

## Overview of Paid Family Leave Laws in the United States

**Four U.S. states have paid family leave laws in effect. This document provides an overview and comparison of these laws.<sup>1</sup>**

	<b>California<sup>2</sup></b>	<b>New Jersey<sup>3</sup></b>	<b>Rhode Island<sup>4</sup></b>	<b>New York<sup>5</sup></b>
Program name	Paid Family Leave (PFL)	Family Leave Insurance (FLI)	Temporary Caregiver Insurance (TCI)	Paid Family Leave (PFL) <i>Workers can begin receiving benefits on January 1, 2018.</i>
Who is covered? <sup>6</sup>	Workers covered by the state unemployment insurance law, except for most public workers, are covered. Domestic workers are also covered. Those who are self-employed can opt in to coverage. Many public employers can opt in to coverage, but may need to do so through a negotiated agreement with an authorized bargaining unit.	Workers covered by the state unemployment insurance law, including public workers, are covered. Some domestic workers are covered.	Workers covered by the state unemployment insurance law, except for public workers, are covered. Some domestic workers are covered. Public employers can opt in to coverage, as can some unions covering public workers through the collective bargaining process.	Most private-sector workers are covered, subject to several exceptions. <sup>7</sup> Full-time domestic workers are covered. Most employers not required to provide coverage, including public employers, can opt in to coverage. Those who are self-employed can opt in to coverage. Unions covering public workers can opt in through the collective bargaining process.



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What purposes can it be used for?	PFL can be used either (1) to bond with a child within one year of the child's birth or placement for foster care or adoption; or (2) to care for a family member with a serious health condition. Workers who need time off to recover from their own serious health condition may be eligible for payments under California's Disability Insurance (DI) program. <sup>8</sup>	FLI can be used either (1) to bond with a child within one year of the child's birth or placement for adoption; or (2) to care for a family member with a serious health condition. Workers who need time off to recover from their own serious health condition may be eligible for payments under New Jersey's Temporary Disability Insurance (TDI) program. <sup>8</sup>	TCI can be used either (1) to bond with a child within one year of the child's birth or placement for foster care or adoption; or (2) to care for a family member with a serious health condition. Workers who need time off to recover from their own serious health condition may be eligible for payments under Rhode Island's Temporary Disability Insurance (TDI) program. <sup>8</sup>	PFL can be used (1) to bond with a child within one year of the child's birth or placement for foster care or adoption; (2) to care for a family member with a serious health condition; or (3) to address certain military family needs. Workers who need time off to recover from their own serious health condition may be eligible for payments under New York's Temporary Disability Insurance (TDI) program. <sup>9</sup>
What family members are covered?	A family member includes a worker's child, parent, grandparent, grandchild, sibling, spouse, registered domestic partner, or the parent of a worker's spouse or registered domestic partner.	A family member includes a worker's child (under the age of 19 or unable to care for self due to mental or physical impairment), parent, spouse, registered domestic partner, or civil union partner.	A family member includes a worker's child, parent, parent-in-law, grandparent, spouse, or registered domestic partner.	A family member includes a worker's child, parent, parent-in-law, spouse, domestic partner, grandchild, or grandparent. <sup>10</sup> The law's definition of domestic partner is flexible and does not require registration. <sup>11</sup>
How is the program funded?	PFL is funded by a payroll deduction from employee wages, currently set at 0.9%. This deduction includes funding for both PFL and DI and does not apply to wages above \$106,742 per year.	FLI is funded by a payroll deduction from employee wages, currently set at 0.08%. This deduction does not apply to wages over \$32,000 per year. TDI is funded separately from FLI and is jointly funded by employers and employees. <sup>12</sup>	TCI is funded by a payroll deduction from employee wages, currently set at 1.2%. This deduction includes funding for both TCI and TDI and does not apply to wages above \$66,300/year. <sup>13</sup>	PFL is funded by a payroll deduction from employee wages, up to a maximum set by the Department of Financial Services. TDI is funded separately from PFL and is jointly funded by employers and employees. <sup>12</sup>



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What is the weekly benefit level?	For most workers, approximately 55% of their average weekly wage up to a cap, currently set at \$1,120/week. <i>Effective January 1, 2018, most workers will receive 60% or 70% of their average weekly wage, depending on their income, up to cap.<sup>14</sup></i>	For all covered workers, 2/3 of average weekly wage up to a cap, currently set at \$615/week. <sup>15</sup>	For all covered workers, 4.62% of wages in the highest earning quarter of the base year (or approximately 60% of a worker's average weekly wage during that quarter), up to a cap, currently set at \$817/week. <sup>16</sup>	For all covered workers, benefits will start at 50% of the worker's average weekly wage, up to cap of 50% of the statewide average weekly wage. When the program is fully phased in in 2021, workers will receive 67% of their average weekly wage up to a cap of 67% of the statewide average weekly wage.
For how long can a worker receive benefits?	Up to 6 weeks in a 12-month period.	Up to 6 weeks in a 12-month period.	Up to 4 weeks in a 52-week period.	Up to 12 weeks in a 52-week period.
Is there an unpaid waiting period?	Yes—there is a 7 day unpaid waiting period. <i>Effective January 1, 2018, there will be no waiting period.</i>	Yes—there is a 7 day unpaid waiting period. However, if a worker is eligible for benefits during each of three consecutive weeks after the waiting period, that worker can also be paid benefits for the waiting period.	No.	No.
What is the application deadline to receive full benefits?	48 days after start of leave	30 days after start of leave	30 days after start of leave	30 days after start of leave



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Are workers entitled to have their jobs back when they return?	No. PFL does not provide job protection, though some workers may be eligible for job protection under other laws, such as the federal Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA).	No. FLI does not provide job protection, though some workers may be eligible for job protection under other laws, such as the FMLA or the New Jersey Family Leave Act (NJFLA).	Yes. TCI requires that a worker be restored to the position the worker held before leave or to a comparable position. <sup>17</sup> Some workers may be eligible for additional protection under other laws, such as the FMLA or the Rhode Island Parental and Family Medical Leave Act (RIPFMLA).	Yes. PFL requires that a worker be restored to the position the worker held before leave or to a comparable position. <sup>18</sup> Some workers may be eligible for additional protection under other laws, such as the FMLA.
Are workers entitled to keep their health benefits while receiving benefits?	No. PFL does not protect workers' health insurance, though some workers may be eligible for protection under other laws, such as the FMLA or the CFRA.	No. FLI does not protect workers' health insurance, though some workers may be eligible for protection under other laws, such as the FMLA or the NJFLA.	Yes. TCI requires employers to continue any existing health benefits while a worker is on leave, though the worker may be required to continue paying premiums. Some workers may be eligible for additional protection under other laws, such as the FMLA or the RIPFMLA.	Yes. PFL requires employers to continue any existing health benefits while a worker is on leave, though the worker may be required to continue paying premiums. Some workers may be eligible for additional protection under other laws, such as the FMLA.
How is the insurance provided?	Most workers are covered through the state-run State Disability Insurance (SDI) program, which is paid for through employee payroll contributions and is centrally administered. Employers can apply for approval of a voluntary plan, which must provide benefits greater than those available through SDI.	By default, workers are covered through the state-run FLI program ("the state plan"). Employers can apply for approval of a private plan, which must provide at least as much coverage as the state plan.	All covered workers are covered through the state fund.	Employers can provide coverage by purchasing insurance (either from the state fund or a private insurer) or by becoming an approved self-insurer.



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What supporting documents must workers provide?	For bonding leave, workers must provide documentation establishing their relationship with the child, such as a birth certificate, a court order of placement for adoption, or other documentation providing similar information. For leave to care for a seriously ill family member, workers must provide documentation from the family member's medical provider about the family member's condition.	For bonding leave, workers are not required to provide specific documentation but must authorize relevant authorities, such as medical providers or adoption agencies, to disclose information to the state agency. For leave to care for a seriously ill family member, workers must provide documentation from the family member's medical provider about the family member's condition.	For bonding leave, workers must provide documentation establishing their relationship with the child, such as a birth certificate, a court order of placement for adoption, or other documentation providing similar information. For leave to care for a seriously ill family member, workers must provide documentation from the family member's medical provider about the family member's condition.	For leave to care for a seriously ill family member, workers must provide documentation from the family member's medical provider about the family member's medical condition. The type of documentation needed for bonding leave or for leave for military purposes will be determined by regulation.
What is the appeals process?	A worker denied benefits by the state plan can appeal by mail to the state agency within 20 days of the mailing date of the disqualification notice.	A worker denied benefits by the state plan can appeal in writing by mail or electronically within 7 days of the delivery or 10 days of the mailing of the determination. <sup>19</sup> A worker denied benefits by a private plan can appeal to the state agency within 1 year of the start of the period of family leave.	A worker denied benefits can appeal by mail or fax within 15 days of notification of determination.	Regulations will determine the process for challenging the denial of benefits.

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How does this law intersect with Temporary Disability Insurance?	A worker can take disability leave to recover from childbirth and then take family leave to bond with the child. The two leaves are considered a single period of disability and the worker is not required to go through an additional one-week waiting period.	A worker can take disability leave to recover from childbirth and then take family leave to bond with the child, without going through an additional one-week waiting period. A worker must be fully recovered from childbirth to take paid family leave.	A worker can take disability leave to recover from childbirth and then take family leave to bond with the child. A worker must be fully recovered from childbirth to take paid family leave.	Workers will be entitled to both benefits to recover from childbirth and for paid family leave. Regulations will determine exactly how the two programs will interact.
Enforcing agency	Employee Development Department's Disability Insurance Branch	Department of Labor and Workforce Development, Division of Temporary Disability Insurance	Department of Labor and Training	Workers Compensation Board, Disability Benefits Bureau

<sup>1</sup> Washington State passed a paid family leave law in 2006 that only covered leave to bond with a new child, but the law has never gone into effect because the legislature has never funded the program.

<sup>2</sup> Cal. Unemp. Ins. Code § 2601 *et seq.* San Francisco has enacted a municipal law that will grant additional benefits for parental leave for many workers when it goes into effect on January 1, 2017.

<sup>3</sup> N.J. Stat. Ann. § 43-21-25 *et seq.* For more information on New Jersey's paid family leave program, as well as the state's TDI law, see A Better Balance's comprehensive guide at [http://www.abetterbalance.org/web/images/stories/Documents/familyleave/general/2015\\_NJ\\_Family\\_Leave\\_Guide.pdf](http://www.abetterbalance.org/web/images/stories/Documents/familyleave/general/2015_NJ_Family_Leave_Guide.pdf).

<sup>4</sup> R.I. Gen. Laws § 28-39-1 *et seq.*

<sup>5</sup> N.Y. Workers' Comp. Law § 200 *et seq.* For more information on New York's paid family leave law, visit <http://www.abetterbalance.org/web/nyneedsplf>.

<sup>6</sup> California, New Jersey, and Rhode Island also provide some coverage for previously covered workers who have a qualifying need to bond with a child or care for a seriously ill loved one while they are unemployed, but details vary by state.

<sup>7</sup> For a list of exceptions, visit [http://www.wcb.ny.gov/content/main/offthejob/WhoCovered\\_DB.jsp](http://www.wcb.ny.gov/content/main/offthejob/WhoCovered_DB.jsp).

<sup>8</sup> For more information on temporary disability insurance laws, visit A Better Balance's TDI comparison chart at <http://www.abetterbalance.org/web/images/stories/Documents/general/TDIchart.pdf>.

<sup>9</sup> For more information on NY's TDI program, visit <http://www.abetterbalance.org/web/images/stories/Documents/general/TDIWorkerFactSheet.pdf>.

<sup>10</sup> This list covers family members for whom a worker can take leave to care for when they are seriously ill. Paid family leave can also be used to address certain needs arising from the active duty military service of a worker's spouse, domestic partner, child, or parent.



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<sup>11</sup> The definition of domestic partner includes any person who is at least 18 years old and “is dependent upon the employee for support as shown by either unilateral dependence or mutual interdependence, as evidenced by a nexus of factors including, but not limited to, common ownership of real or personal property, common householding, children in common, signs of intent to marry, shared budgeting, and the length of the personal relationship with the employee . . . .”

<sup>12</sup> For more information, visit <http://www.abetterbalance.org/web/images/stories/Documents/general/TDIchart.pdf>.

<sup>13</sup> Workers who earned more than \$1,749.20 in their highest-earning base quarter have a weekly benefit equal to 55% of their total income in their highest-earning base quarter, divided by thirteen, up to the cap. Workers who earned \$1,749.20 or less in their highest-earning base quarter receive weekly benefits of between \$50 and \$74, according to a table set by statute.

<sup>14</sup> The benefit cap is set based on changes in the statewide average weekly wage.

<sup>15</sup> The benefit cap is equal to 53% of the statewide average weekly wage.

<sup>16</sup> The benefit cap is equal to 85% of the statewide average weekly wage. In addition, workers may also be entitled to a dependency allowance for minor children or adult children who are incapacitated due to physical or mental illness.

<sup>17</sup> A worker returning from TCI leave must be restored to his or her prior position or “a position with equivalent seniority, status, employment benefits, pay, and other terms and conditions of employment including fringe benefits and service credits that the employee had been entitled to at the commencement of leave.”

<sup>18</sup> A worker returning from PFL must be restored to his or her prior position or “a comparable position with comparable employment benefits, pay and other terms and conditions of employment.”

<sup>19</sup> The same process is used for family leave during unemployment.