 2021)
<b>Length of Own-Health Leave (inc. pregnancy)</b>	52 weeks	26 weeks	30 weeks	26 weeks
<b>Maximum Wage Replacement</b>	55%	66%	60%	50% (rising to 67% by 2021)

## **BUSINESSES EXPERIENCE POSITIVE OUTCOMES IN STATES WITH PFML PROGRAMS:**

Given that the first PFML program started 15 years ago, we now have a clear idea of what businesses can expect. Specifically, experience shows us that PFML can:

**Allow both employers and workers to share the costs of PFML at low costs:** Rather than each employer fully bearing the risk of a worker needing to take leave, PFML allows for both workers and employers to make small payments over time into a fund, sharing the costs associated with taking leave. Similar insurance-based risk-sharing arrangements currently help businesses offer health insurance, workers' compensation, and unemployment insurance to their workers.

**Create a more level playing field for in-state small businesses as well as provide competitive advantage over out-of-state businesses:** States that offer PFML through insurance systems allow businesses to offer PFML to their employees at an affordable cost. Cost- and risk-sharing help small business employers to offer benefits like PFML and attract the same talent as their larger counterparts. This can also help our state's employers attract talented out-of-state workers, enabling them to compete for talent with other companies who offer paid leave in states like California and New York.

**Increase employee productivity, loyalty, and morale:**<sup>21</sup> The experience in California indicates that the availability of PFML can enhance employee productivity, loyalty, and morale.<sup>22</sup> A survey of California employers found, for instance, that virtually all employers (99 percent) reported that the state's program had positive or neutral effects on employee morale. Some California employers who already provided paid family leave prior to state enactment also learned that they could offer additional benefits to workers after the PFML law came into effect.<sup>23</sup> While a few employers reported negative effects on profitability and performance, 91 percent reported positive or neutral effects.<sup>24</sup>

**Allow predictability of costs associated with paid leave:**<sup>25</sup> Typically when a worker is on leave, employers assign work temporarily to other workers to cover their responsibilities (63 percent of the time in a survey of employers in California). Less frequently, these employers hire temporary replacements (less than one-third of firms).<sup>26</sup> However, in these circumstances when employers without a PFML insurance program must hire a temporary replacement, they must pay both the worker on leave and the temporary worker. With a PFML insurance program, the employer is better positioned to hire the temporary replacement because the worker on leave is covered by premiums that have already been paid for over a longer period of time, not directly out of pocket by the employer at the time of the leave.

**Overwhelmingly used for proper purposes:**<sup>27</sup> Some employers worry about the possibility of workers wrongly taking leave. However, programs ask for a health care provider's note regarding the severity of the illness, mitigating potential abuse. In fact in California, 91 percent of employers surveyed reported that they did not suspect any abuse of the system.<sup>28</sup>

## **BASICS OF THE BILLS:**

Massachusetts' Legislature is currently considering bills to create a paid family and medical leave program ([H.2172](#) and [S.1048](#)). Specifically, the PFML program would:

- Create an insurance-based system that provides eligible workers with paid time off in order to:
  - Address a serious health condition,
  - Support a family member with a serious health condition,
  - Care for a new child through birth, foster care, or adoption,
  - Attend to family needs that arise from a family member's active duty service.
- Offer job protection. A worker upon completion of leave will be restored to their previous position, with the same status, pay, and benefits.

- Provide up to 12 or 16 weeks of family leave and up to 26 weeks of medical leave but capped at 26 week per year.<sup>29</sup>
- Recent cost estimates indicate that worker and employer contributions would be set at an average of \$3.44 total (\$1.72 each) per week. Contributions would go into a disability insurance trust fund managed by the state.<sup>30</sup>

<sup>1</sup> Bureau of Labor Statistics, Leave benefits: Access, civilian workers [National Compensation Survey](#), March 2015.

<sup>2</sup> Bureau of Labor Statistics, Insurance benefits: Access, participation, and take-up rates, civilian workers, [National Compensation Survey](#), March 2015. Page 61  
[Definition of Short-term disability in BLS:](#)

Short-term disability plans provide benefits for non-work-related illnesses or accidents on a per-disability basis, typically for a 6-month to 12-month period. Benefits are paid as a percentage of employee earnings or as a flat dollar amount. Short-term disability benefits vary with the amount of pre-disability earnings, length of service with the establishment, or length of disability. Plans can be funded non-commercially, commercially, and through State temporary disability plans.

<sup>3</sup> Albelda, R., & Clayton-Matthews, A. (2016). [It's About Time: Cost and Coverage of Paid Family and Medical Leave in Massachusetts](#). Center for Social Policy and Center for Women in Politics and Public Policy at the University of Massachusetts, Boston. Page 1. 2011 American Time Use Survey and 2012 survey by the U.S. Department of Labor (DOL) commissioned Abt Associates indicate that about two-thirds of workers that take family or medical leave receive some form of wage replacement, commonly though paid sick time and vacation time.

<sup>4</sup> Albelda, R., & Clayton-Matthews, A. (2016). [It's About Time: Cost and Coverage of Paid Family and Medical Leave in Massachusetts](#). Center for Social Policy and Center for Women in Politics and Public Policy at the University of Massachusetts, Boston. Page 1

<sup>5</sup> Albelda, R., & Clayton-Matthews, A. (2016). [Family and Medical Leave in Massachusetts: A Current Snapshot](#). MassBudget.

<sup>6</sup> Baum, C., & Ruhm, C. (2016) [The Effects of Paid Family Leave in California on Labor Market Outcomes](#). Journal of Policy Analysis and Management, 35 (2), Page 18

<sup>7</sup> Baum, C., & Ruhm, C. (2016) [The Effects of Paid Family Leave in California on Labor Market Outcomes](#). Journal of Policy Analysis and Management, 35 (2), Page 18-19

<sup>8</sup> Hollo, T. G. (2012). [Evaluating Family and Medical Leave Insurance for Washington State](#). *Economic Opportunity Institute (May 2012)*. Page 9

<sup>9</sup> Rossin-Slater, M., Ruhm, C. J., & Waldfogel, J. (2013). [The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes](#). Journal of Policy Analysis and Management, 32(2), Page 18

<sup>10</sup> Rossin-Slater, M., Ruhm, C. J., & Waldfogel, J. (2013). [The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes](#). Journal of Policy Analysis and Management, 32(2), Page 19

<sup>11</sup> Bartel, Ann, et al. Paid Family Leave, Fathers' Leave-Taking, and Leave-Sharing in Dual-Earner Households. No. w21747. National Bureau of Economic Research, 2015. Page 15.

<sup>12</sup> Office on Women's Health, U.S. Department of Health and Human Services. [Why breastfeeding is important](#).

<sup>13</sup> Office on Women's Health, U.S. Department of Health and Human Services. [Why breastfeeding is important](#).

<sup>14</sup> Huang, R., & Yang, M. (2015). Paid maternity leave and breastfeeding practice before and after California's implementation of the nation's first paid family leave program. *Economics & Human Biology*, 16, Page 49, Table 1

<sup>15</sup> Berkeley Center on Health, Economic & Family Security. (2010). [Family Security Insurance: A New Foundation for Economic Security](#). Page 18

<sup>16</sup> Economic Opportunity Institute. (2013). [Evaluating family and medical leave insurance for Washington state](#). Page 8.

<sup>17</sup> Ortman, J. M., Velkoff, V. A., & Hogan, H. (2014). [An aging nation: the older population in the United States](#). Washington, DC: US Census Bureau, 25-1140. Page 6, Table 2

<sup>18</sup> The National Alliance for Caregiving (NAC) & the AARP Public Policy Institute (2015). [Caregiving in the U.S. 2015](#). Page 9

<sup>19</sup> Himmelstein, D. U., Thorne, D., Warren, E., & Woolhandler, S. (2009). [Medical bankruptcy in the United States, 2007: results of a national study](#). *The American Journal of Medicine*. Page 3

<sup>20</sup> Himmelstein, D. U., Thorne, D., Warren, E., & Woolhandler, S. (2009). [Medical bankruptcy in the United States, 2007: results of a national study](#). *The American Journal of Medicine*. Page 3

<sup>21</sup> MassBudget. (2016). [Paid Family and Medical Leave: Lessons from Other States](#)

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- <sup>22</sup> Appelbaum, E., & Milkman, R. (2011). [Leaves that pay](#): Employer and worker experiences with paid family leave in California. DC: Center for Economic and Policy Research. Page 8
- <sup>23</sup> Firestein, N., O'Leary, A., & Savitsky, Z. (2011). [A guide to implementing paid family leave: Lessons from California](#). CA: Berkeley Center on Health, Economic & Family Security, UC Berkeley School of Law & Labor Project for Working Families. Page 15
- <sup>24</sup> Appelbaum, E., & Milkman, R. (2011). [Leaves that pay](#): Employer and worker experiences with paid family leave in California. DC: Center for Economic and Policy Research. Page 4
- <sup>25</sup> MassBudget. (2016). [Paid Family and Medical Leave: Lessons from Other States](#)
- <sup>26</sup> Appelbaum, E., & Milkman, R. (2011). [Leaves that pay](#): Employer and worker experiences with paid family leave in California. DC: Center for Economic and Policy Research. Page 9
- <sup>27</sup> MassBudget. (2016). [Paid Family and Medical Leave: Lessons from Other States](#)
- <sup>28</sup> Appelbaum, E., & Milkman, R. (2011). [Leaves that pay](#): Employer and worker experiences with paid family leave in California. DC: Center for Economic and Policy Research. Page 8
- <sup>29</sup> House bill proposes 12 weeks for family leave and the Senate bill proposes 16 weeks for family leave.
- <sup>30</sup> Cost estimates result from analyses of the House bill only by Albelda, R. & Clayton-Matthews, A., Center for Social Policy and Center for Women in Politics and Public Policy at the University of Massachusetts, Boston.