



## As more and more states implement paid leave laws, will mandated vacation become the new normal?

By Jessica Schachter Jewell and Jeffrey Gilbreth

More than a quarter century after the Family and Medical Leave Act was enacted, family leave—or more precisely *paid* family leave—is a trending topic in politics and around the dinner and conference room tables. In fact, many national politicians, including both Democratic presidential candidates and members of the Trump administration, have made parental leave a focus of their respective campaigns and agendas. Though a growing number of people agree that this is a problem needing a solution, there is a lack of consensus about the appropriate solution. We expect the country will be hearing a lot about this topic during the 2020 election cycle. While the discussion continues and the possibility of national legislation remains remote at this point, states and in some cases municipalities, are taking matters into their own hands. Here is a round-up of where we are and where we might be headed.

Four states currently have paid family and/or medical leave laws in effect—California, New Jersey, New York and Rhode Island. Washington, Washington D.C. and Massachusetts have recently adopted paid family/medical leave laws and are slated to begin collecting a new tax in 2019 to fund these programs; employees in those jurisdictions will be able to start taking paid leave under those laws in the next 12 to 18 months.

Connecticut is the most recent state to join the bandwagon. Earlier this month, the Connecticut Legislature passed a bill that appears to create the most generous paid leave program in the country. Tax collection to fund this program is set to begin in January 2021 and employees will be able to start taking leave under this law one year later. Connecticut Governor Ned Lamont has promised to sign the bill into law.

Bucking the trend is New Hampshire, which is living up to its state motto of “Live Free or Die.” This spring, the Democratic-controlled legislature passed a bill for paid family leave, modeled after New York’s program, but in May, Governor Chris Sununu vetoed the bill. Governor Sununu called the program an income tax that he and the people of New Hampshire did not support. We are interested in whether the New Hampshire Legislature will take another run at passing a paid family or medical leave statute in the coming years as its neighboring states’ programs take effect.

On the other end of the spectrum sit New York City and Maine, two jurisdictions that are moving the goalpost from paid sick, family and medical leave to what may be the next big revolution: requiring employers to provide employees with paid *vacation* time. To date, all legally required paid time off laws have been with respect to such time that can only be used in certain circumstances (e.g., the employee or a covered family member is sick or has a serious health condition). But in January of this year, it looked like New York City might become first place in the country to require employers to provide paid vacation time to their employees. Mayor Bill de Blasio announced a proposal that would mandate employers with at least five employees to pay workers for up to 10 personal days a year (which employees could use for any reason—no sickness or medical condition required). While everyone was watching to see whether and how New York City would become the newest trendsetter, Maine quietly passed the nation's first law mandating paid time off—again no sickness or illness required. While this new Maine law is slated to go into effect in 2021, Maine's Department of Labor will be promulgating rules, and we will provide an update once those rules are available.

In the meantime, employers with workers in any of these states referenced above should stay up to date as these programs come into effect and evolve. And employers with workers *anywhere* in the U.S. should keep their eyes and ears open as new leave laws are hitting the books. Although many legislatures are adjourned for the summer, we expect further developments once state legislators return from their own time off from work.

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