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THE 1993 FEDERAL FAMILY & MEDICAL LEAVE ACT AS COMPARED TO SIMILAR STATE LEGISLATION

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The 1993 Federal Family and Medical Leave Act as Compared to Similar State Legislation

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Abstract

This paper creates, for the first time, a comprehensive picture of family and medical leave policies in the United States. The evolution of the various policies over time and across states is reviewed. Examining both the federal and state policies as they evolved allows a clear comparison of each policy's elements. National and state family and medical leave policies will undoubtedly become even more important in the future both economically and socially. It will be necessary for future business and political leaders to be able to plan for the economic and social impacts of these policies. The research demonstrates the diversity of policies across states and the stark contrast between more progressive state legislation and the national policy. Maine for example, has a family and medical leave policy that applies to firms of 15 or more employees, compared to the federal requirement of 50, while Connecticut only applies its more progressive legislation to employers of 75 or more.

Introduction

Enacted by Congress in February of 1993, the Family and Medical Leave Act (FMLA) was the first piece of legislation signed into law by President William Jefferson Clinton. The bill and its variations were controversial from birth, having been vetoed twice by President George H.W. Bush.

Once it came into effect on August 5, 1993, the FMLA required establishments with 50 or more employees to provide up to 12 weeks of unpaid, job-protected leave per year to eligible employees. In order to be eligible for the leave, employees must have worked for a covered employer for 12 months, have worked at least 1,250 hours over the past year, and worked at a location where at least 50 employees were employed within 75 miles. Reasons for leave include the birth and care of a newborn child, placement of a son or daughter for adoption or foster care, to care for an immediate family member with a serious health condition, or medical leave due to an employee's own serious health condition. Employers can deny job restoration if the denial is necessary to prevent a substantial loss and can deny leave entirely to certain "key" employees (the highest paid 10 percent in/around a facility). Exceptions were implemented in order to avoid strain on firms and thus further avoid higher cost structures and lower employment of women. In fact, by limiting the FMLA to establishments with 50 or more employees, Congress effectively limited the Act to be required only for 10.8 percent of private firms, albeit the 10.8 percent of firms employing 59.5 percent of the nation's private sector employees [Commission on Family and Medical Leave, 1996, p. 58].

The FMLA was the seminal legislation originally conceived to guarantee all American women the right to maternity leave. Women's rights groups had been fighting for the rights held in the FMLA for decades, and the FMLA's passage in 1993 was a great victory for these groups. The legislation was, however, a weaker version of what most activists were intent upon achieving.

The national FMLA was not the first legislation of its kind. Several states had passed similar, and in some cases, more progressive, legislation prior to Congress' 1993 output. Congress, in fact used implemented state legislation as a *bona fide* example to prove the national FMLA

could become a reality without creating insufferable business costs.

States have adopted a variety of approaches to provide family and/or medical leave both before and after the 1993 implementation of the FMLA. Some states, such as California, passed legislation that very closely mirrored the federal FMLA policy. Other states passed legislation prior to 1993 which was not as expansive as what was eventually mandated federally. Still other states introduced legislation that was in some ways more progressive than the federal counterpart, for example Maine in 1987 and Oregon in 1995, both of which required businesses with as few as 25 employees to provide such benefits.

While there has been an abundance of research on the effects of the FMLA, the resources available to compare the different approaches used by various states or qualities of family and medical leave legislation they produced, are few and limited in scope. This paper is intended to supply a comprehensive compilation of information and data which can be used to study the effects of family and medical leave legislation across states and over time with a detailed measure and understanding of the progression of laws. Donna Lenhoff and Lissa Bell of the National Partnership for Women & Families state in their paper *Government Support for Working Families and for Communities: Family and Medical Leave as a Case Study*:

> "Less well researched is the aggregate impact of the FMLA (and other family-friendly policies) on communities. Studies are needed, for instance, regarding how much money states and local areas have gained or lost in tax revenues when workers have taken FMLA-related leave time." [Lenhoff, 3]

This question illustrates the need for a comprehensive collection of all family and medical leave legislation to allow a piece-by-piece analysis of each state/federal approach.

The U.S. Department of Labor (DOL) has on its website a side-by-side comparison of the FMLA and the family and medical leave legislation of 11 states and the District of Columbia.[1] The DOL breaks down the FMLA into 14 elements, including employer covered,

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[1] http://www.dol.gov/esa/programs/whd/state/fmla/index.htm (25 Feb. 2006).

employees eligible, leave amount, type of leave, serious health condition, health care provider, intermittent leave, substitution of paid leave, reinstatement rights, key employee exception, maintenance of health benefits during leave, leave requests, medical certification requirements, and executive/administrative/professional employees. The table essentially contains a cut-and-paste summary of the FMLA and state legislation as they pertain to those 14 elements. In comparison, the dataset constructed for this paper includes not only the 11 states and the District of Columbia that the DOL considers, but also considers Massachusetts, Montana, North Carolina, and Tennessee. Furthermore, I have attempted to create the dataset in such a way that each element can easily translate into a quantifiable variable. Also, whereas the DOL comparison is simply a snapshot of the FMLA and state legislation as they currently stand[2], I have compiled similar information for the states but have done so as they have *progressed* over time. A more thorough description of this paper's data set will be given in the Data Description section.

The National Conference of State Legislatures (NCSL) has created a table[3] that lists family and medical leave laws, cites the relevant statute, states if the laws apply to public or private employers, and details a brief summary of each state's legislation. While not exceptionally useful for any actual analysis, the NCSL table does provide a starting point to identify the state laws. Data for this paper were obtained by identifying relevant state laws with the NCSL table and proceeding to identify relevant session laws based on the history of each state statute.

While this is intended to be an inclusive and comprehensive collection of private-sector state family and medical leave policies as they have progressed over time, it should be understood that all state laws and rules may not have been considered. Table 4, lists all statutes and session laws considered. If a law, rule, or regulation is not listed in Table 4, it was *not* considered. As the Commission on Family and Medical Leave noted in their 1996 Report to Congress, "It is difficult to summarize the scope and nature of voluntary family and medical leave policies before the (1993 federal FMLA)… there are several component parts of family

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Includes: California, Connecticut, Hawaii, Maine, Minnesota, New Jersey, Oregon, Rhode Island, Vermont, Washington, Wisconsin, and the District of Columbia.

[2] The DOL periodically updates the information. For the purpose of this paper, the last update was January 1, 2006.

[3] http://www.ncsl.org/programs/employ/fmlachart.htm (25 Feb. 2006)

and medical leave – including traditional benefits like sick days and maternity leave, as well as newer benefits like parental leave and family leave."[4]

When speaking of "voluntary family and medical leave policies," the Commission was referring to private companies that allowed for the relevant leave without a mandate from the federal government or even from the state. This paper largely ignores the voluntary efforts of private companies and instead focuses on state mandated family and medical leave policies. However, the difficulties pointed out by the Commission still hold true. Most states offer some form of medical or family leave (as defined under the FMLA) to their public employees, but the statutes and rules for the leave are often buried in frequently evolving, expansive state code. For this reason, this paper will concentrate on family and medical leave policies as they are mandated upon *private* employers. Even with the concentration on private employers, obtaining the pertinent state session laws has proven to be a laborious task.

Background: The Federal 1993 Family and Medical Leave Act

Before implementation of the FMLA in 1993, most states did not mandate job-protected leave for their citizens. While the FMLA was largely considered the deliverance of job protected maternity leave in the United States, it was also the first federal law that allowed for job protected leave if workers or their family members became severely ill. In fact, the United States was the last developed nation to implement such a law [Lenhoff, 3]. Without job protected leave, workers were often unable to care for ailing family members without the risk of losing their jobs. If a family's sole breadwinner were to fall seriously ill, he or she could lose his or her job and put the family into extreme financial hardship. Even today, there are still workers in the United States without the ability to take job protected sick leave. The National Partnership for Women & Families estimates that only 77 percent of private-sector employees work for FMLA covered establishments.[5] It seems that in some cases women are still forced to choose between their jobs and having children. Nevertheless, the

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[4] "A Workable Balance, Report to Congress on FMLA Policies" pp. 36-37, 1996

[5] Taken from the National Partnership for Women & Families' "Highlights of the 2000 U.S. Department of Labor Report."

FMLA has helped more than thirty-five million employees since it went into effect in August 1993.[6]

The fight for the FMLA lasted 9 years, from 1984 until it was signed by President Clinton in early 1993. A draft of what would eventually become the FMLA was written following a 1984 federal district court decision, striking down California's maternity leave law on the grounds of sex discrimination against males. Nine years later, President Clinton signed the FMLA into national law, granting many American citizens comprehensive family and medical leave. For a more detailed (but biased) history of the struggle to get the FMLA through Congress, see Donna Lenhoff's "Family and Medical Leave in the United State: Historical and Political Reflections."

In his 2004 paper "The Employer Perspective on Paid Leave & the FMLA," Peter Susser gives a recount of the common criticisms of the FMLA before its passage in 1993. As Susser notes, critics of the FMLA claimed that it would be costly to business and thereby damage the U.S. economy. Specifically, the business community felt that mandating job-protected leave would hamper profitability. It was also feared that administrative costs and the cost of hiring replacement workers would prove significant. Furthermore, the FMLA was largely seen as a "foot in the door" for the mandate of paid family and medical leave [Susser, 169-170].

The Commission on Family and Medical Leave's 1996 report "A Workable Balance: Report to Congress on Family and Medical Leave Policies" concluded that the overall impact of the FMLA on employees had been positive and that the implementation of the law had not caused the types of problems for employers that some had anticipated. However, it should be noted that there has been evidence of significant business costs caused by the FMLA. For example, June 2005 saw a large lobbying effort by such groups as the Chamber of Commerce and the National Association of Manufacturers, pressing President George W. Bush to scale back the federal FMLA. The organizations cited "chaotic schedules that hinder work flow and cover up chronic lateness and absenteeism." [Chipman, Kim. "Bush Urged to Soften Family Leave Act" *Seattle Post-Intelligencer* June 27, 2005.]

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[6] U.S. Department of Labor, Balancing the Needs of Families and Employers: Family and Medical Leave

It should also be noted that the Pregnancy Discrimination Act of 1979 required establishments that already offered temporary-disability programs to cover pregnancy as they did any other disability [Waldfogel 2001]. While the Act did not mandate that establishments actually offer such programs, it is worthwhile to note that many of the benefits or FMLA elements may have been available in certain states despite a specific mandate.

Data Description

Employer Coverage

The Federal Family and Medical Leave Act of 1993 applies to all public agencies, including state, local and federal employers, local schools, and private sector employers who employed 50 or more employees in 20 or more workweeks in the current or preceding calendar year and who are engaged in commerce or in any industry or activity affecting commerce—including joint employers and successors of covered employers.

State family and medical leave legislation tends to vary from federal policy on the employer coverage requirement. This paper will concentrate on the FMLA, 15 states and the District of Columbia that have had some form of family and/or medical leave policy that applied/applies to private sector employees. The vast majority of states offer some degree of family and/or medical leave to their public employee, but because of the diversity and complexity of said policies, this paper will not try to quantify those polices here. The National Conference of State Legislators (NCSL) offers a cursory look at the state policies providing family and/or medical leave to all employees, public and private, on its website at http://www.ncsl.org/programs/employ/fmlachart.htm.

States have a number of reasons to limit their family and medical leave legislation to public employees. The Public sector does not pay as much as the private sector does, so a benefits package could be more important to attract and retain a workforce. As discussed in a 2005 paper by Frank Heiland and David Macpherson, family friendly policies are a form of "non-

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Surveys 2000 Update (Washington, D.C.: Government Printing Office, 2000).

monetary compensation.” While a state government may not be able to offer competitive wages relative to the private sector, it can offer job security and other non-monetary benefits. Also, the limitation of family and medical leave policies to state government employees could simply be due to the public sector’s tendency to contain a large number of female employees, thus causing a high demand for family friendly policies.

Among states that offer family and medical leave to the private sector, the key variation is the size of the private firm. For example, the 1993 FMLA applies to private sector employers who employ 50 or more employees; whereas Maine currently offers its family and medical leave to employees of private firms with as few as 16 employees. In such cases the federal law overrides any state laws that offer less benefit than the federal policy. Therefore, private firms in states that passed family and medical leave policies prior to 1993 and only required leave from private employers with more than 51 (as opposed to the FMLA mandated 50) employees, like Hawaii for example, must actually abide by the 1993 federal FMLA law. However, the federal government is responsible for enforcing the federal law and the states’ their own.

Employee Eligibility

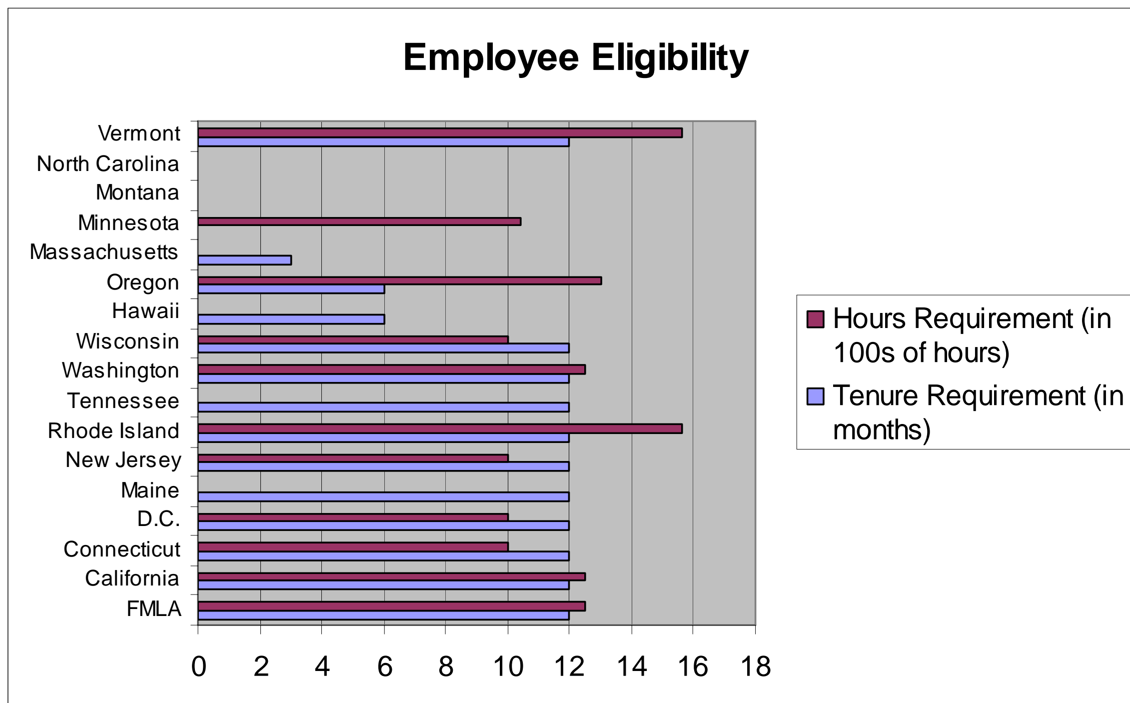
The more inclusive a state’s family and medical leave policy, the greater the costs imposed on businesses in that state. If eligibility requirements are set too loose, or so that a firms’ newer employees would be eligible for the leave, then it would most likely follow that said firm would avoid hiring women or any other potential employee who is judged to be more likely to take family or medical leave.

The federal FMLA requires employees to have been employed for a total of 12 months and to have worked more than 1,250 hours over the past 12 months before becoming eligible. Also, an employee seeking protection under the FMLA must be employed at a work site with 50 or more employees within 75 miles. There is considerable variation between states and the FMLA in regards to eligibility requirements. In most cases employees are required to have been employed for one year (the FMLA, California[7], Connecticut, D.C., Maine, New Jersey,

[7] California did not have an hours requirement until 1993 Cal. Stat. Ch. 827.

Rhode Island, Tennessee, Washington[8], and Wisconsin), but several states have considerably shorter tenure requirements (6 months: Hawaii and Oregon; 3 months: Massachusetts), or face no tenure requirement (Minnesota[9], Montana, North Carolina[10], and Vermont).

In addition to tenure requirements, the FMLA and state legislation often require an employee to have worked a certain average number of hours before becoming eligible for the leave. The hours requirement varies among states and the FMLA more significantly than does the tenure requirement. The tenure and hours requirement are illustrated in Table 1 below.



(Table 1) Employee Eligibility[11]

Type of Leave

The chart below describes the types of private-sector leave allowed by the FMLA and relevant states as they stood at the end of 2005. The dates denote the first year a specific type of leave was allowed. The box is highlighted red if an employer is allowed to require written certification before allowing the leave.

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[8] From 1989 to 1997, Washington had a tenure requirement of 52 consecutive weeks and an hours requirement of 35 hours per week. In 1997, Washington stopped enforcing its own legislation and began to rely on the FMLA.

[9] Under its original 1987 legislation, Minnesota did have a tenure requirement of 12 months, but in 1990 Minnesota repealed the requirement with Chapter 1990 Minn. Laws 577.

[10] North Carolina only offers short term leave (4 hours a year) for a parent to attend a child's school activities.

[11] All tables are directly sourced from the relevant state statute and session law listed in Table 4.

	Childbirth	Adoption	Serious Illness of Child	Serious Illness of other Family Member	Employee's Own Serious Illness	Organ or Bone Marrow Donation	Routine Medical of Child, Elderly Relative	School Activities
FMLA	93	93	93	93	93			
California	91	91	91	91	93			
Connecticut	93	93	93	93	93	O4		
D.C.	90	90	90	90	90			94
Hawaii	91	91	91	91/97				
Maine	87	87	87	87	87	O1 organ		
Massachusetts	72	84					98	98
Minnesota	87	87	90					90
Montana	75							
New Jersey	89	89	89/04	89				
North Carolina								93
Oregon	95	95	95	95	95			
Rhode Island	87	87	90	90	90			99
Tennessee	87	87/05						
Vermont	89	92	92	92	92		97	97
Washington	89/93	89/93	89/93	93	93			
Wisconsin	87	87	87	87	87			

(Table 2) Reasons for Leave

Substitution of Paid Leave

The Federal FMLA does not mandate employers to allow for the substitution of accrued paid leave for their employees taking family and/or medical leave. Many of the states considered in this paper also do not allow for leave substitution; however, there are those that do, albeit with a significant variation in language. (The language variation is illustrated in Table 5 at the end of the paper.)

There has been no occurrence of a state policy switching from not mandating 'leave substitution' in one year and mandating it the next (or vice-versa). Some states have, however, adjusted their language regarding enforcement of the 'leave substitution'. Specific examples are detailed under the relevant states under the "Description of State Legislation" section.

Job Protection

With variation only in terms, the FMLA and all private-sector state policies mandate job-protected leave. The job protection is not applicable for short term family leave, such as leave for a child's school activities.

Continuation of health benefits

Language regarding the continuation of health benefits varies significantly between different state policies. Of the FMLA elements, the continuation of health benefits is the most difficult to quantify, simply because of the range of policies. There are states that outright require employers to continue covering their employees on family or medical leave and there are states that have no requirement for the continuation of health benefits. Furthermore, some states require private firms to continue the employees health coverage, but only if they employee covers the payments of the period. Other policies mandate the continuation of coverage and only require employees to contribute some percentage of the payments required for the health coverage. Still other policies require (or have required) firms to cover all costs of health coverage while employees are on family and medical leave.

A Firm's Right to Refuse Leave

In 1993 the FMLA allowed employers to deny leave to certain key employees. Before 1993 only a few states among those with family and medical leave policies for private-sector employees allowed any sort of exemption to the job-protected leave requirement. California, D.C., New Jersey, Vermont, and Washington allowed firms to deny leave (or refuse to reinstate after granting leave) with some variation in cause and circumstances.

Description of State Legislation

California – Family Rights Act of 1991

California first passed its Family Rights Act in 1991 and later significantly amended it in 1993. The original California legislation offered four months in any 24-month period for family care leave. This included leave taken for the birth of a child, adoption, serious illness of a child, and the serious health condition of a spouse or parent. The Act applied to employers of 50 or more wage and salary employees. To be eligible for family leave, employees needed to have one year of continuous service with the employer and have been

eligible for other benefits. Employees taking family leave could elect to substitute any accrued vacation leave or other accrued time off but could not use sick leave unless agreed to by the employer. A firm could require certification from a doctor to prove that family leave is required. The 1991 legislation also mandated that employers offer their employees the same or a comparable position of employment upon their return from family leave. Employees were guaranteed a continuation of health benefits through their period of leave. An employer could refuse a request for family leave if the employee is "a salaried employee who… is either one of the five highest paid employees, or is among the top 10 percent of the employees in terms of gross salary… employed by the employer at the same location."

California – 1993 Amendment

Chapter 827 of California's 1993 Acts changed the requirements for eligible employees and the length of leave, added to the list of allowable reasons for the leave, expanded the definition of "parent," "health care provider," and "serious health condition" allowed for the federal 1993 FMLA, required employers to pay employee health care premiums during the span of an employees leave, and relaxed the requirements for an employer to reject an employee's right to family or medical leave.[12]

After the 1993 legislation, employees were still required to have one year of service (the language changed to "12 months"), but were no longer required to be eligible for "other benefits" offered by the employer. Instead, employees were required to have at least 1,250 hours of service with the employer during the previous 12-month period.

Whereas in 1991, employees were allowed four months in any 24-month period for family leave, the 1993 legislation allowed for 12 workweeks worth of leave during any 12-month period for family care and medical leave.

Medical leave, defined as leave for an employee's own serious health condition, was added as an allowable reason for leave by the 1993 Act. Employees taking medical leave were allowed by the legislation to substitute any accrued sick leave (whereas, in 1991 substituting

[12] The 1993 Amendment to California's family and medical leave laws saw greater changes to the employee health coverage requirements than are discussed here.

sick leave was strictly prohibited when taking family leave), but the legislation also allowed employers to require certification of the employee's need for medical leave.

The 1991 definition of "parent" was limited to a biological, foster, or adoptive parent, a stepparent, or a legal guardian. In 1993, the definition was expanded to include any person who stood in loco parentis[13] to the employee when the employee was a child. The definition of "health care provider" was amended to be more expansive as was the definition of "Serious health condition."

In allowing for the federal 1993 FMLA, the California legislation stipulated that all family and medical leave taken by an employee in the state would run concurrent with that offered by the FMLA except for disability on account of pregnancy, childbirth, or related medical conditions. No matter the cause for leave, an employee was limited to a total of 12 workweeks in a 12-month period.

In addition to the requirement of the maintenance of health benefits in the previous California legislation, the 1993 Act also requires employers to maintain and pay for coverage under a group health plan. If the employee fails to return from leave for any reason other than circumstances beyond the control of the employee, the employer is allowed to recover the premiums paid out over the length of the employees leave.

Under the original Family Rights Act of 1991, California required that employers could only refuse a request for family leave if that employee was a salaried employee and was either "one of the five highest paid employees, or among the top 10 percent of the employees in terms of gross salary, whichever group encompasses the greater number of person, employed by the employer at the same location." In 1993, California changed the legislation to disallow the refusal of leave and instead allowed employers to refuse to reinstate an employee returning from leave given that the employee was a salaried employee among the highest paid 10 percent within 75 miles of the employee's worksite, the refusal was necessary to prevent "substantial and grievous economic injury to the operations of the employer," or

[13] Latin for "in place of a parent." A person or institution that assumes parental rights and duties for a minor. http://www.legal-dictionary.org (12 Feb. 2006).

that the employer notified the employee of the intent to refuse reinstatement in a timely manner.

California – Additional Session Laws

California also passed relevant session laws in 1992 and 1994. Chapter 427, Section 49 of the California 1992 session laws simply added clarifying language.[14] Nothing significant was added by Chapter 146, Section 68 of the 1994 California Session Laws (limited to grammatical changes).

Connecticut – An Act to Coordinate State with Federal, 1996

On May 29, 1996 the Connecticut General Assembly approved Public Act Number 96-140, coordinating the State's family and medical leave laws with the federal requirements. The Connecticut legislation was not passed until 3 years after the federal FMLA, and therefore any requirements under Connecticut law will only be relevant if they are more progressive than the FMLA. The Connecticut law applied to employers of 75 or more employees, whereas the federal FMLA applied to employers of 50 or more. Thus, the Connecticut law (which we will find to be more progressive in other faculties) applied to firms with 75 or more employees, while the FMLA covered Connecticut employees that worked for employers of 50 to 74 employees.

Employees needed to have been employed for at least 12 months prior to a request for the leave and to have worked for at least 1,000 hours during the last year. If declared eligible, employees are entitled to 16 workweeks of family and medical leave during any 24 month period. Reasons for leave include birth, adoption, the serious health condition of a spouse, child or parent, or the serious health condition of the employee. Leave taken to care for a seriously ill family member or for a serious illness of the employee is allowed to be taken on a reduced or intermittent basis. Connecticut's family and medical leave was generally unpaid, however, it did allow for the substitution of any accrued paid leave.[15] An employer

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[14] Chapter 427, Section 49 (i) (D) (2) reads as follows (with new language underlined):

> "Upon expiration of the time estimated by the health care provider in subparagraph (C) <u>of paragraph (1)</u>, the employer may require the employee to obtain recertification in accordance with the procedure provided in paragraph (1), if additional leave is required."

[15] CT No. 96-140 §2 (e) (B) "An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, ore medical or sick leave of the employee for leave provided under subdivision (3) or (4) of subsection (a) of this section for any part of the 16-week period of

was granted the right to require that a request for leave based on a serious health condition (family member or employee) be supported by a certification issued by a health care provider. Certification could also be required to state that leave on an intermittent or reduced basis was necessary. In regards to the continuation of health benefits, the 1996 Connecticut legislation only stated that "the taking of leave… shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced." The Act failed to protect benefits over the period of actual leave and thereafter.

Connecticut – Family and Medical Leave, 2003

Effective October 1, 2003, the Connecticut General Assembly amended the statutes pertaining to family and medical leave guaranteeing eligible employees the right to use up to 2 weeks of accumulated sick leave while on family or medical leave. As discussed on the Data Description section of this paper, such a modification by the Connecticut General Assembly would imply that before 2003, employers were *not* allowing (at least in general terms) the substitution of accrued paid leave.

Connecticut – Family and Medical Leave for Organ Donation, 2004

Public Act Number 04-95 added organ or bone marrow donation to the list of acceptable uses of family and medical leave. Employers were granted the right to require written certification from the physician specifically for the donation.

Public Act Number 04-257, technical corrections, was also passed in 2004 but is of no significance to this paper's analysis.

The District of Columbia – D.C. Family and Medical Leave Act of 1990

Under the 1990 D.C. law, an eligible employee must have been employed for a continuous year and have worked at least 1,000 hours during the last 12 months in order to qualify for family and medical leave. All employers in the District of Columbia are required to comply with the act. Eligible employees were granted a total of 16 workweeks of family leave during any 24-month period for childbirth, adoption, or to care for a family member (defined

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such leave under said subsection, except that nothing in this act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave."

as “a person to whom the employee is related by blood, legal custody, or marriage”) with a serious health condition. Family leave to care for a family member with a serious health condition was allowed on an intermittent basis when medically necessary. The act allowed, upon agreement between the employer and the employee, family leave to be taken on a reduced leave schedule. Any paid family, vacation, personal, or compensatory leave provided by an employer may be substituted for the non-paid family leave. However, the act specifically states that “Nothing in this section shall require an employer to provide paid family leave.”

Furthermore, any eligible employee who becomes unable to perform the functions of their position because of a serious health condition was entitled to medical leave of up to 16 workweeks in a 24-month period. The legislation does allow for the substitution of accrued paid leave.

D.C. granted an employer the right to require written certification from the employee’s physician verifying that employee’s medical leave and/or family leave taken to care for a seriously ill family member. Both family and medical leave were job protected under this act. So long as the employee continued to contribute to his/her group health plan, the employer was required to maintain coverage under said group health plan for the length of the employees leave. If unable to make payments, the employee was required to forfeit the coverage; however, coverage would resume upon the employee’s return. The D.C. law mirrors the federal FMLA in regards to the denial of restoration of employment.

District of Columbia – Parental Leave Act of 1994

In 1994, the District of Columbia required that all employers in the District grant their employees that are parents 24 hours leave during any 12-month period to attend or participate in school-related events for his or her child. Employers could deny the leave provided that granting the leave would disrupt the employer’s business, making “achievement of production or service delivery unusually difficult.” Leave was provided as unpaid, unless the employee elects to substitute accrued paid leave provided by the employer. The 1994 act made such leave job protected.

District of Columbia – Additional Session Laws

The District of Columbia family and medical leave statute also lists session laws in 1996 and 2000 as having contributed to the existing language. Neither act holds relevance to analysis in this paper. The 1996 Act saw a technical amendment and 2000 amended language to allow family and medical leave to be taken for "District of Columbia Emancipation Day."

Hawaii – An Act Relating to Family Leave, 1991

Hawaii's original 1991 family leave legislation only applied to employers of 100 or more employees (for each working day during each of 20 or more calendar weeks in the current or preceding calendar year), but granted eligible employees 4 weeks of family leave per calendar year upon the birth or adoption of a child or to care for a child, spouse, or parent with a serious health condition. At the option of the employee or employer, accrued paid sick, vacation, personal, or family leave could be substituted for any part of the 4 week period. In order to be eligible for the Hawaii family leave and employee simply had to have worked for more than 6 consecutive months for their employer. The law did allow an employer to demand that the employee submits proper certifications to show that family leave would be warranted. The employee's family leave is job-guaranteed. While this Act was passed in 1991, it was approved with the stipulation that the family leave law would not apply to private sector employees until 1 January 1994. Presumably, this was done to give private sector companies time to adjust to the coming family leave requirement. However, because the federal FMLA was passed and became effective in 1993, Hawaii's legislation never affected the State's private sector employees.

Hawaii – 1995 Chapter 154, Section 4

Hawaii's 1995 session law amended the original family leave law to include more expansive definitions of "child" and "serious health condition." "Child" was originally defined in 1991 as a biological, step, adopted, or foster child of the employee. In 1995, the definition was expanded to include legal wards of the employee. "Serious health condition" was defined in 1991 as "an acute, traumatic, or life-threatening illness, injury, or impairment, which involves treatment or supervision by a health care provider." In 1995, the language was amended to read:

> "…a physical or mental condition that warrants the participation of the employee to provide care during the period of treatment or supervision by a health care provider, and: (1) Involves inpatient care in a hospital, hospice, or residential health care facility; or (2) Requires continuing treatment or continuing supervision by a health care provider."

The 1995 amendment also added a definition of "Department" that only applied to family leave for public employees.

Hawaii – 1997 Chapter 383, Section 57

Section 57 of the 1997 Chapter 383 expanded the reasons for an employee's family leave. Under the original legislation, eligible employees were allowed to take family leave to care for family members with a serious health condition. The 1997 amendment expanded the list of family members to include a "reciprocal beneficiary" in addition to the more traditionally defined "spouse."

Hawaii – 2003 Chapter 44

Hawaii's 2003 Chapter 44 was enacted in order to require employers to permit employees use of their accrued and sick leave. The original 1991 legislation addressed the issue of substituting paid leave; however, the Hawaii Legislature found in 2003 that the pre-existing law did not *require* an employer to allow the substitutions. Hawaii's 1991 session law stated "… an employee or employer may elect to substitute any of the employee's accrued paid leave such as sick, vacation, personal, or family leave for any part of the four-week [family leave] period." Then in 2003, the Hawaii Legislature created Act 44 stating "The legislature finds that existing law does not require an employer to permit an employee to use sick leave to attend to the illness of a child, parent, spouse, or reciprocal beneficiary." The 2003 session law went on to edit the leave substitution language. Under Hawaii law, leave to care for a child, spouse, or parent with a serious health condition is considered eligible for the 4 weeks of family leave. Hawaii should thus serve as a good example that while a reader's interpretation of statute may be one thing, what the State is enforcing may be quite another.

Hawaii – Additional Session Laws

Hawaii also passed relevant session laws in 1992, 2000, 2003, and 2005. Chapter 87, Section 6 of the Hawaii 1992 session laws added a small clarification in language. In 2000 the Hawaii Legislature passed Act 253, Section 130, removing public employers for the list of organizations required to comply with the State's family leave law. 2003 Chapter 212, Section 7 replaced the term "disability insurance" with "accident and health or sickness insurance." The 2005 amendment in Chapter 243, Section 3 added further clarification to 2003's Chapter 44.

Maine – An Act to Ensure Family Medical Leave in the State, 1987

The 1987 Maine law required employers of 25 or more employees to allow for 8 consecutive workweeks of family medical leave in any 2 years. Employees were eligible for the leave if they had been employed for 12 consecutive months. Family medical leave could be taken for the serious illness of the employee, childbirth, adoption, or to take care of a child, parent, or spouse with a serious illness. The employer was granted the right to require certification from a physician to verify the amount of leave requested by the employee. Family medical leave under the 1987 chapter could consist of unpaid leave (no mandate for paid leave or substitution of accrued paid leave), but is job protected. During any family medical leave, the employer was required to "make it possible for employees to continue their employee benefits at the employee's expense."

During the same legislative session, Maine passed Chapter 861, correcting errors and inconsistencies in the laws of the state. In this corrective act, the legislature amended the requirements for an eligible employee. Employees were still required to have worked for their employer for 12 consecutive months, but after the correction, could not "be employed at a permanent work site with fewer than 25 employees."

Maine – An Act to Amend the Law Concerning Family Medical Leave, 1991

Maine's 1991 act extended the allowed family medical leave from 8, to 10 consecutive workweeks in any 2 years. Additionally, whereas before 1991, the Maine law required employee benefits to be maintained at the employee's expense, the 1991 act added the language "The employer and employee may negotiate for the employer to maintain benefits at the employer's expense for the duration of the leave."

Maine – An Act to Expand the Family Medical Leave Laws, 1997

In 1997, Maine extended the applicability of its family medical leave laws by lowering the requirements for employee eligibility with Public Law 1997 Chapter 515. Before, an employee was guaranteed family medical leave if they had been employed for 12 consecutive months, unless they were employed at a permanent work site with fewer than 25 employees. The 1997 legislation changed the work site requirement from 25 to 15 employees.

During the same 1997 session, Maine passed Public Law 1997 Chapter 546, changing "serious illness" as it pertains to family medical leave, to "serious health condition." The change created a more expansive consideration of what was allowed under family medical leave.

Maine – Organ Donation and Technical Amendments

Public Law 1999 Chapter 127 was also listed as session law under Maine's family medical leave statute, but contained only a technical amendment.

Public Law 2001 Chapter 684 added organ donation to the list of reasons for family medical leave. An employee was granted the right to take family medical leave in order to donate an organ for a human organ transplant. This became effective July 25, 2002.

Massachusetts – Maternity Leave, 1972

Chapter 790 of the 1972 Massachusetts Acts guaranteed female employees who have completed the initial probationary period set by the terms of her employment (if there the employer does not have a probationary period, then the female employee is required to have been employed full-time for at least 3 consecutive months) 8 weeks of maternity leave for childbirth. The maternity leave is unpaid, but job protected. The employer was not required to provide for the cost of any benefits during the length of the employee's maternity leave, unless that employer does provide such for all employees on leave.

Massachusetts – Adopting Mothers, 1984 and 1989

Chapter 423, An Act Relative to Adopting mothers was approved on December 28, 1984 and allowed female employees to take maternity leave for the adoption of a child under the 3 years of age.

Chapter 318, approved July 28, 1989, extended the allowable age for adoption for a child of 3 to a child of 18. If the child was mentally or physically disabled, maternity leave would be allowed for a child of up to 23 years of age.

Massachusetts – Family Leave, 1998

In 1998, eligible employees were granted a total of 24 hours of leave during any 12-month period (in addition to the FMLA) for participating in their child's school activities and to accompany their child or elderly relative to a routine medical or dental appointment.

Minnesota – Parenting Leave, 1987

Minnesota granted parenting leave to employees working an average of 20 or more hours per week and who have been employed for at least 12 months (not to include general contractors). If employers employed 21 or more employees they were required by the 1987 law to allow an eligible employee 6 weeks of job protected, unpaid parenting leave for childbirth or adoption. The employer was required to continue coverage under any benefits plan but was not expected to cover the costs of the insurance or health care during the employee's leave of absence. The law did allow for an employee reduced leave, with agreement of the employer.

Minnesota – Parenting Leave, 1990

The 1990 legislation removed the need for an employee to have been employed for 12 months before becoming eligible for parenting leave. Furthermore, Minnesota added language allowed employees to use personal sick leave for absences due to an illness of the employee's child.

The primary addition under the 1990 act allowed an eligible employee a total of 16 hours during any school year to attend school conferences or activities related to the employee's

child. While generally unpaid, the employee was allowed to substitute accrued paid leave for the school related leave.

Minnesota – 1992 Chapter 438

In regards to school related leave, Minnesota amended their statutes to allow the 16 hours during a "12-month period," versus a "school year." The 1992 chapter also added some enforcement standards for parenting leave.

Minnesota – Additional Session Laws

The Minnesota Legislature also passed session laws pertaining to parenting leave in 1996, 1999, and 2002. The 1996 Chapter 341 simply changed the term "classroom activities" to "school-related activities." The 1999 Chapter 205, Section 21 revised the statute numbers. 2002's Chapter 380 Article 5 allowed paternity leave to employees who were foster parents, in addition to natural parents.

Montana – An Act to Provide Maternity Leave, 1975

In 1975 Montana enacted legislation providing maternity leave to all public and private employees in the state. The law made it illegal to terminate a woman's employment because she was pregnant and mandated that employers allow women a "reasonable leave of absence" for pregnancy. Montana also required that employers allow the women on maternity leave any compensation or other benefits that they would have been eligible for under any other form of disability leave. Furthermore, employers had to allow women to return to their same or equivalent positions following the maternity leave. The employer could require medical certification to verify that pregnancy would leave the employee unable to perform her duties.

New Jersey – Family Leave Act of 1989

New Jersey's Family Leave Act was passed in 1989 with provisions to broaden in 1991 and then again in 1995. The original legislation allowed 12 weeks of family leave in any 24-month period for qualified employees. Employers of 100 or more employees[16] were required to comply with the act. In order to be eligible for family leave, employees had to have been employed for at least 12 months for no less than 1,000 base hours during the immediately

preceding 12-month period. Under the New Jersey law, eligible employees were allowed to take family leave for the birth of a child, adoption, or the serious health condition of a child, parent or spouse. The 1989 legislation did not mandate that employees allow for paid leave by their eligible employees. Employers could require that employees provide certification when requesting family leave. An employer could deny family leave to an employee if "the employee is a salaried employee who is among the highest paid five percent… or the seven highest paid employees… whichever is greater, the denial is necessary to prevent substantial and grievous economic injury to the employer's operations," and the employer notifies the employee in a timely manner. New Jersey employees were given the right to take their family leave on a reduced leave schedule. The reduced leave could not last longer than 24 consecutive weeks and was not mandated for birth and/or adoption. New Jersey's 1989 Act allowed eligible employees to take family leave with a guarantee of returning to their same or an equivalent position. The 1989 legislation also mandated that employers allow for the continuation of an employees health benefits while they are taking family leave.

New Jersey – 1991 & 1995

New Jersey's 1989 legislation was designed to evolve in steps so that adjustment to the act could be spread over a span of five years. As noted above, the New Jersey Family Leave Act applied to employers of 100 or more employees for the laws first year on the books. On the 365th day, the act would grow to include employers of 75 or more employees.[17] After another four years, on the 1,095th day the act grew to include employers of 50 or more employees.[18] While this paper does not, in large part, consider state legislation limited to providing family leave to the public sector, it should be noted that following the 1,095th day after the Acts effective date the definition of employer expanded to include the State and all its public offices.[19]

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[16] "employs 100 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year."

[17] The actual language states "employs 75 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year."

[18] The actual language states "employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year."

New Jersey – 2003 & 2004

New Jersey's family and medical leave laws saw 2 relevant session laws in 2003. Chapter 246, section 57 provided regulations relative to employer providing health benefits plan and domestic partners. Chapter 27 was an act concerning notification by employers and insurers with regard to health benefits plans. Both chapters required amending the New Jersey family and medical leave laws, but neither had a significant impact on this paper's analysis.

The 2004 session laws listed Chapter 130, section 111 of which amended the New Jersey family and medical leave laws. The act changed the definition of "child"; removing "foster child" and replacing it with "resource family child."

North Carolina – Leave for Parent Involvement in Schools

The North Carolina General Assembly passed two acts in relation to family leave; one in 1993 and the other in 1997. Unlike most states being examined in this paper, North Carolina's original 1993 legislation did not mirror or even resemble the federal FMLA. North Carolina's Chapter 509, Section 1 (sections 2 and 3 of Chapter 509 addressed issues outside of family leave) allowed parents in the State to take protected leave from work to be involved with their child's school activities. The Act required that employers grant their employees 4 hours of leave per year to attend school functions or otherwise be involved with their child's school activities. In order to have been eligible for the leave, an employee must have been a parent, guardian, or stood in loco parentis of a school-aged child. However, the allowance for leave was not written without limitations. Leave was required to be at a mutually agreed upon time, between the employee and employer. Furthermore, the employer could require advanced notice of 48 hours and also require written verification from the child's school that the employee was actually in attendance or involved with the stated purpose. Family leave under the North Carolina act is job protected and unpaid.

In 1997, the North Carolina General Assembly passed a small amendment to the 1993 language with Chapter 506, Section 34. The amendment had no affect on family leave as it is considered in this paper.

Oregon – An Act Relating to Employee Leave, 1995

Oregon's family and medical leave law was passed in 1995, two years after the FMLA and designed to be more progressive than the federal legislation. The 1995 Act was written to apply to employers of 25 or more persons for each working day of 20 or more calendar workweeks ("in the year in which the leave is to be taken or in the year immediately preceding the year in which the leave is to be taken"). Under the Oregon law, an employee must have been employed for 180 days or more and worked an average of 25 hours or more per week during that 180 day period in order to be eligible for family and medical leave. Maternity leave (for birth or adoption) was made available to all employees who had been employed for 180 days by a covered employer. Family and medical leave could be taken to care for a family member (spouse, parent, child, parent-in-law, or person was or is in a relationship of in loco parentis) with a serious health condition; for the employee's own serious health condition; or to care for a child who is suffering from an illness or condition that, while not serious, required home care. For these reasons (family and medical leave) eligible employees were granted 12 weeks of leave within a 12 month period. Employees were allowed an additional 12 weeks, to be taken within a year, for maternity leave (birth, not adoption). Reduced or Intermittent leave was allowed on a basis determined by Oregon's Commissioner of the Bureau of Labor and Industries. Under most types of leave an employer was granted the right to demand medical certification. Family and medical leave (to include maternity leave) under the Oregon law was mandated as job protected with the employee's option of substituting accrued paid leave for maternity leave only. Benefits were not required to continue while an employee was on leave. The Oregon law uniquely set a completely different set of standards for teachers at public institutions, but while unique, the separate standards are not relevant to this paper.

Rhode Island – An Act Relating to Parental Leave, 1987

The State of Rhode Island's General Assembly approved its parental leave law on July 1, 1987 with the law becoming effective up on its passage. An eligible employee had to be full-time, employed for 12 months, and had been worked an average of 30 hours or more per week. The law considered employers to be those that employed 50 or more. The Rhode Island law allowed eligible employees could take parental leave for the birth of a child or the adoption of a child under 16 or with a serious illness. Under parental leave, eligible employees were granted 13 consecutive workweeks for any 2 calendar years. Parental leave

is unpaid, but job protected. Health benefits were allowed to continue if the employee paid for any premiums up front before taking leave (the employer would return payment when the employee returned to work).

Rhode Island – Parental and Family Leave Act, 1990

Rhode Island passed an amendment to the original 1987 Act in 1990. The amendment was created to add family leave to the Rhode Island Statutes, allowing eligible employees the right to take leave to care for the serious illness of a parent, spouse, child, parent-in-law, or the employee themselves. In the 1990 amendment, Rhode Island also gave employers the right to demand medical certification from a physician caring for the family member or employer.

Rhode Island – Parental Leave for Adopting Parents, 1996

Chapter 202 of Rhode Island's 1996 session laws amended the General Laws and required that any employer allowing sick time or sick leave for childbirth, must also allow the same time to be used for adoption. This took effect on July 1, 1996. Because Rhode Island does not *require* employers to allow an employee to substitute paid accrued leave for any form of parental and family leave, the 1996 amendment has no practical relevance as far as this paper's analysis goes.

Rhode Island – School Involvement Leave, 1999

Rhode Island's 1999 legislation added parental school involvement leave to the Parental and Family Leave Act. The law allowed employees who have been employed by their employers for 12 consecutive months 10 hours of leave during any year to attend their children's school related activities. Employees were also given the right to substitute accrued paid leave for the school involvement leave. The Rhode Island General Assembly enacted two Acts (Chapter 186 and Chapter 64) to allow for this leave. The Chapters are identical in language, except that Chapter 64 allows for the substitution of accrued paid leave and Chapter 186 does not.

Tennessee – Maternity Leave, 1987

In 1987, the Tennessee General Assembly enacted legislation that allowed female employees who had been employed by the same employer for 12 consecutive months in a full-time

position, 4 months of maternity leave (birth or adoption). The Public Act designated maternity leave as job protected, but did not require the leave to be paid or for the substitution of accrued paid leave. Unless an employer covered the cost of maintaining benefits for all employees on leave, then that employer would not be required to pay for the maintenance of benefits for an employee on maternity leave (however, the benefits would otherwise be required to continue if the employee covered the cost of maintenance). The Act took effect on January 1, 1988.

Tennessee – Chapter 607, 1988

Passed on March 17, 1988 Tennessee's Chapter 607 actually removed adoption from the definition of maternity leave. The Tennessee Code was amended from "for the purpose of bonding with a newly born or newly adopted child" to "for pregnancy, childbirth and nursing the infant, where applicable."

Tennessee – Chapter 430, 1991

In 1991, the Tennessee General Assembly added language so that the Statute read, "Nothing contained within the provisions of this section shall be construed to: ...Diminish or restrict the rights of teachers to leave pursuant to title 49, chapter 5, part 7, or to return or to be reinstated after leave."

Tennessee – Leave for Female Employees, 2005

In 2005, Tennessee amended its maternity leave legislation to re-include adoption as a legitimate reason for leave. Furthermore, whereas under the original 1987 legislation (and thereafter) maternity leave was specifically limited to female employees, the 2005 legislation all such leave for all eligible employees (removed the requirement to be female and simply referred to what was "maternity leave" as "leave"). The 2005 legislation also deleted the language "Enforcement of this section shall be sought by filing an original complaint with the Circuit or Chancery Court in the country having jurisdiction."

Vermont – Family Leave, 1989

Vermont passed its first family leave act in 1989, guaranteeing eligible female employees 12 weeks of maternity leave during her pregnancy and following the childbirth. If an employer had 10 or more employees employed for an average of 30 hours per week during a year were

obligated to oblige any eligible employee requesting family leave. In order for a female employee to be eligible for the leave, she must have been employed for a period of one year for an average of 30 hours a week. During the leave, employees were allowed to use accrued paid leave, but not to exceed 6 weeks. The employer was required to continue all employment benefits over the length of the leave, but the employee was expected to cover the cost of the benefits. Family leave under the 1989 Vermont law was job protected. The act took effect on July 1, 1989.

Vermont – Parental and Family Leave, 1992

The Vermont statutes (Title 21, Chapter 5, Sub. 4A, §470) list the first amendment to the state's parental and family leave laws as having been enacted during the 1991 Adjourned Session (No. 260), but the act is located in the 1992 session laws (No. 260).

Under the 1992 updated statute, parental leave applied to employers of 10 or more individuals who were employed for an average of 30 hours a week during a year and required that the employer allow eligible employees leave for childbirth and adoption. Family leave applied to employers of 15 or more individuals having worked 30 hours per week during the year were required to allow eligible employees leave for their own serious illness and for the serious illness of the employee's child, stepchild or ward who lives with the employee, foster child, parent, spouse, or parent of the employee's spouse. For either parental or family leave, an eligible employee was allowed 12 weeks of unpaid leave during any 12 month period.

In regards to family leave for the serious illness of an employee or the employee's family member, employers were granted the right to require written certification from a physician.

These amendments took effect July 1, 1992.

Vermont – Short-Term Family Leave, 1997

In 1997 the Vermont General Assembly amended the paternity and family leave law, stating specifically that substituting "any… accrued paid leave" was "at the employee's option." Furthermore, instead of requiring the employee to "pay the entire cost" of continuing benefits, the 1997 act required the employee to "contribute" to the cost of benefits at the rate before requesting leave.

Also within the 1997 act, the Vermont General Assembly allowed eligible employees 4 hours of unpaid short-term family leave during any 30-day period (not to exceed 24 hours in any 12-month period). Short-term family leave could be taken to participate in a child's school activities, a child's routine medical or dental appointments, a family member's "other appointments for professional services related to their care and well-being," or to respond medical emergency involving the employee's child. The employee was allowed to use accrued paid leave at their discretion.

Washington – Family Leave, 1989

In order to be eligible for family leave in Washington under the 1989 law, employees were required to have been employed on a continuous basis for the previous 52 weeks for at least 35 hours per week. The act only applied to employees that worked for firms employing a daily average of 100 or more employees during the last quarter at the employee's particular work site. If an employee proved eligible, they were granted 12 workweeks of family leave during any 24-month period to care for a new born child, adoption (under the age of 6), or to care for a child of the employee under 18 and who has a terminal health condition. Subject to the approval of the employer, family leave was allowed to be taken on a reduced leave basis. Family leave under the 1989 Washington law was unpaid. The leave required under Washington's 1989 family leave law was meant to be in addition to any leave for sickness or temporary disability because of pregnancy or childbirth. An employer could limit or deny family leave for "key personnel" designated by the employer, or if not designated, the highest paid 10 percent of employees. Family leave was designated as job protected. Coverage for health benefits would only continue if the employee covers the cost over the length of the leave. The act took effect September 1, 1989.

Washington – 1996 & 1997

Chapter 178, Section 14 of the 1996 Washington session laws was a technical amendment that clarified language but had no significant impact on this paper's analysis.

Chapter 16 of the 1997 Washington session laws ceased all administration and enforcement of the Washington family leave laws. Language was included in the 1997 act to allow for the Washington laws to re-emerge if the federal FMLA law was to ever be repealed or reduced.

Wisconsin – Family and Medical Leave, 1987

The 1987 Wisconsin legislation required employers of 50 or more employees to offer family and medical leave. An employee must have been employed for more than 52 consecutive weeks and have worked for at least 1,000 hours during the preceding 52-week period. Six weeks in a 12-month period were allowed for childbirth and adoption. Two weeks in a 12-month period were allowed to care for an employee's child, spouse, or parent with a serious health condition. However, employees were limited to a total of 8 weeks of family leave for any of the before mentioned reasons. Family leave could be taken on a partial absence basis. An employee was granted 2 weeks per 12-month period for their own serious health condition. Medical leave was granted if an employee was unable to perform his or her employment duties. Wisconsin's family and medical leave was generally unpaid, but employees were granted the right to substitute accrued paid (or unpaid) leave. Employers were allowed to demand written certification if an employee wished to take medical leave or family leave to care for a seriously ill family member. Both family and medical leave were job protected under the Wisconsin law. So long as an employee keeps making contribution to any health benefits, then an employer was required to maintain health benefits over any period of family or medical leave. The 1987 Act became applicable "with respect to any employe(e) covered by a collective bargaining agreement on the effective date of (the Act), on the day after that collective bargaining agreement expires or is extended or renewed."

Wisconsin – Additional Session Laws

The Amendments to Wisconsin's family and medical leave laws passed in 1989 (Act 228 removed a section of language dealing with enforcement of the leave. Enforcement issues are not relevant in this paper's analysis.

The Wisconsin legislature also passed relevant session laws in 1991, 1993, 1995, 1997, 2001, and 2003, but none were significant to this paper's analysis.

Conclusion

The comprehensive study of private-sector state family and medical leave polices as they have progressed over time presented in this paper will allow a piece-by-piece comparison and

analysis of the FMLA elements. With the information accessible through this database future researchers will be able to more easily study the effects of family and medical leave policies on various outcomes of interest (i.e., labor market, economic development, social outcomes, health outcomes, etc.). Because the data is at a state-level, such effects can be studied across regions and time, allowing for a broader basis to assess the benefits and costs of such policies, as well as a comparison of the effects of federal and state policies.

Undoubtedly, national and state family and medical leave policies will continue to evolve in the future. As the U.S. population continues to age, family leave to attend routine medical appointments, to care for seriously ill elderly relatives, etc., will become ever more a necessity. With the demand for more extensive family and medical leave policies rising, it will become increasingly important that existing policies are scrutinized in detail and that inefficient segments are retooled for the future.

(Table 4) Sources for Statute and Session Law

State	Statute (2005)	Session Law
Federal	29 USC Sec. 2654	Pub. L. 103-3, title IV, Sec. 404, Feb. 5, 1993, 107 Stat. 26.
California	CAL. [GOV'T] CODE §12945.2	1991 Cal. Stat. Ch. 462 1992 Cal. Stat. Ch. 427 §49 1993 Cal. Stat. Ch. 827 1994 Cal. Stat. Ch. 146 §68
Connecticut	CONN. GEN. STAT. § 31-51	1996 Conn. Acts 96-140 2003 Conn. Acts 03-213 2004 Conn. Acts 04-95 2004 Conn. Acts 04-257
D.C.	D.C. CODE §32-12	1990 D.C. Law 8-181 1994 D.C. Law 10-146 1996 D.C. Law 11-110 2001 D.C. Law 13-237
Hawaii	HAW. REV. STAT. §398	1991 Haw. Sess. Laws 328 1992 Haw. Sess. Laws 87-6 1995 Haw. Sess. Laws 154-4 1997 Haw. Sess. Laws 383-57 2000 Haw. Sess. Laws 253-130 2003 Haw. Sess. Laws 44 2003 Haw. Sess. Laws 212-7 2005 Haw. Sess. Laws 243-3
Maine	ME. REV. STAT. tit. 26, §843	1987 Me. Acts 661 1987 Me. Acts 861 1991 Me. Acts 277 1997 Me. Acts 515 1997 Me. Acts 546 1999 Me. Acts 127 2001 Me. Acts 684
Maryland	MD. CODE ANN., [LAB. & EMPL.] §3-802	1999 Md. Laws 503 2000 Md. Laws 376
Massachusetts	MASS. GEN. LAWS ch. 149, §52D	1972 Mass. Acts 790 1984 Mass. Acts 423 1989 Mass. Acts 318 1998 Mass. Acts 109
Minnesota	MINN. STAT. § 181.941	1987 Minn. Laws 359 1990 Minn. Laws 577 1992 Minn. Laws 438 1996 Minn. Laws 341 1999 Minn. Laws 205 2002 Minn. Laws 380
Montana	MONT. CODE ANN. § 49-2-310	1975 Mont. Laws 320 1983 Mont. Laws 285
New Jersey	N.J.S.A. 34:11B	1989 N.J. Laws 261 2003 N.J. Laws 27 2003 N.J. Laws 246-57

		2004 N.J. Laws 130-111
North Carolina	N.C. GEN. STAT. § 95-283	1993 N.C. Sess. Laws 509 1997 N.C. Sess. Laws 506-34
Oregon	OR. REV. STAT. § 659A	1995 Or. Laws 580
Rhode Island	R.I. GEN. LAWS § 28-48	1987 R.I. Acts & Resolves 366 1990 R.I. Acts & Resolves 380 1996 R.I. Acts & Resolves 202 1999 R.I. Acts & Resolves 64 1999 R.I. Acts & Resolves 186
Tennessee	TENN. CODE ANN. § 4-21-408	1987 Tenn. Pub. Acts 373 1988 Tenn. Pub. Acts 607 1991 Tenn. Pub. Acts 430 2005 Tenn. Pub. Acts 224
Vermont	VT. STAT. ANN. Tit. 21, § 470	1989 Vt. Acts & Resolves 83 1992 Vt. Acts & Resolves 260 1997 Vt. Acts & Resolves 41
Washington	WASH. REV. CODE § 49.78	1989 Wash. Laws 11 1996 Wash. Laws 178-14 1997 Wash. Laws 16
Wisconsin	WIS. STAT. § 103.10	1987 Wis. Laws 287 1989 Wis. Laws 228 1991 Wis. Laws 39 1993 Wis. Laws 446 1995 Wis. Laws 27 1997 Wis. Laws 3 2001 Wis. Laws 74 2003 Wis. Laws 1

(**Table 5) Leave Substitution Policies Across States**

States allowing for 'Leave Substitution'	Language Used
California CA 1994 Ch. 146 §68 (d) & (e)	(d) An employer shall not be required to pay an employee for any leave taken pursuant to subdivision (a), except as required by subdivision (e). (e) An employee taking a leave permitted by subdivision (a) may elect, or an employer may require the employee, to substitute, for leave allowed under subdivision (a), any of the employee's accrued vacation leave or other accrued time off during this period or any other paid or unpaid time off negotiated with the employer. If an employee takes a leave because of the employee's own serious health condition, the employee may also elect, or the employer may also require the employee, to substitute accrued sick leave during the period of leave. However, an employee shall not use sick leave during a period of leave in connection with the birth, adoption, or foster care of a child, or to care for a child, parent, or spouse with a serious health condition, unless mutually agreed to by the employer and the employee.
Connecticut CONN. GEN. STAT. Chap. 557 §Sec. 31-51ll	(2) (A) An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave or family leave of the employee for leave provided under subparagraph (A), (B) or (C) of subdivision (2) of subsection (a) of this section for any part of this sixteen-week period of such leave under said subsection. (B) An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for leave provided under subparagraph (C), (D) or (E) of subdivision (2) of subsection (a) of this section for any part of the sixteen-week period of such leave under said subsection, except that nothing in section 5-248a or sections 31-51kk to 31-51qq, inclusive, shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

Hawaii HAW. REV. STAT. §398-4	(b) Except as otherwise provided in subsection (c), an employee or employer may elect to substitute any of the employee's accrued paid leaves, including but not limited to vacation, personal, or family leave for any part of the four-week period in subsection (a).(c) An employer who provides sick leave for employees shall permit an employee to use the employee's accrued and available sick leave for purposes of this chapter; provided that an employee shall not use more than ten days per year for this purpose, unless an express provision of a valid collective bargaining agreement authorizes the use of more than ten days of sick leave for family leave purposes. Nothing in this section shall require an employer to diminish an employee's accrued and available sick leave below the amount required pursuant to section 392-41; provided that any sick leave in excess of the minimum statutory equivalent for temporary disability benefits as determined by the department may be used for purposes of this chapter.
Montana MONT. CODE ANN. § 49-2-310	Maternity leave -- unlawful acts of employers. It shall be unlawful for an employer or his agent to: (1) terminate a woman's employment because of her pregnancy; (2) refuse to grant to the employee a reasonable leave of absence for such pregnancy; (3) deny to the employee who is disabled as a result of pregnancy any compensation to which she is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by her employer, provided that the employer may require disability as a result of pregnancy to be verified by medical certification that the employee is not able to perform her employment duties; or (4) require that an employee take a mandatory maternity leave for an unreasonable length of time.

Oregon OR. REV. STAT. § 659A.174	(1) Except as provided in subsections (2) and (3) of this section, and unless otherwise provided by the terms of an agreement between the eligible employee and the covered employer, a collective bargaining agreement or an employer policy, family leave is not required to be granted with pay. (2) An employee on family leave is entitled to utilize any paid accrued vacation leave during the period of family leave, or to utilize any other paid leave that is offered by the employer in lieu of vacation leave during the period of family leave. (3) An employee taking family leave for the purpose specified in ORS 659A.159 (1)(a) is entitled to utilize any paid accrued sick leave in addition to paid leave that may be utilized under subsection (2) of this section. (4) Subject to the terms of any agreement between the eligible employee and the covered employer or the terms of a collective bargaining agreement, the employer may determine the particular order in which accrued leave is to be used in circumstances in which more than one type of accrued leave is available to the employee. (5) Except as provided by subsection (3) of this section, ORS 659A.150 to 659A.186 do not require an employer to provide or allow the use of any form of paid sick leave, paid medical leave or paid family leave in any situation in which the employer would not normally provide or allow use of paid sick leave, paid medical leave or paid family leave.
Vermont VT. STAT. ANN. Tit. 21, § 470	*Family and medical leave* (b) During the leave, at the employee's option, the employee may use accrued sick leave or vacation leave or any other accrued paid leave, not to exceed six weeks. Utilization of accrued paid leave shall not extend the leave provided herein. *Short-term family leave* (c) At the employee's discretion, the employee may use accrued paid leave, including vacation and personal leave.
Wisconsin WIS. STAT. § 103.10	An employee may substitute, for portions of family leave or medical leave, paid or unpaid leave of any other type provided by the employer.

States where 'leave substitution' is not mandated for family or medical leave	D.C., Maine, Massachusetts, Minnesota, New Jersey, North Carolina, Rhode Island, Tennessee, and Washington
States that require 'leave substitution' for short-term family leave	D.C., Massachusetts, Minnesota, and Rhode Island

*New Jersey is the only state that offers short-term family leave, but does not require employers to allow 'leave substitution' for its employees taking the short-term leave.

(Table 3) Length of Leave for Birth and Adoption

	72	73	74	75	76-86	87	88	89	90	91	92	93	94	95	96
FMLA												12w/1y	12w/1y	12w/1y	12w/1y
California										8w/2y	8w/2y	12w/1y	12w/1y	12w/1y	12w/1y
Connecticut															16w/2y
D.C.									16w/2y	16w/2y	16w/2y	16w/2y	16w/2y	16w/2y	16w/2y
Hawaii										4w/1y	4w/1y	4w/1y	4w/1y	4w/1y	4w/1y
Maine						8w/2y	8w/2y	8w/2y	8w/2y	10w/2y	10w/2y	10w/2y	10w/2y	10w/2y	10w/2y
Massachusetts	8w	8w	8w	8w	8w	8w	8w	8w	8w	8w	8w	8w	8w	8w	8w
Minnesota						6w	6w	6w	6w	6w	6w	6w	6w	6w	6w
Montana				reason	reason	reason	reason	reason	reason	reason	reason	reason	reason	reason	reason
New Jersey								12w/1y	12w/1y	12w/1y	12w/1y	12w/1y	12w/1y	12w/1y	12w/1y
Oregon														12w/1y	12w/1y
Rhode Island						13w/2y	13w/2y	13w/2y	13w/2y	13w/2y	13w/2y	13w/2y	13w/2y	13w/2y	13w/2y
Tennessee						8w	8w	8w	8w	8w	8w	8w	8w	8w	8w
Vermont								12w	12w	12w	12w/1y	12w	12w	12w	12w
Washington								12w/2y	12w/2y	12w/2y	12w/2y	12w/2y	12w/2y	12w/2y	12w/2y
Wisconsin						6w/1y	6w/1y	6w/1y	6w/1y	6w/1y	6w/1y	6w/1y	6w/1y	6w/1y	6w/1y

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See Table 4 for statute and session law sources

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State	Year	Chapter	employer covered	employees eligible	reasons for family leave	family leave amount	substitution of paid leave	reinstatement rights	continuation of benefits	requires certification for leave?	employer can turn down leave?	allow for reduced leave?
California	1991	Ch. 462 §4	employers of 50 or more employees	more than one year of continuous service and eligible for other benefits	birth; adoption or placement; serious illness of child, parent, or spouse	4 month in a 24 month period	accrued leave	same or comparable	Yes	Yes	Yes	No
	1992	Ch. 472 §49	employers of 50 or more employees	more than one year of continuous service and eligible for other benefits	birth; adoption or placement; serious illness of child, parent, or spouse	4 month in a 24 month period	accrued leave	same or comparable	Yes	Yes	Yes	No
	1993	Ch. 827 §1	employers of 50 or more employees	more than 12 months of service and at least 1250 hours during previous 12 months	birth; adoption or placement; serious illness of child, parent, or spouse; and medical leave	12 weeks in any 12 month period	accrued leave	same or comparable	Yes	Yes	No, but can refuse to reinstate	No
	1994	Ch. 146 §68	employers of 50 or more employees	more than 12 months of service and at least 1250 hours during previous 12 months	birth; adoption or placement; serious illness of child, parent, or spouse; and medical leave	12 weeks in any 12 month period	accrued leave	same or comparable	Yes	Yes	No, but can refuse to reinstate	No
Connecticut	1996	PA 96-140	employers of 75 or more employees	employed at least 12 months and at least 1,000 hours of service during the last 12 month period	birth; adoption or placement; serious illness of child, parent, or spouse; and medical leave	16 workweeks during any 24 month period beginning with first day of leave	accrued leave	same or comparable	No	Yes	No	Yes, for serious health condition
	2003	PA 03-213	employers of 75 or more employees	employed at least 12 months and at least 1,000 hours of service during the last 12 month period	birth; adoption or placement; serious illness of child, parent, or spouse; and medical leave	16 workweeks during any 24 month period beginning with first day of leave**	two weeks of accumulated sick leave	same or comparable	No	Yes	No	Yes, for serious health condition
	2004	PA 04-95 PA 04-257	employers of 75 or more employees	employed at least 12 months and at least 1,000 hours of service during the last 12 month period	birth; adoption or placement; serious illness of child, parent, or spouse; medical leave; and organ, bone marrow donation	16 workweeks during any 24 month period beginning with first day of leave**	two weeks of accumulated sick leave	same or comparable	No	Yes	No	Yes, for serious health condition
DC	1990	D.C. Law 8-181	all employers	employed for 1 year consecutively and worked > 1000 hours during 1 year period	birth; adoption, placement; family serious health condition; medical leave	16 workweeks during any 2 years	not mandated	same or comparable	Yes, if employee can pay	Yes, for serious health conditions	Yes (same as FMLA)	Yes, for serious health condition
1990 + →	1994	D.C. Law 10-146	all employers	parent, guardian, or acts as guardian	school related activities	24 hours per 12 month period	accrued leave	job protected	N/A	No	Yes, if disruptive	N/A
Hawaii	1991	Ch. 328	> 100 employees for each working day during each of >20 weeks in current or preceding year	employed for 6 consecutive months	birth, adoption, serious illness of child, spouse, or parent	4 weeks per year	accrued leave**	same or equivalent	upon return to work	Yes	No	No
	1992	Ch. 87 §6	> 100 employees for each working day during each of >20 weeks in current or preceding year	employed for 6 consecutive months	birth, adoption, serious illness of child, spouse, or parent	4 weeks per year	accrued leave**	same or equivalent	upon return to work	Yes	No	No
	1995	Ch. 154 §4	> 100 employees for each working day during each of >20 weeks in current or preceding year	employed for 6 consecutive months	birth, adoption, serious illness of child, spouse, or parent	4 weeks per year	accrued leave**	same or equivalent	upon return to work	Yes	No	No
	1997	Ch. 383 §57	> 100 employees for each working day during each of >20 weeks in current or preceding year	employed for 6 consecutive months	birth, adoption, serious illness of child, spouse, or reciprocal beneficiary, or parent	4 weeks per year	accrued leave**	same or equivalent	upon return to work	Yes	No	No
	2000	Ch. 253 §130	> 100 employees for each working day during each of >20 weeks in current or preceding year	employed for 6 consecutive months	birth, adoption, serious illness of child, spouse, reciprocal beneficiary, or parent	4 weeks per year	accrued leave**	same or equivalent	upon return to work	Yes	No	No
	2003	Ch. 44 Ch. 212 §7	> 100 employees for each working day during each of > 20 weeks in current or preceding year	employed for 6 consecutive months	birth, adoption, serious illness of child, spouse, reciprocal beneficiary, or parent	4 weeks per year	accrued leave	same or equivalent	upon return to work	Yes	No	No
	2005	Ch. 243 §3	> 100 employees for each working day during each of >20 weeks in current or preceding year	employed for 6 consecutive months	birth, adoption, serious illness of child, spouse, reciprocal beneficiary, or parent	4 weeks per year	accrued leave	same or equivalent	upon return to work	Yes	No	No
Maine	1987	Ch. 661 Ch. 861	> 25 employees	employed for 12 consecutive months unless at workstation with < 25 employees	medical leave; birth, adoption; serious illness of child, parent, or spouse	8 consecutive work weeks in any 2 years	not mandated	same or comparable	Yes, at employee's expense	Yes	No	No
	1991	Ch. 277	> 25 employees	employed for 12 consecutive months unless at workstation with < 25 employees	medical leave; birth, adoption; serious illness of child, parent, or spouse	10 consecutive work weeks in any 2 years	not mandated	same or comparable	Yes, at employee's expense, or negotiate	Yes	No	No
	1997	Ch. 515 Ch. 546	> 15 employees	employed for 12 consecutive months unless at workstation with < 15 employees	medical leave; birth, adoption; serious illness of child, parent, or spouse	10 consecutive work weeks in any 2 years	not mandated	same or comparable	Yes, at employee's expense, or negotiate	Yes	No	No
	1999	Ch. 127	> 15 employees	employed for 12 consecutive months unless at workstation with < 15 employees	medical leave; birth, adoption; serious illness of child, parent, or spouse	10 consecutive work weeks in any 2 years	not mandated	same or comparable	Yes, at employee's expense, or negotiate	Yes	No	No
	2001	Ch. 684	> 15 employees	employed for 12 consecutive months unless at workstation with < 15 employees	medical leave; birth, adoption; serious illness of child, parent, or spouse; and organ donation	10 consecutive work weeks in any 2 years	not mandated	same or comparable	Yes, at employee's expense, or negotiate	Yes	No	No
Massachusetts	1972	Ch. 790	any employer	all permanent women employees	birth	8 weeks	Not Mandated	same or similar	No	No	No	No
	1984	Ch. 423	any employer	all permanent women employees	birth, adoption (under 3 yrs of age)	8 weeks	Not Mandated	same or similar	No	No	No	No
	1989	Ch. 318	any employer	all permanent women employees	birth, adoption	8 weeks	Not Mandated	same or similar	No	No	No	No
1972, 1984, 1989 + →	1998	Ch. 109	FMLA covered	FMLA eligible	school activities, routine medical of child or elderly relative	24 hours per 12 month period	accrued leave	N/A	N/A	No	No	No
Minnesota	1987	Ch. 359	employs > 21	works >20 hours a week and has been employed > 12 months	birth, adoption	< 6 weeks	Not Mandated	same or comparable	Yes, employee pays	No	No	Yes
	1990	Ch. 577	employs > 21	works >20 hours a week	birth, adoption, school activities, sick child	< 6 weeks for birth or adoption 16 hours a school year amount of available personal sick leave	Not Mandated for birth, adoption accrued leave for school activities sick leave for sick child	same or comparable	Yes, employee pays	No	No	Yes
	1992	Ch. 438	employs > 21	works >20 hours a week	birth, adoption, school activities, sick child	< 6 weeks for birth or adoption 16 hours any 12 month period amount of available personal sick leave	Not Mandated for birth, adoption accrued leave for school activities sick leave for sick child	same or comparable	Yes, employee pays	No	No	Yes
	1996	Ch. 341	employs > 21	works > 20 hours a week	birth, adoption, school activities, sick child	< 6 weeks for birth or adoption 16 hours any 12 month period amount of available personal sick leave	Not Mandated for birth, adoption accrued leave for school activities sick leave for sick child	same or comparable	Yes, employee pays	No	No	Yes
	1999	Ch. 205	employs > 21	works > 20 hours a week	birth, adoption, school activities, sick child	< 6 weeks for birth or adoption 16 hours any 12 month period amount of available personal sick leave	Not Mandated for birth, adoption accrued leave for school activities sick leave for sick child	same or comparable	Yes, employee pays	No	No	Yes
	2002	Ch. 380	employs > 21	works > 20 hours a week	birth, adoption, school activities, sick child	< 6 weeks for birth or adoption 16 hours any 12 month period amount of available personal sick leave	Not Mandated for birth, adoption accrued leave for school activities sick leave for sick child	same or comparable	Yes, employee pays	No	No	Yes
Montana	1975	No. 320	all employers	all female employees	birth	reasonable leave of absence	accrued leave	same or equivalent	not mandated	Yes	No	No
	1983	No. 285	all employers	all female employees	birth	reasonable leave of absence	accrued leave	same or equivalent	not mandated	Yes	No	No
New Jersey	1989	Ch. 261	100 employees	employed for > 12 months and has worked > 1,000 during that period	birth; adoption; serious illness of child, spouse, or parent	12 weeks in any 12 month period	not mandated	same or comparable	Yes	Yes	Yes	Yes
	1991	-	75 employees	employed for > 12 months and has worked > 1,000 during that period	birth; adoption; serious illness of child, spouse, or parent	12 weeks in any 12 month period	not mandated	same or comparable	Yes	Yes	Yes	Yes
	1995	-	50 employees	employed for > 12 months and has worked > 1,000 during that period	birth; adoption; serious illness of child, spouse, or parent	12 weeks in any 12 month period	not mandated	same or comparable	Yes	Yes	Yes	Yes
	2003	Ch. 27 Ch. 246 §57	50 employees	employed for > 12 months and has worked > 1,000 during that period	birth; adoption; serious illness of child, spouse, or parent	12 weeks in any 12 month period	not mandated	same or comparable	Yes	Yes	Yes	Yes
	2004	Ch. 130 §111	50 employees	empoyed for > 12 months and has worked > 1,000 during that period	birth; adoption; serious illness of child*, spouse, or parent	12 weeks in any 12 month period	not mandated	same or comparable	Yes	Yes	Yes	Yes
North Carolina	1993	Ch. 509	all employers	parent, guardian, or loco parentis	school activities	4 hours per year	not mandated	punishable	N/A	Yes	No	N/A
	1997	Ch. 506 §34	all employers	parent, guardian, or loco parentis	school activities	4 hours per year	not mandated	punishable	N/A	Yes	No	N/A
Oregon	1995	Ch. 580	employs > 25 *	employed for > 180 days and work > 25 hrs a week	birth; adoption; serious illness of child, spouse, or parent; medical leave; nonserious health condition of child	12 weeks a year * avg 25 hours per workweek in year	accrued leave	same or equivalent	No	Yes	No	Yes**
Rhode Island	1987	Ch. 366	50 or more employees	full time, works avg of 30 hours per week for 12 consecutive months	birth, adoption	13 consecutive workweeks in any 2 years	not mandated	same or comparable	Yes, *	No	No	No
	1990	Ch. 380	50 or more employees	full time, works avg of 30 hours per week for 12 consecutive months	birth, adoption, serious illness of parent, spouse, child, in-law, or employee	13 consecutive workweeks in any 2 years	not mandated	same or comparable	Yes, *	Yes	No	No
	1996	Ch. 202	-	-	-	-	not mandated**	-	-	-	-	-
1987, 1990, 1996 + →	1999	Ch. 64 Ch. 186	50 or more employees	full time, works avg of 30 hours per week for 12 consecutive months	attend school conferences or other school-related activities for a child	10 hours during any 12 month period	(64) accrued leave (186) not mandated	N/A	N/A	No	No	N/A
Tennessee	1987	No. 373	all employers	female employed for 12 consec months and full time	birth, adoption	4 months	not mandated	same or similar	Yes, no cost to employer	No	No	No
	1988	No. 607	all employers	female employed for 12 consec months and full time	birth	4 months	not mandated	same or similar	Yes, no cost to employer	No	No	No
	1991	No. 430	all employers	female employed for 12 consec months and full time	birth	4 months	not mandated	same or similar	Yes, no cost to employer	No	No	No
	2005	No. 224	all employers	female employed for 12 consec months and full time	birth, adoption	4 months	not mandated	same or similar	Yes, no cost to employer	No	No	No
Vermont	1989	No. 83	10 employees, avg 30 hrs a week	females employed for > year for avg 30 hrs a week	birth	12 weeks	accrued up to 6 weeks	same or comparable	Yes, employee pay	No	Yes	No
	1992	No. 260	10 employees, avg 30 hrs a week for parental leave 15 employees, avg 30 hrs a week for family leave	employed for 30 hrs a week for a year	birth, adoption serious illness of employee, child+, spouse, parent+	12 weeks in any 12 month period	accrued up to 6 weeks	same or comparable	Yes, employee pay	Yes, for serious health conditions	Yes	No
	1997	No. 41	10 employees, avg 30 hrs a week for parental leave 15 employees, avg 30 hrs a week for family leave	employed for 30 hrs a week for a year	birth, adoption, serious illness of employee, child+, spouse, parent+ short-term family leave	12 weeks in any 12 month period < 4 hrs in any 30 day period and <24 hrs in any 12 month period	accrued up to 6 weeks accrued leave	same or comparable -	Yes, employee contribute -	Yes, for serious health conditions -	Yes -	No -
Washington	1989	Ch. 11	employed a daily average of 100+ at workstation employed a daily average of 100+ w/in 20 miles	employed on continuous basis for 52 weeks or works > 35 hours per week	birth, adoption, child's terminal health condition	12 workweeks per 24 month period	not mandated	same or comparable	Yes, employee pay	No	Yes, key employees	Yes, approved by employer
	1996	Ch. 178 §14	employed a daily average of 100+ at workstation employed a daily average of 100+ w/in 20 miles	employed on continuous basis for 52 weeks or works > 35 hours per week	birth, adoption, child's terminal health condition	12 workweeks per 24 month period	not mandated	same or comparable	Yes, employee pay	No	Yes, key employees	Yes, approved by employer
	1997	Ch. 16	refer to FMLA	refer to FMLA	refer to FMLA	refer to FMLA	refer to FMLA	refer to FMLA	refer to FMLA	refer to FMLA	refer to FMLA	refer to FMLA
Wisconsin	1987	a. 287	50 employees	employed for > 52 consecutive weeks and worked > 1,000 hours during preceding 52 week period	[a] birth, adoption, placement [b] serious health condition of child, spouse or parent [c] medical leave	< 6 weeks per 12 months for [a] < 2 weeks per 12 months for [b] < 8 weeks per 12 months for [a+b] < 2 weeks per 12 months for [c]	accrued or other available leave (paid or unpaid)	same or equivalent	Yes, employee contribute	Yes	No	Yes
FMLA	1993	N/A	50 or more employees in 20 or more workweeks in the current or preceding year	have worked for a total of 12 months worked > 1,250 hours over past 12 months 50 employees within 75 miles of workstation	birth; adoption or placement; serious health condition of spouse, child, or parent; medical leave	12 weeks in any 12 month period	not mandated	same or comparable	Yes	Yes	Yes	No