



# What Docs Should Know About... Family and Medical Leave Act

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**The Family Medical Leave Act (FMLA) gives qualifying employees the right to 12 weeks of unpaid leave for: a mother's maternity-related serious condition; the birth and care of a newborn child; adoption or foster care placement; care of an immediate family member with a serious health condition or the employee's own serious health condition.**

- Under the FMLA, passed in 1993, employees are eligible if they work for an employer who has at least 50 employees within a 75 mile radius who have been on the payroll for 20 or more weeks in a calendar year. Employees are eligible if they have worked with the employer for a minimum of one year, and they have worked for that employer for at least 1,250 hours over the previous 12 months.
- Nearly 43 percent of the nation's workforce is not covered under the FMLA because it applies only to companies with 50 or more employees.<sup>1</sup>
- Eligible employees are entitled to 12 weeks of unpaid leave during a 12-month period.
- Using FMLA leave should not result in termination of employment or be considered a negative factor in the employee's record. Under the law, the employer is required to reinstate the employee to the same or an equivalent position after returning from leave.
- While the law stipulates unpaid leave, the employer may require the employee to use accrued sick or annual leave for some or all of the FMLA period.

**Leave, particularly paid leave, benefits children and families, especially low-income families.**

- According to a national survey, taking family and medical leave makes it easier for people to care for family members and comply with doctors' instructions, and has a positive effect on their own or family members' physical health.<sup>2</sup>
- Research indicates that parental leave may have a positive impact on child health. One study found that, internationally, child mortality fell when countries implemented a parental leave policy.<sup>3</sup> Other research suggests that paid family leave would improve child health by allowing poor families to better care for their children.<sup>4</sup>

**Paid family leave is gaining support across the country.**

- Twenty-six states considered some form of paid leave in their 2005 legislative sessions.<sup>5</sup>
- In 2002, California passed the nation's most comprehensive paid family leave legislation, establishing the Paid Family Leave (PFL) Law, also referred to as the Family Temporary Disability Insurance. PFL is administered under the State Disability Insurance program. The PFL Program began paying out benefits on July 1, 2004. Employees are eligible to receive up to six weeks of partial pay each year for reasons ranging from caring for a newborn to providing care for a seriously ill parent. PFL applies to employees in businesses of all sizes, and is funded through employee payroll deductions.<sup>6</sup>
- Massachusetts is considering a bill that would pay workers' full salary (up to \$750 a week) for up to 12 weeks to care for newborns or for family members who are ill, which if passed, would make it the nation's most generous paid leave policy.<sup>7</sup>

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<sup>1</sup> Capriccioso, R. (2005) *In Need of Leave*. ConnectForKids.org. Retrieved on 6 July 2006 from <http://www.connectforkids.org/node/3461>.

<sup>2</sup> Waldfogel, J. (2001). Family and medical leave: Evidence from the 2000 surveys. *Monthly Labor Review*, September 2001, 17-23. <http://www.bls.gov/opub/mlr/2001/09/art2full.pdf>.

<sup>3</sup> Dube, A., & Kaplan, E. (2002). *Paid family leave in California: An analysis of costs and benefits*. <http://www.paidfamilyleave.org/pdf/dube.pdf>.

<sup>4</sup> Ibid.

<sup>5</sup> Llana, S. M. "Paid-leave proposals gain steam: A Massachusetts bill would give employees 12 weeks off to care for family." *The Christian Science Monitor*. 15 May 2006. Retrieved on 6 July 2006 from <http://www.csmonitor.com/2006/0515/p01s02-wmgn.htm>.

<sup>6</sup> State of California Web site. Employment Development Department: Paid Family Leave Insurance. Frequently Asked Questions. Retrieved on 6 July 2006 from <http://www.edd.ca.gov/rdsqfaq.htm#Paid%20Family%20Leave>.

<sup>7</sup> Estes, A. "Family paid leave on Mass. Agenda: Proposal in Senate is nation's most generous." *The Boston Globe*. 23 April 2006. Retrieved on 6 July 2006 from [http://www.boston.com/news/local/articles/2006/04/23/family\\_paid\\_leave\\_on\\_mass\\_agenda/](http://www.boston.com/news/local/articles/2006/04/23/family_paid_leave_on_mass_agenda/).

- Paid family leave benefits employers financially. An analysis of the California plan found that companies could save \$89 million with a paid family leave program due to increased employee retention. The study also estimated that the state of California could save \$25 million annually due to decreased reliance on Temporary Assistance for Needy Families (TANF) and Food Stamps.<sup>8</sup>
- A 2000 survey found that while 84% of establishments whose employees were eligible for FMLA provided benefits for all five reasons, only 34% of establishments not covered by the law provided all five benefits.<sup>9</sup>
- Americans support paid family leave. According to a national poll conducted in 2000, 88% of parents of young children and 80% of all adults support paid parental leave. Support is strongest among mothers, lower-income parents and future parents.<sup>10</sup>

### **While FMLA helps many take time off to care for loved ones, many still cannot afford to take leave.**

- Approximately seventy-seven percent of employees, who need but do not take family and medical leave, do not take it because they cannot afford to.<sup>11</sup>
- Nationally, the poorest families are the least likely to have paid sick leave, paid vacation leave or flexibility in their work schedules.

### **Docs can help advocate for expanded leave policies, particularly paid leave.**

- Docs can advocate for expanded family and medical leave policies in their state, access to paid sick leave and policies that include smaller businesses. Contact Docs For Tots ([dft@DocsForTots.org](mailto:dft@DocsForTots.org)) to become involved with advocating for paid family and medical leave and other child-friendly policies.

### **Additional Resources for Docs**

- National Partnership for Women & Families, Paid Leave, <http://www.nationalpartnership.org/Default.aspx?tabid=43>
- U.S. Department of Labor Employment Standards Administration Wage and Hour Division website, <http://www.dol.gov/esa/whd/fmla/>
- AFSCME (American Federation of State, County and Municipal Employees) Guide to the Family and Medical Leave Act, <http://www.afscme.org/wrkplace/FMLA-pdf-2006.pdf>

<sup>8</sup> Dube, A., and Kaplan, E. (2002). *Paid family leave in California: An analysis of costs and benefits*. <http://www.paidfamilyleave.org/pdf/dube.pdf>.

<sup>9</sup> Waldfogel, J. (2001). Family and medical leave: Evidence from the 2000 surveys. *Monthly Labor Review*, September 2001, 17-23. <http://www.bls.gov/opub/mlr/2001/09/art2full.pdf>.

<sup>10</sup> Zero to Three, Civitas, and the Brio Corporation. (2000). *What grown-ups understand about child development: A National Benchmark Survey*. <http://www.zerotothree.org/fullreport.pdf>.

<sup>11</sup> Waldfogel, J. (2001). Family and medical leave: Evidence from the 2000 surveys. *Monthly Labor Review*, September 2001, 17-23. <http://www.bls.gov/opub/mlr/2001/09/art2full.pdf>.