



Missing Ranch Hands: Managing Absence, Paid Family Leave, and Paid Sick Leave

Prepared by Aon's National Absence Management Practice

Presentation to Southwest Benefits Association



Panel Presenters



Janis Moebus | Aon, Vice President
With over 30 years of experience in operations, product management sales, and consulting, Janis has expertise in policies and procedures impacting absence, the capabilities required for internal administration of disability, and data driven analysis of performance improvement.



Jessica McHargue | Hobby Lobby, Director of Employee Benefits
Jessica started with Hobby Lobby in 2010 and is responsible for Employee Benefits, Leave of Absence, and Paid Time Off, including onsite clinic and pharmacy oversight. Hobby Lobby is located in 47 states and has approximately 37,000 employees nationwide.

Agenda

Section 1

Background Information

- Overview
- Family and Medical Leave Act
- Paid Sick Leave
- Paid Family Leave
- Parental Leave
- Caregiving Leave

Section 2

Hobby Lobby

- About Hobby Lobby
- Paid Maternity Leave
- Family and Medical Leave Act
- Paid Sick Leave
- Implementation Challenges
- Legislative Activism

Leave Entitlements, Benefits and Policies

Entitlements	Company Specific Leave Plans		Insured or Administered
Americans with Disabilities Act Amendment Act (ADAAA)	Attendance	Historical time “banks”	Workers’ Compensation
Family Medical Leave Act (FMLA) policy and procedures	Bar Preparation	Jury Duty	Short Term Disability / Salary Continuation plan, policy and procedures
Military Caregiver Leave (Exigency Leave and USERRA)	Bereavement/Funeral	Leave of Absence	Long Term Disability plan, policy and procedures
Pregnancy Discrimination Act of 1978	Buying of Vacation Days	Medical	Individual Disability Income (IDI) plan, policy, procedures
State, County, City Leaves	Caregiver	Military	
	Carry Over of Vacation, Sick or PTO	Parental	
	Civil Service	Personal	
	Court Appearances	Sabbatical	
	Designated/Floating Holidays	Sick Time or Extended Illness Bank	
	Education	Time Away from Work, including Vacation or PTO	
	Elder Care	Voting/Election	
	Family		
	Fit or Duty or Functional Job Screen		

Knowing the Impact of Absence

The Aon 2017 Absence Pulse survey showed us:



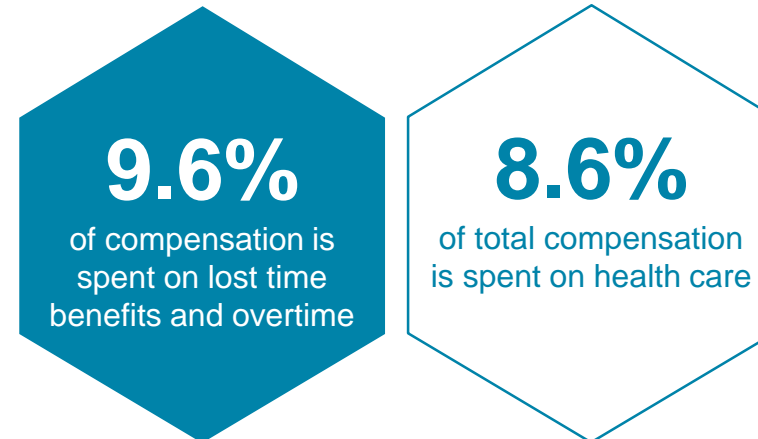
Source: Bureau of Labor Statistics; CDC.

Total cost of absence exceeds the cost of health insurance for employers



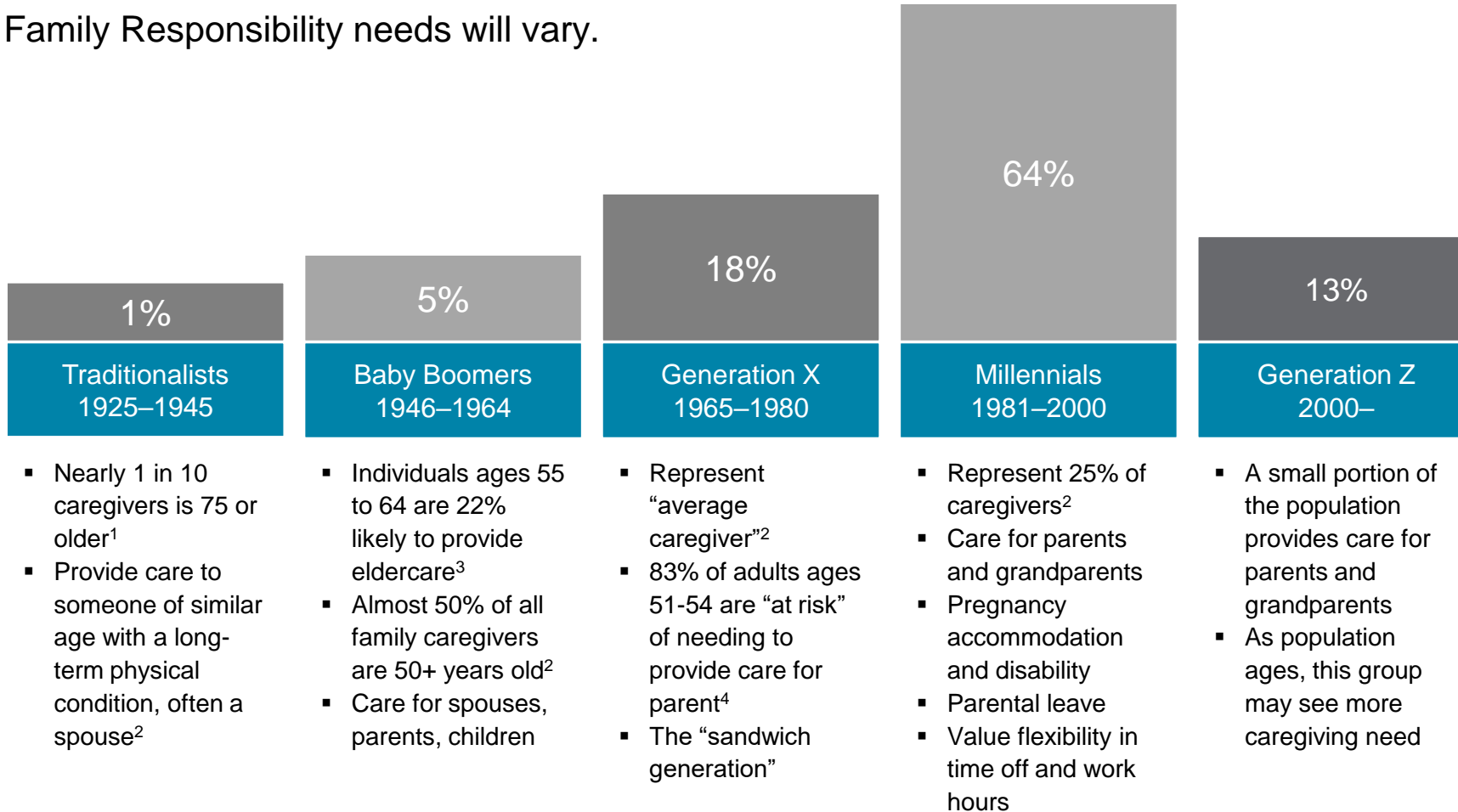
70% of 2017 Aon Pulse survey respondents identified managing unscheduled absences as a top challenge in absence management

The U.S. Department of Labor estimates:



A New Workforce Is Emerging

By 2030, the work force will be different ...
and Employee Family Responsibility needs will vary.

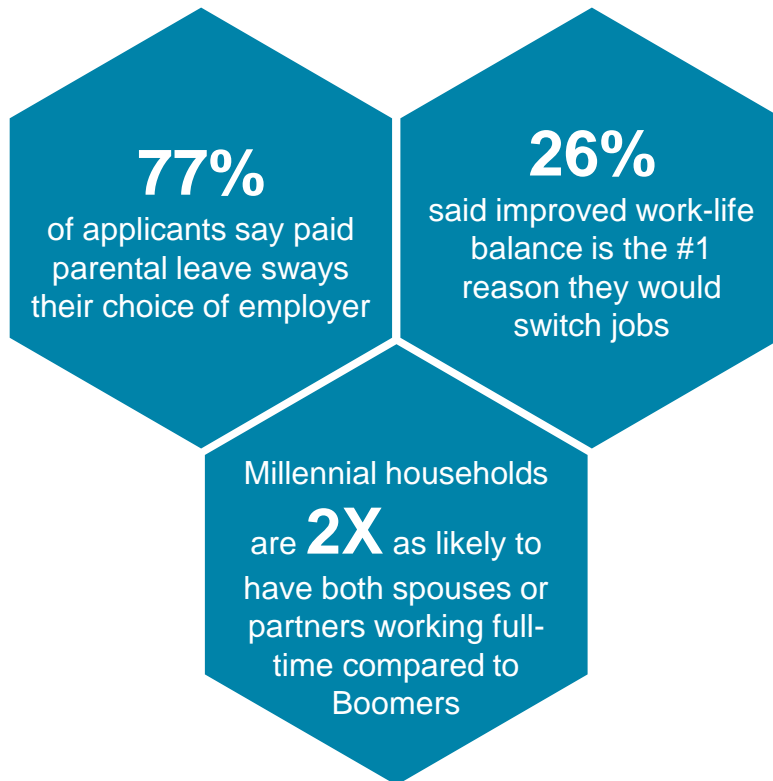


Source: Future of Workspace Survey; Aon Pulse Survey 2015; 1. AARP Public Policy Institute, June 2015; 2. AARP Caregiver Profiles, 2015; 3. Bureau of Labor Statistics; 4. Urban Institute, 2015.

The Opportunity

Within 10 years, Millennials will make up 75% of the workforce

To attract and retain millennial talent, the modern workplace needs to adjust parental policies to reflect modern gender roles, values and the rising norm of two-income families.



Employees in a more effective and flexible workplace are more likely to benefit from:

- ▶ Less negative and stressful spillover from job to home, and vice versa
- ▶ Better mental and physical health
- ▶ Increased levels of job satisfaction
- ▶ Higher engagement
- ▶ Stronger intentions to remain with employer

Source: Boston Consulting Group, Why Paid Family Leave is Good Business, 2017 ;EY Study, Millennials: "Generation Go", 2015; Robert Walters Empowering Women in the Workplace, 2015. "Future Talent Strategies: Gender Diversity and Leadership"; SHRM National Study of Employers, 2016.

Findings from the 2016 SHRM National Study of Employers

Employees in more effective and flexible workplaces are more likely to have:

Higher engagement

Increased levels of job satisfaction

Stronger intentions to remain with the employer

Less negative stressful spillover from job to home, and vice versa

Better mental health

These employees are also more likely to indicate:

Being in excellent overall physical health

A low frequency of minor health problems and sleep problems

No indicators of depression

A low general stress level

Source: SHRM National Study of Employers, 2016.

Family and Medical Leave Act (FMLA) of 1993

Allows eligible employees up to a total of 12 workweeks in any 12 months job-protected, unpaid leave, or to substitute appropriate paid leave for the:

- Employee's own serious health condition
- Birth of a child and to care for the newborn child
- Placement of a child with the employee for adoption or foster care
- Care for a family member (child, spouse or parent) with a serious health condition
- Qualifying exigency
- Care for a covered service member (up to a total of 26 workweeks in a single 12-month period)

Additional job related protections:

- Resume same or equivalent position with equivalent pay and benefits
- Continuation of group health insurance coverage

Source: § 825.100 The Family and Medical Leave Act

Federal and State Parental Leave Benefits

Unpaid		Paid		
Federal (Unpaid)	State (Unpaid)	State (Paid)	Municipal (Paid)	<i>Active Paid Leave Bills or Campaigns*</i>
<ul style="list-style-type: none"> Family and Medical Leave Act (FMLA) 	<ul style="list-style-type: none"> California Connecticut District of Columbia Hawaii Maine Massachusetts Minnesota New Jersey Oregon Rhode Island Vermont Washington Wisconsin 	<ul style="list-style-type: none"> California New Jersey New York Rhode Island Coming soon: <ul style="list-style-type: none"> — Washington (2020) — District of Columbia (2020) 	<ul style="list-style-type: none"> San Francisco 	<ul style="list-style-type: none"> Colorado Connecticut Massachusetts Minnesota Montana Nebraska New Hampshire North Carolina Ohio Oregon Vermont Wisconsin

Recent legislative activity regarding paid family leave has contributed to the move towards offering paid parental benefits in the private sector.

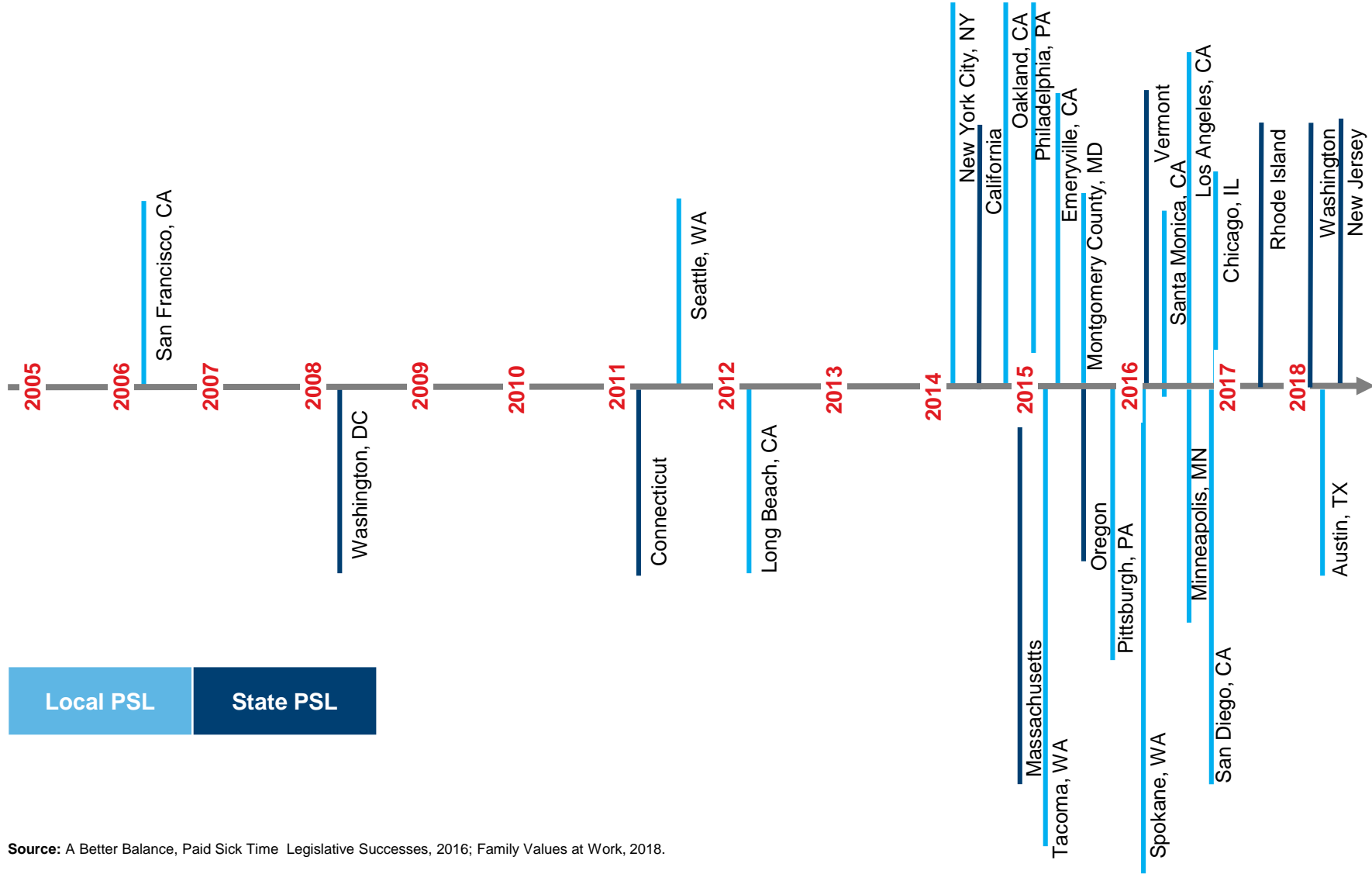
*Source: abetterbalance.org

Paid Sick Leave vs. Family Medical Leave Act

	Paid Sick Leave	FMLA
Policy	Employees earn or accrue PSL based on hours worked. Decrement time from a bank with earned values.	Allows eligible employees up to a total of 12 workweeks in any 12 months period
Which Employers Have to Comply with Law	Employers of all types with very few employees (varies by jurisdiction)	Private sector employers with 50 or more employees
Reason for Taking Leave	<ul style="list-style-type: none"> ▪ Self-care ▪ Care of sick/injured family members ▪ Deal with domestic violence/stalking 	<ul style="list-style-type: none"> ▪ Employee's own health condition ▪ Birth of a child and to care for the newborn child ▪ Placement of a child with the employee for adoption or foster care ▪ Care for a family ▪ Qualifying exigency ▪ Care for a covered service member
Job Protection	Yes	Yes
Pay	Yes	No

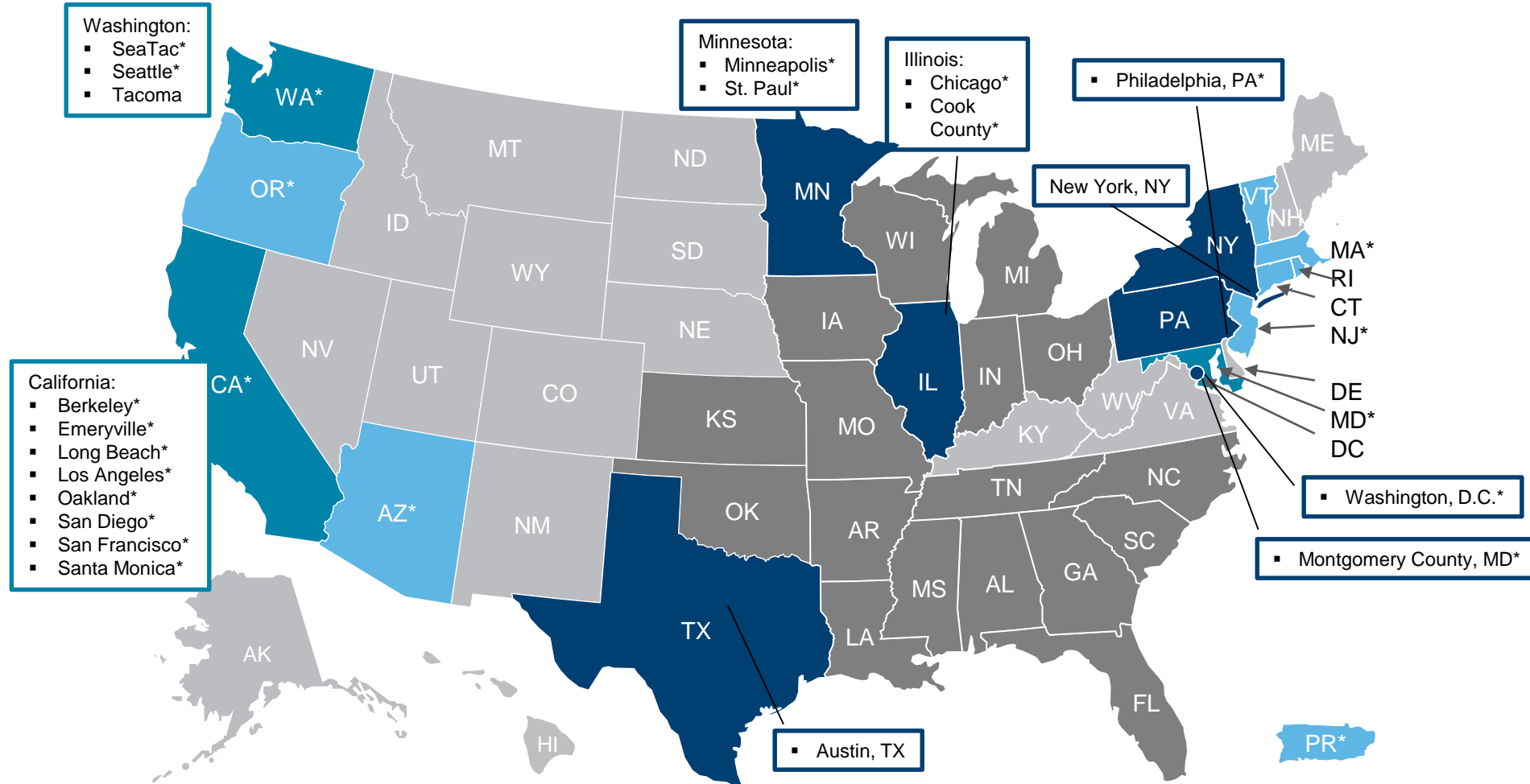
Source: United States Department of Labor

Paid Sick Leave | Timeline



Source: A Better Balance, Paid Sick Time Legislative Successes, 2016; Family Values at Work, 2018.

Paid Sick Leave—Overview



Local Laws Only	State-Wide Laws Only	State & Local Laws	State Bans Local Laws
Federal contractor paid sick leave (as applicable)			

**These jurisdictions give employees the right to sue their employers to enforce PSL entitlement*

Current as of May 2, 2018

Paid Sick Leave Design Categories

Pros and Cons by Level

Type of Design	Description of Design	Pros	Cons
Jurisdictional level	42 (and counting) different designs (plus a design(s) for non-PSL work locations)	<ul style="list-style-type: none"> No work location or employee gets a more generous design than required by law 	<ul style="list-style-type: none"> Impractical to administer Does not facilitate transfers
State level (composite)	Every work location in a state gets the most generous design applicable in that state (plus a design(s) for non-PSL work locations outside of the PSL states)	<ul style="list-style-type: none"> Fewer locations to administer Easy to communicate Facilitates in-state transfers 	<ul style="list-style-type: none"> At 15 current designs (and counting) this is still an impractical number of designs to administer Does not facilitate regional or nation-wide transfers
Regional level	Every work location in a region gets the most generous design applicable in that region (could apply to work locations in states in the region that do not have any PSL mandates)	<ul style="list-style-type: none"> Even fewer locations to administer (approximately 3-4 designs currently) Easy to communicate Facilitates broader transfers 	<ul style="list-style-type: none"> Does not facilitate nation-wide transfers
National level	One single design for all PSL jurisdictions in the country, using the most generous design from among the 42 (and counting) PSL jurisdictions (plus a design(s) for non-PSL work locations)	<ul style="list-style-type: none"> Easy to communicate Easy to administer Employees can transfer anywhere in the U.S. and be subject to the same rules 	<ul style="list-style-type: none"> Overly generous Subjects all locations to the most onerous tracking and disclosure rules

Definition of Terms – Family Leave

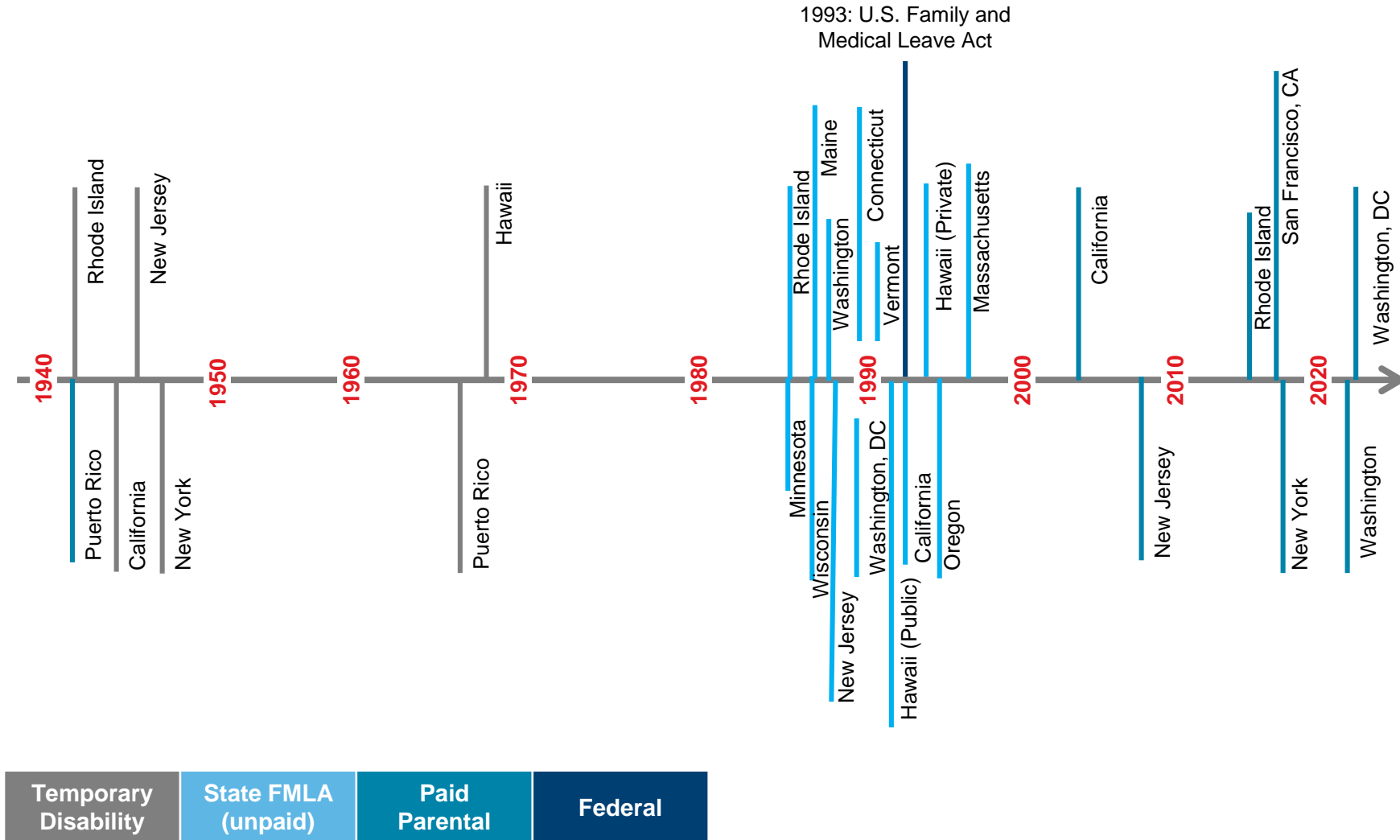
What's the Difference?

	Self	Birth, Adoption, Foster Care	Sick Child	Sick Spouse	Sick Parent	Sick Relative	School-related leave
Pregnancy Disability: Medical disability leave, treated the same as any other disability (6-8 weeks)	✓	✗	✗	✗	✗	✗	✗
Maternity: Granted to mothers (3 weeks)	✗	✓	✗	✗	✗	✗	✗
Paternity: Granted to fathers (2 weeks)	✗	✓	✗	✗	✗	✗	✗
Parental: Gender-neutral job-protected leave for new parents (2 weeks)	✗	✓	✗	✗	✗	✗	✓*
Caregiver: Gender-neutral job-protected leave to care for a family member (2 days-12 weeks, no median exists)	✗	✗	✓	✓*	✓	✓*	✗
Family Leave: Gender-neutral, job-protected leave (2 days-12 weeks, no median exists)	✗	✓	✓	✓	✓	✗	✗

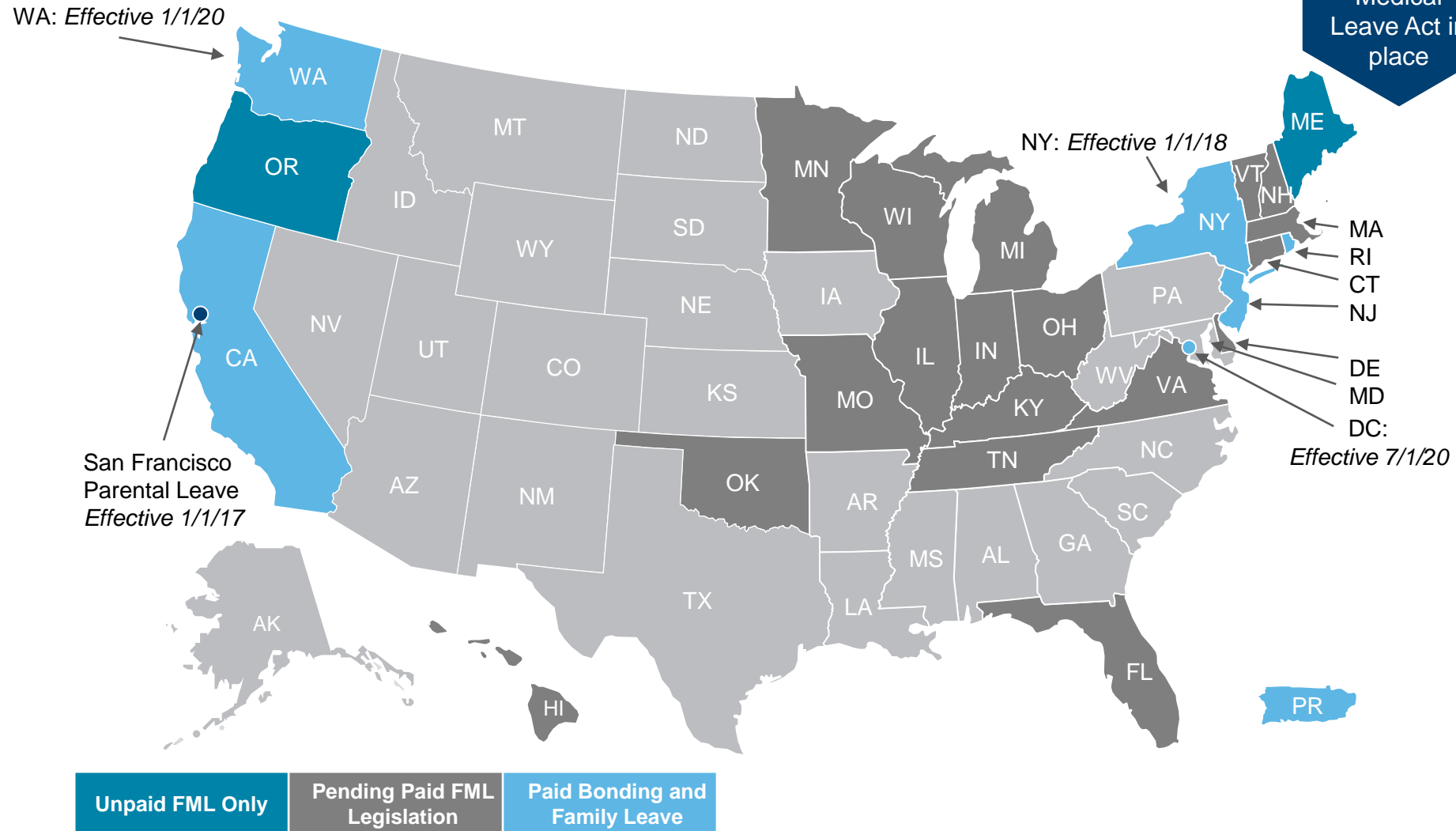
*Coverage varies.

Note: Weeks represent median duration of leave benefit based on Aon experience.

Family Leave Benefits | Timeline

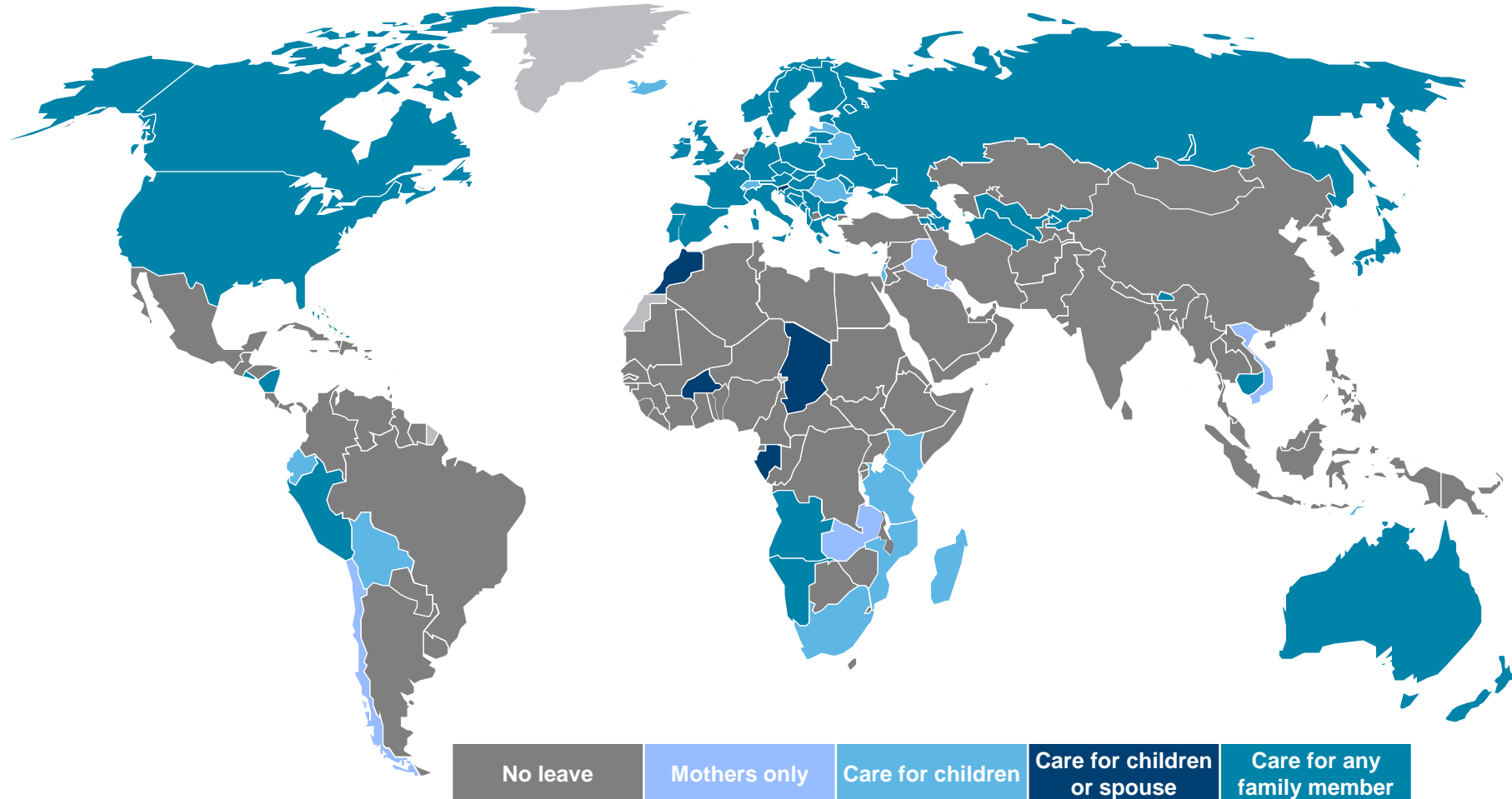


Family Leave Benefits – Bonding and Caregiver



Source: National Partnership for Women and Families, 2017.

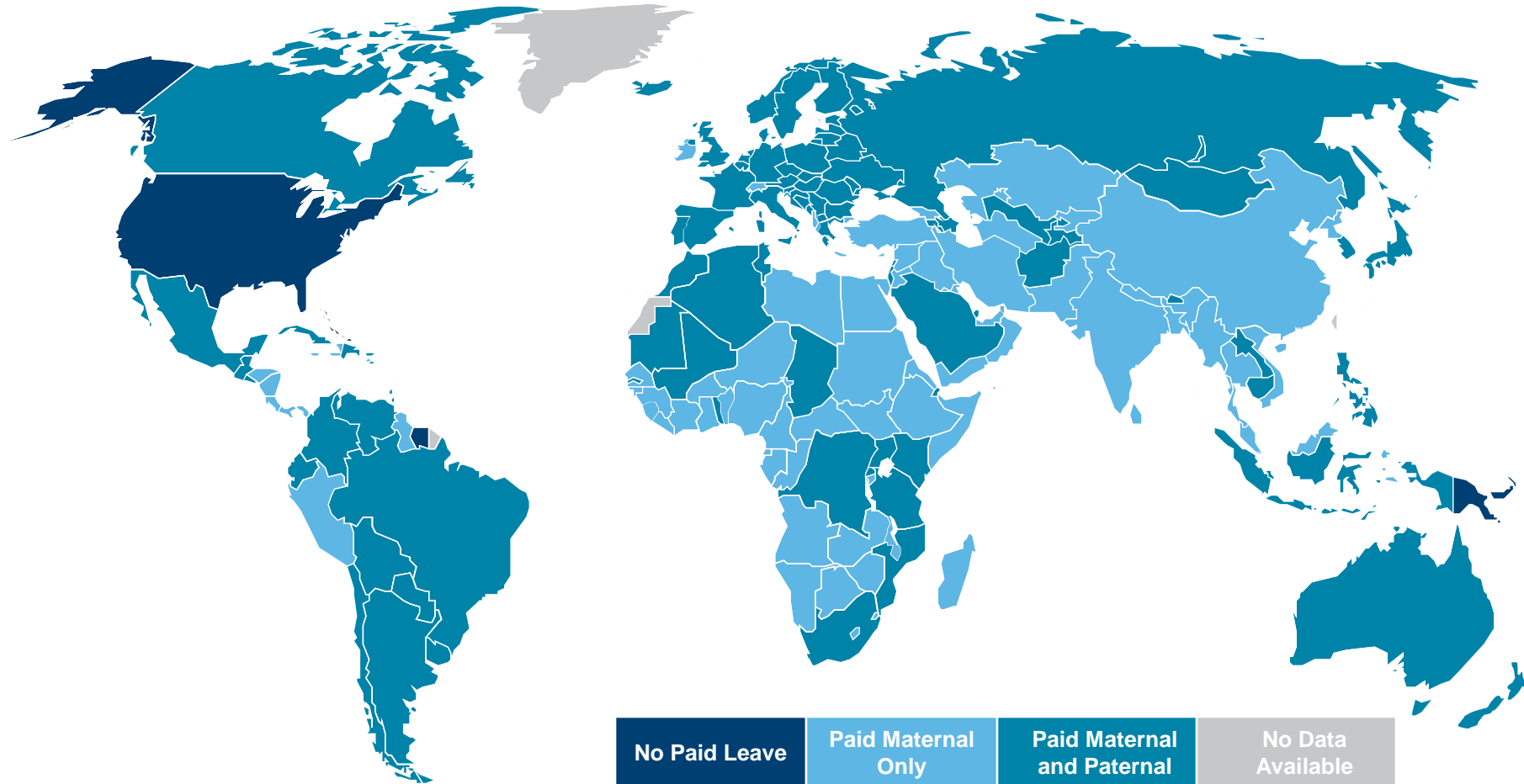
Global | Family Friendly Benefits



*Note: Represents any leave benefit, not necessarily paid or job protected; benefit offered to both mothers and fathers unless indicated otherwise.

Source: WORLD Policy Analysis Center at UCLA, 2017.

Global | Paid Parental Leave

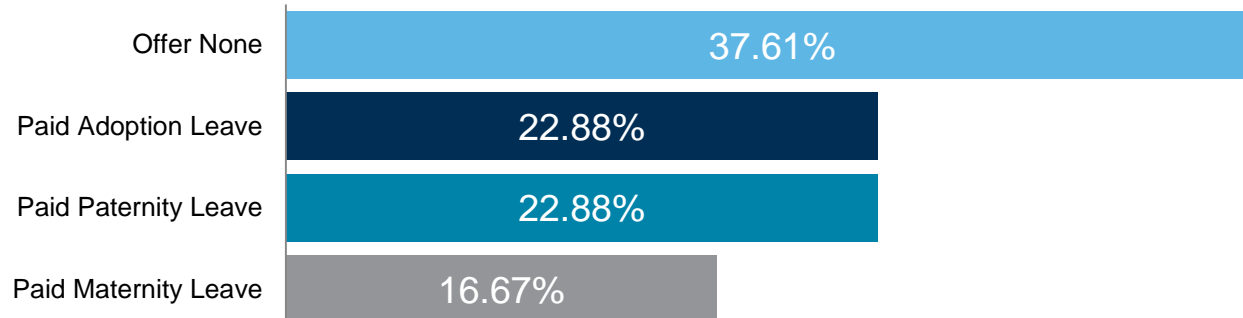


*Note: Represents paid leave, not necessarily job protected.

Source: WORLD Policy Analysis Center at UCLA, 2017.

Parental Leave Benchmarking – Backward & Forward Looking

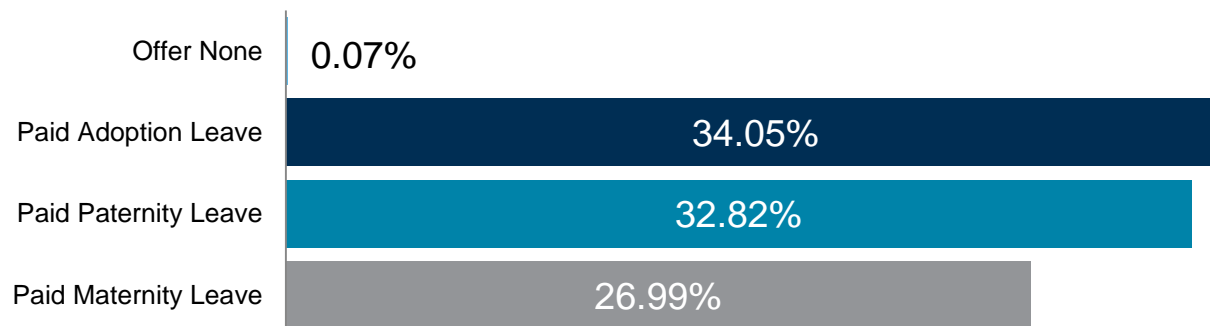
2016



*Represents employers with 5000 lives or < lives, population is salaried only.

Of **354** respondents, Aon reports **62%** of firms offered paid parental leave in **2016**

2017



*Represents employers with 5000 lives or < lives, population is salaried only.

Of **326** respondents, Aon reports **94%** of firms offered paid parental leave in **2017**

Source: Aon SpecSelect

Parental Leave

Need

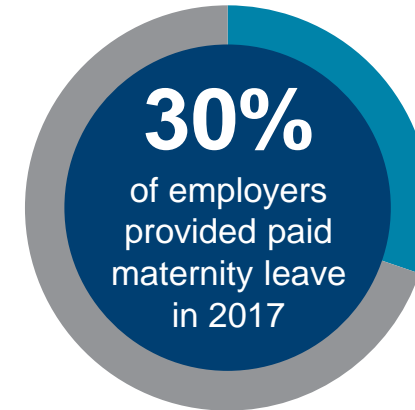
Use of PFL has **increased** likelihood of mothers returning to work after child birth¹

Mothers are the sole or primary breadwinner in 40% of all families with children²

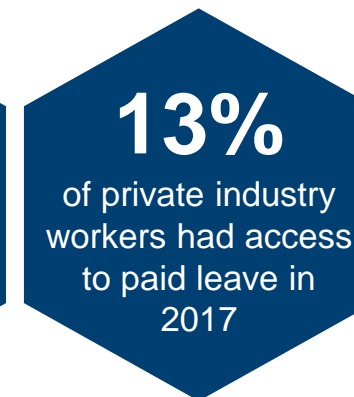
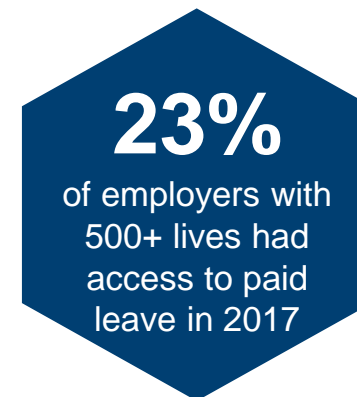
Paid maternity leave **increases worker retention** and reduces turnover³

Paid leave leads to **better health outcomes** for both parents and children³

According to the SHRM Employee Benefits survey:



The Bureau of Labor Statistics reports:

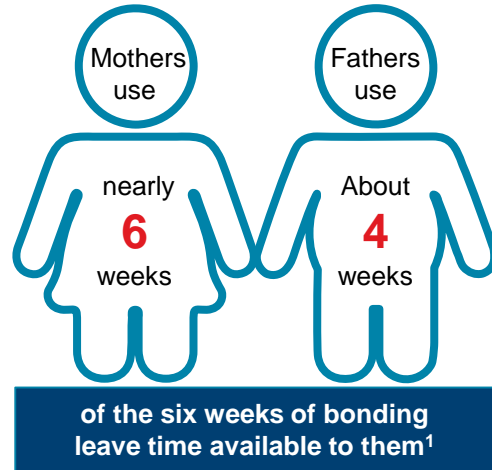


Source: 1. California Employment Development Department, 2015; 2. Pew Research Center, 2016; 3. Department of Labor, 2016; Bureau of Labor Statistics, 2017; SHRM Employee Benefits Survey, 2017.

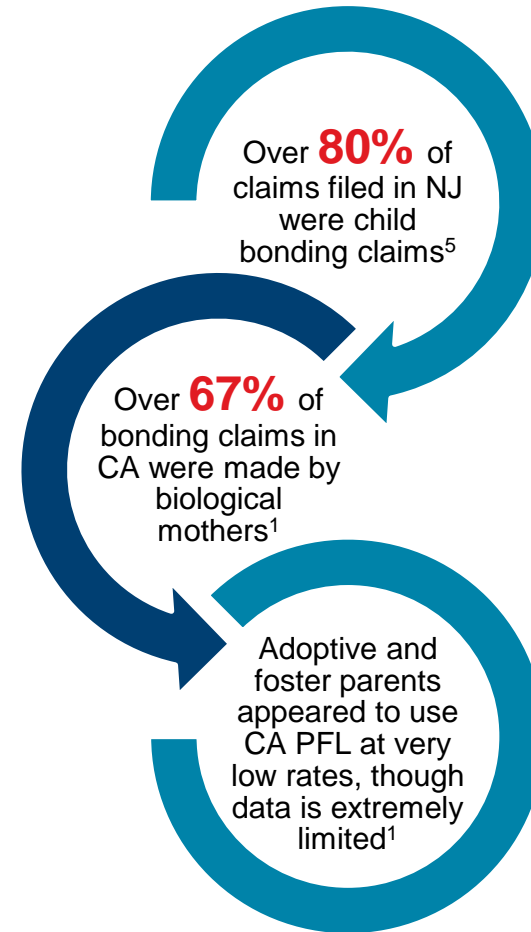
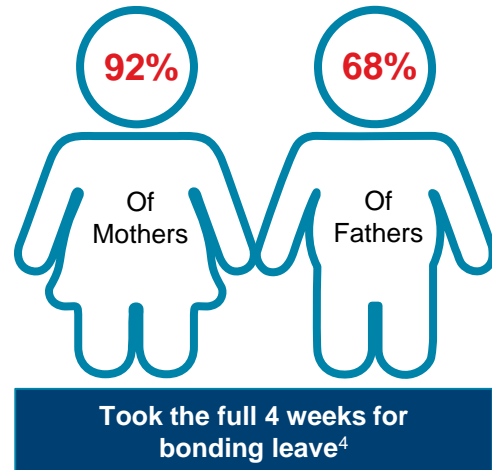
Parental Leave

Utilization

In CA:



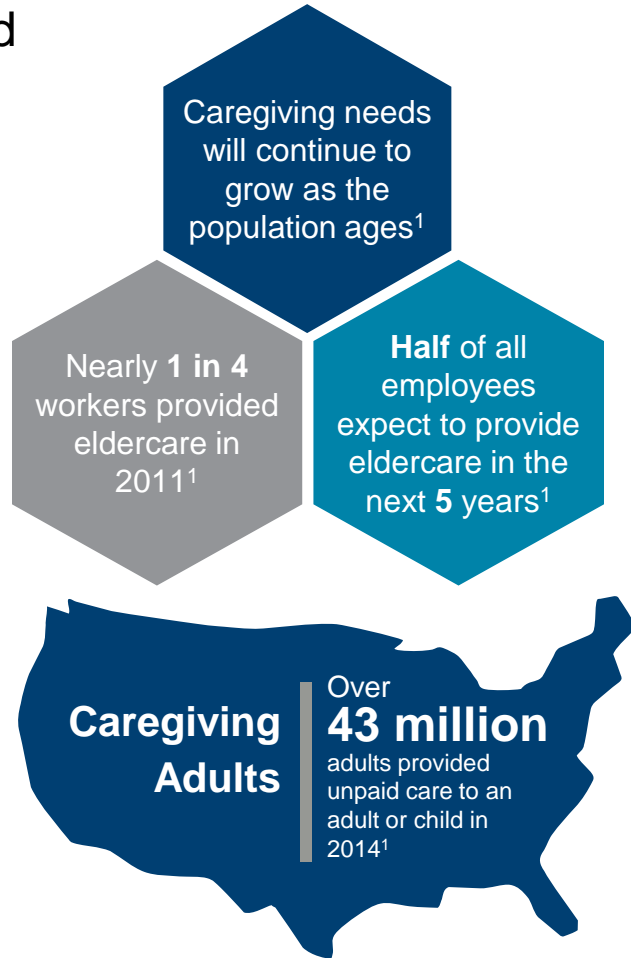
In RI:



Source: 1. California Employment Development Department, 2015; 4. Rhode Island Department of Labor and Training, 2016; 5. New Jersey Department of Labor and Workforce Development, 2015.

Caregiving Leave

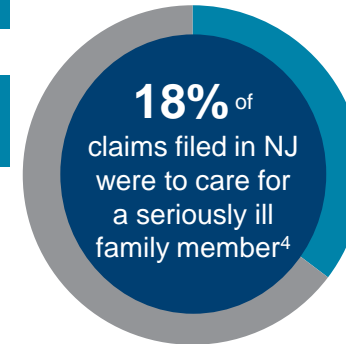
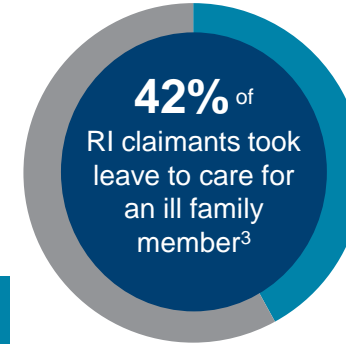
Need



Utilization

Family care covered a larger range of relationships, although **nearly** all fell into one of three categories²:

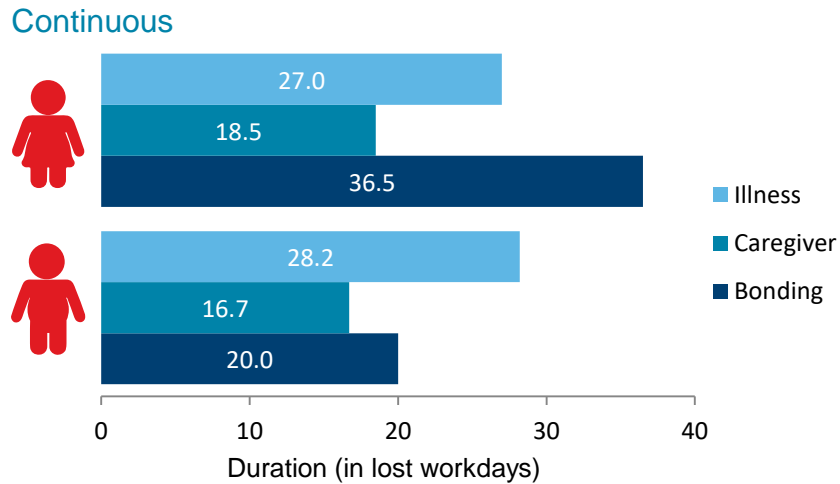
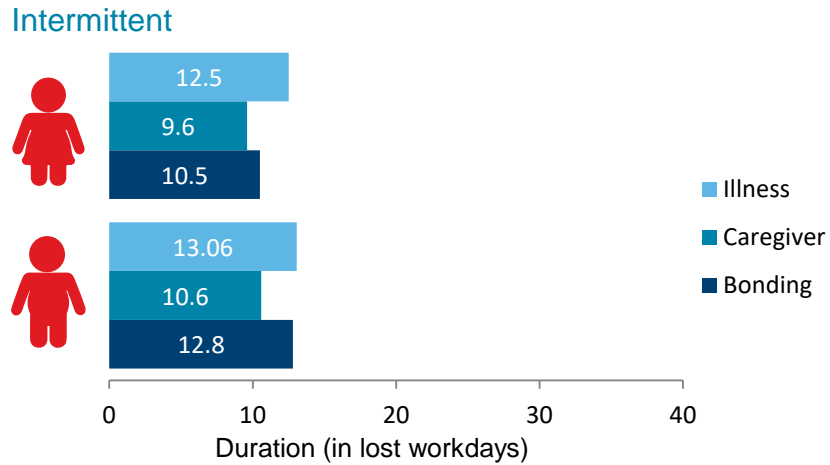
- 1/3 Children caring for parents
- 1/3 Spouses caring for spouses
- 1/4 Parents caring for children



Source: 1. Center for Work Life Law at UC Hastings, 2016; 2. California Employment Development Department, 2015; 3. Rhode Island Department of Labor and Training, 2016; 4. New Jersey Department of Labor and Workforce Development, 2015.

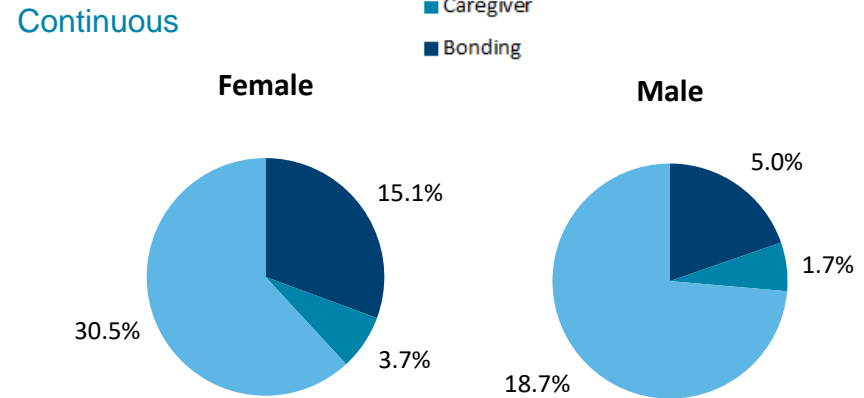
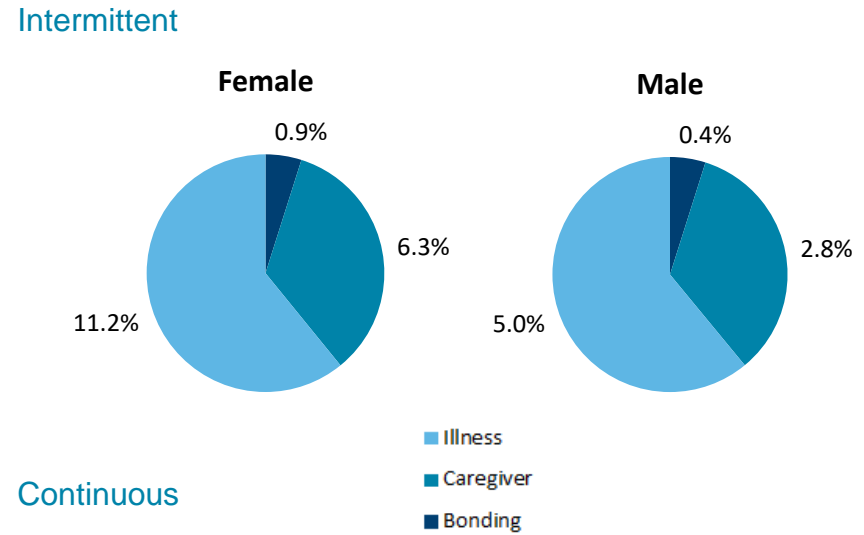
Leave Utilization

Average lost workdays per leave:



Source: Integrated Benefits Institute (IBI). Health and Productivity Benchmarking 2015. All Industries.

Percent of total leave claims:



The ABCs of Family Leave



Administration

Benefit amount

Coordination of benefits

Duration of leave

Employee eligibility

Financial impact

*The
Wild
West
of
Benefits*

SWBA

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**Missing Ranch Hands:
Managing Absence,
Paid Family Leave
and Paid Sick Leave**

Hobby Lobby Stores, Inc.

Jessica McHargue

About Hobby Lobby

- Hobby Lobby strives to offer best available benefits while complying with federal, state, and municipal (city/county) leave laws. Today we will be discussing Hobby Lobby's approach to three different types of leave.
- A little bit about Hobby Lobby:
 - Multi-state employer located in 47 states
 - 2017 year end employee count:
 - Full Time Employees: 20,224
 - Part Time Employees: 10,943
 - Seasonal Employees: 5,768



Hobby Lobby Leave Administration Facts

Leave Administration works diligently to serve our customers. Taking a leave of absence can be confusing and we walk our employees through this process and provide support and guidance.

The Hobby Lobby Leave Administration team is made up of:

- Seven Full-Time Leave Representatives
- One Part-Time Leave Representative
- One Leave Assistant Supervisor

Currently Hobby Lobby Leave Administration has 960 employees in a leave of absence status.

Keeping it Close to Home

In today's market some companies are choosing to outsource their leave of absence departments to a third party. Hobby Lobby has decided to keep this practice in house. This helps the Leave Team focus on the five C's:

- Customer Service
- Confidentiality
- Consistency
- Compliance
- Cost



FMLA, USERRA and State Leave

Nearly all states have one or more leave laws beyond FMLA.

Examples of different types of leave:

- Military
- Donor
- Crime
- Bereavement
- Domestic Violence
- Pregnancy Disability Leave
- Parental School Leave



Paid Maternity Leave

Hobby Lobby grants up to eight weeks of paid maternity leave to female salaried employees. Qualifications are as follows:

- Has the employee completed one year of service?
- Is it medically necessary for the employee to be off of work and has medical certification been provided?

Employers should evaluate their policy. Risk arises in an employer policy that does not make a distinction between medical-related leave and leave for child bonding or child care, yet provides greater leave time entitlement to female employees than male employees. Refer to the EEOC's Guidance on Pregnancy Discrimination and Related Issues.

25 Years of FMLA

February 5th 2018 marked the 25th anniversary of the passage of the Family Medical Leave Act. FMLA has had few major changes since it's inception.

This has sparked individual states to implement State Leave which can be more generous than FMLA. States have also started Paid Sick Leave (PSL) and Paid Family Leave (PFL) which provide the employee with a portion of their wages while on their approved leave of absence.

Paid Sick Leave (PSL)

Paid sick leave varies not only on the state level but also on the local level.

As of May 2018 approximately:

- 10 states and 20 localities, including the District of Columbia have Paid Sick Leave laws effective or recently passed.

Develop Approach - Paid Sick Leave

Hobby Lobby has two paid sick leave policies but the method for tracking can vary greatly depending upon employer approach.

Primary policy, which was effective prior to the implementation of state leave laws.

- Applies to full-time employees in states and municipalities where no PSL law is in place
- Different accrual
- Does not apply to PT and Seasonal/Temp

Secondary policy, developed after multiple state and municipal laws started being implemented.

- Blanket policy for all states and municipalities that have a PSL law
- Meets the requirements of all state and municipal PSL laws
- Accept most generous accrual and requirements across all laws
- Applies to PT and Seasonal

Implementation Challenges - Paid Sick Leave

Notification

- Posting Requirements
- New Hire Notifications
- Policy updates for current employees
- Management education on new responsibilities and requirements



Evaluation/Application

- Employees transferring from states under one policy to another policy
- Each law must be evaluated independently for employees such as truck drivers, field recruiters, and construction workers
- New, more generous laws than previously passed laws (WA no usage cap)

Recordkeeping

- Programming of new policies
- Manual Tracking versus Automated
- Providing documentation and records during investigation

Keeping Up with Requirements

Tracks potential law changes/updates

- Listens to webinars
- Tracks legislation
- Newsletters
- Monitors public meetings and hearings

Management Flow

- New Law
 - Compliance Research
 - Review current and future state store locations
 - Notify stores and issue notices to employees
 - Update policies and documents
 - Contact HR, Benefits, Legal, Payroll, and Operations
 - Ongoing tracking and new hire notification



Evaluate Risks - FMLA, PFL, & PSL

Non-compliance Penalties could arise

- Fines – some examples include:
 - Up to \$4,000 per violation in California (PSL)
 - Up to \$5,000 per violation in Vermont (PSL)
- Litigation from DOL, from state or municipality
- Back pay to EE

Attraction and retention

- Avoid bad press by ensuring compliance
- Many paid and unpaid leave laws allow time beyond FMLA or have shorter eligibility requirements
- Paid sick leave laws may have more generous provisions than current policies
 - Many PSL laws apply to part time and seasonal employees
 - Some PSL laws have unlimited accrual, unlimited usage, carryover rules, etc.



Legislative Activism

Meetings and conversations with U.S. Congress members to share concerns regarding complexities of multi-state employers managing many state and municipal leave laws.

U.S. Senator

➤ Senator James Lankford

U.S. House of Representatives

➤ Steve Russel



Questions?



The Wild West of Benefits