LRO SNAPSHOT

A policy brief from the Legislative Research Office

Paid Family Leave: A National Trend

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According to the Bureau of Labor Statistics, about 16% of U.S. workers currently have paid family leave benefits. That means for most workers in Nebraska, having a new baby means taking unpaid time off work. While the 25-year-old Federal Family and Medical Leave Act (FMLA) entitles eligible workers to unpaid leave for a limited set of family needs, many workers cannot afford to take unpaid time off work. To address this gap, certain states have begun requiring employers to provide paid family leave for workers with a newborn baby or sick family member.

Beyond the Family Medical Leave Act

The Federal Family and Medical Leave Act (FMLA) requires some employers to provide up to 12 weeks unpaid leave for workers to care for a new child, sick family member, or recover from an illness. While Nebraska does not have a paid family leave law, state statute grants additional rights to workers beyond the requirements set forth in the FMLA. For example, under Neb. Rev. Stat. sec. 48-234, employers who provide parental leave for biological parents must also provide the same for adoptive parents. In addition, Nebraska requires businesses to provide 30 weeks of unpaid leave for members of the military (or their spouses) if called to service.

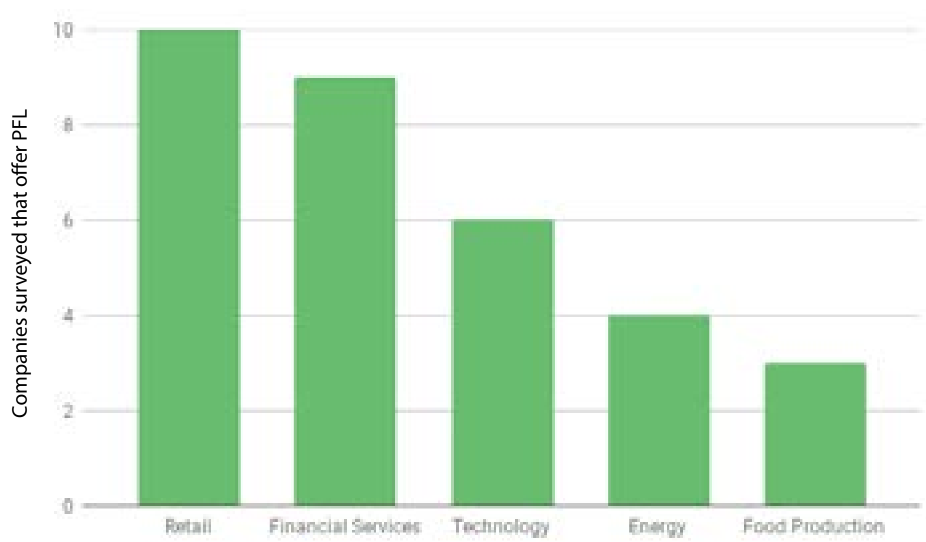
However, not all workers benefit from FMLA protections. First, the law only applies to employers with 50 or more employees. Second, even among workers who are eligible for FMLA leave, many simply cannot afford to take time away from work without pay. According to the U.S. Department of Labor, the percentage of workers who needed to use leave, but did not do so, doubled between 2000 and 2012. The most common reason cited by these workers was an inability to afford unpaid leave.

State Programs

In 2004, California became the first state to pass a law requiring employers to provide paid family leave (PFL). Since then, similar policies in Rhode Island, New Jersey and New York have gone into effect. Massachusetts, Washington, and Washington D.C. have also passed PFL policies, which will be implemented over the next few years.

Top Five Sectors for Paid Family Leave in Nebraska

Some private companies in Nebraska already offer paid family leave benefits to employees. A recent survey of Nebraska businesses by the Legislative Research Office found that these benefits are most common among salaried positions in finance, technology, and energy. Even hourly workers at retailers such as Walmart and Lowes have begun receiving paid family leave. More than 100 companies across a range of industries have announced new or expanded paid leave policies over the last three years.



Increasing Bipartisan Consensus

While traditionally associated with the liberal end of the political spectrum, PFL programs have been gaining conservative support in recent years. During the 2018 State of the Union Address, President Trump said "Let us support working families by supporting paid family leave." Recently, Nebraska Senator Deb Fischer was instrumental in creating the first federal paid family leave policy. Part of the 2017 Tax Cuts and Jobs Act, the two-year pilot program provides a tax incentive for employers to offer PFL. The leave can be used for maternity or paternity leave or to take care of a sick family member. In exchange for offering paid leave, employers will receive as much as a 25 percent tax credit for the amount of wages replaced.

At left: U.S. Senator Deb Fischer (R)

Most state PFL policies allow workers paid time off to:

- Address a serious health condition (including pregnancy);
- Care for a family member with a serious health condition;
- Address family circumstances arising from a military deployment; or
- Care for a newborn, newly adopted child or newly placed foster child.

Eligibility and Benefits

The minimum length of paid leave, eligibility requirements, and benefit amounts vary from state to state. Employee eligibility for PFL typically involves some duration of in-state employment, minimum earnings, and contributions to the state family leave insurance fund. States generally calculate benefits on a sliding scale that entitles low wage workers to a higher percentage of their weekly wage in benefits. In most states, PFL benefits are somewhere between 50% and 66% of a worker's weekly wage, although benefits can be as high as 90% for lower income employees in some states. Existing state PFL programs offer between 4 weeks (Rhode Island) and 8 weeks (New York) of benefits. When the Washington and Massachusetts plans go into effect in 2020, residents will be eligible for up to 12 weeks of paid leave.

Program Funding

While the idea of expanding paid leave enjoys widespread support, there is much less agreement on if it should be mandated by government and how to pay for it. Currently, all four state PFL programs in operation are funded through employee-paid state payroll taxes and administered by the state disability program. When implemented, PFL in Massachusetts and Washington will be jointly financed by employers and employees. So far, the D.C. program is the only one paid for entirely by employers.

Policy Research

Unfortunately, there is not much academic research on outcomes associated with state PFL programs. A 2013 study indicated that California's PFL law resulted in greater leave-taking among workers with new children, with some evidence that the increase was particularly pronounced among minorities and less-educated women. A 2016 study found that paid leave laws in New Jersey and California increased women's labor force attachment, making it more likely for women to return to work within a year after giving birth. These studies are promising, but more research needs to be done before the long-term impact of paid family leave can be determined.