

## **Where Families Matter: State Progress Toward Valuing America's Families**

### *A Summary of 2005 Initiatives*

State policymakers, researchers, and advocates for working families mobilized behind a range of innovative proposals to make family and medical leave more affordable in 2005. This report reviews different types of paid leave bills that were introduced that allow employees to receive some pay when they take leave from work for family or medical reasons. The bills before state lawmakers in 2005 vary in the types of leave they cover and the funding they use. They include proposals to:

- Extend temporary disability insurance systems, where they exist, to cover some or all types of family and medical leave (New Jersey, New York).
- Establish a new temporary disability and/or family leave insurance fund to finance family leave benefits (Illinois, Pennsylvania, Massachusetts, Washington).
- Allow employees to use some paid sick days or other paid leave to care for family members and/or a new child (Connecticut, Hawaii, Kentucky, New Jersey, New Mexico, New York, Oklahoma, Maine, Minnesota, Montana, Virginia, Washington).
- Allow paid leave to be used for parents to attend their children's educational activities (New Jersey, New York, Pennsylvania, Wisconsin, West Virginia).
- Establish tax credits for employers who allow additional paid leave per year for school conferences (South Carolina).
- Extend a pilot program to guarantee wage replacement to parents who provide at-home infant care (New Mexico).
- Allow employees to deposit money into an account to provide wages during an otherwise unpaid family or medical leave; such funds are exempt from state income tax (Nebraska, New York).
- Establish tax credits for employers who provide paid family and/or medical leave (New Mexico, Oklahoma, Pennsylvania).
- Guarantee a certain number of paid sick days to employees per year (Connecticut, Massachusetts).

- Authorize state agencies to create sick leave pools (Washington).
- Allow employees to transfer accrued paid sick days, annual leave, or personal days to any state employee in need of paid leave for an illness (Connecticut), allow transfers between family members who are state employees in different agencies (Mississippi) or state employees in the same school districts (Georgia), make the contribution process more equitable to all state employees (Delaware, California), and establish or extend this policy to school board employees (New Jersey, Kentucky).
- Allow employees to extend the FMLA and use paid leave under the law to participate in advocacy for family purposes or to respond to a medical emergency of a family member (Nebraska).
- Guarantee partners in civil unions access to paid sick days to care for a partner as they are given to married spouses (New York, Washington).
- Establish that the commissioner of health prepare a study on the use of public and private sick leave policies to care for an employee's parent (Minnesota).
- Allow employees to use paid sick leave to travel outside the U.S. to adopt a child (Delaware).

### **Noteworthy Developments and Victories in 2005 State Legislative Sessions**

The Paid Leave Campaign has made significant strides in the state legislatures around the country in 2005:

- In 2005, paid leave bills were introduced in at least 26 states.
- At least 10 states in 2005 held hearings on paid leave bills: California, Connecticut, Delaware, Georgia, Hawaii, Maine, Mississippi, Montana, Nebraska, and Washington.
- In New Mexico, an At-Home Infant Care (AHIC) pilot program was appropriated \$90,000 to continue the pilot program that was established in 2004.
- In Maine, public and private employers with 25 or more employees must allow an employee to use their paid leave to care for a sick family member.
- In Hawaii, private sector employees can use Temporary Disability Insurance sick leave benefits beyond the minimum statutory TDI requirements for family leave purposes.

- In Mississippi, legislation continued a leave donation policy for state employees.
- In Virginia, state personnel can now substitute 33 percent of accrued paid sick leave or 100 percent of any other paid leave to leave taken under FMLA.
- In Washington, legislation clarified the definition of “parent” to include adoptive parents and clarified the definition of “sick leave” to also include time allowed to an employee under a disability policy.
- In California, both “excluded” and “rank and file” state employees can now transfer annual, vacation, and holiday (but not sick) leave to each other, making the leave donation more equitable to state employees.
- In Delaware, state employees can use accumulated paid sick leave for travel abroad to adopt a child.
- In Montana, state employees can now use their sick leave for FMLA purposes, including the ability to care for an employee’s child, relative, or household member.

**The following page provides a glossary of frequently used terms that refer to the legislative process and paid leave legislation that is included in this report. Following the glossary is a state-by-state description of efforts to date compiled by the National Partnership for Women & Families’ Campaign for Paid Leave Benefits.<sup>i</sup> Information for this report was gathered by searching all state legislature websites, working with advocates, and contacting state legislators and appropriate professional staff. The information provided in this report is to the best of our knowledge.**

## **Glossary of Terms**

This report reviews different types of paid leave bills that provide employees with some pay while taking leave from work for family or medical reasons. Specifically, this report tracks bills that include provisions for one or more of the following: at-home infant care, family leave for school activities, paid leave studies, paid sick days, paid leave donation banks, family leave insurance, temporary disability insurance and unemployment insurance. Bills that would provide unpaid family and/or medical leave are not included unless the bills include a provision relating to the usage of paid leave.

### **At-Home Infant Care (AHIC)**

At-Home Infant Care is a general term used to describe a program that exists in some states that allows low income-eligible parents to receive subsidies in lieu of a child care voucher or subsidy to care for their infant at home.

### **Baby UI / Unemployment Insurance (UI)**

A number of states have pursued proposals to amend state Unemployment Insurance (UI) laws to allow qualified employees to collect unemployment compensation while they are caring for a newborn or newly adopted child. The concept had the benefit of using UI to help workers quickly return to the workforce – and ideally the same job – after taking parental leave. This approach received a lot of attention after the Clinton Administration created a regulation allowing, and therefore encouraging states to use UI funds to create parental leave programs. Unfortunately in 2003, the Department of Labor under the Bush Administration rescinded the “Baby UI” regulation. While UI experts hold that a DOL regulation explicitly permitting states to use UI funds is not legally necessary to use UI to provide new parents with paid parental leave, the repeal of the regulation and current rates of high unemployment have, for the moment, chilled this approach.

### **Family Leave for School Activities**

This type of bill addresses the needs of working families to take short-term leave for school activities, such as a parent/teacher conference. Proposals include leave allotments of between 4 and 40 hours annually. Under these bills, employers are generally required to pay employees or allow an employee to use some paid time off when they take time off for these purposes.

### **Family Leave Insurance / Paid Family Leave**

Family leave insurance programs are very similar to state disability insurance programs, but provide employees who need to take time off work to care for a new child or an ill family member with partial or complete income replacement while on leave. One state, California, has a family leave insurance program.

### **Leave Donation Banks / Leave Transfer Programs**

Leave donation programs allow employees to contribute accrued paid leave days – most often, sick and annual leave – to co-workers who have exhausted their own leave. The

donated leave can sometimes be used for paid family and medical leave. In transfer programs, employees with accrued paid leave donate leave days to a *particular* co-worker in need. In leave bank programs, employees donate paid leave days to a general pool out of which co-workers in need can draw.

### **Paid Leave Studies / Legislative Commissions**

This type of bill establishes legislative commissions to produce studies or assign study projects to government agencies to research a particular paid leave policy model.

### **Paid Sick Days / Sick Leave**

Paid sick day bills address the need for some paid time off for short-term illnesses, routine medical appointments, and to care for sick family members. There are two paid sick day models: a **minimum standard** that ensures employees are guaranteed a certain number of paid sick days and a **flexibility standard** that allows employees to use accrued sick days to care for sick family members. States have successfully enacted legislation that guarantees employees the right to use their accrued paid sick leave or other paid leave to care for sick family members. Bills that aim to establish *both* flexibility and minimum standards are gaining traction.

### **State Disability Insurance / Temporary Disability Insurance / Paid Medical Leave**

This type of insurance program provides employees who must take leave from work because they are “temporarily disabled” for non-work-related reasons, including pregnancy and childbirth, with partial or complete income replacement while on leave. Five states (NY, NJ, RI, CA, and HI) and Puerto Rico have such programs. Some states that provide this type of disability insurance are considering expanding this program to cover employees who need to take family leave. For example, California has expanded its state disability insurance program to include family leave.

## **The Legislative Process in the States**

Every state legislature is slightly different. Some meet every year, while others meet every other year. Like Congress, most states have two houses that debate and vote on legislation. In most state legislatures, a legislator – alternately called a “Representative,” “Assembly Member,” “Delegate,” or “Senator” – introduces some form of legislation. In this case, the legislator is generally referred to as the “author” or “sponsor” of the bill.

You can generally tell if the representative who introduced the measure is in the Senate or the House by a bill’s identification number. For example, “SB 100” was introduced by a state senator, whereas “HB 100” was introduced by a house member. These are abbreviations for “Senate Bill” and “House Bill.” Alternately, bills are sometimes labeled “HF” and “SF,” for “House File” or “Senate File.” Legislatures can also pass “Resolutions.”

In many cases, the idea for a particular bill has been brought to a legislator by an organization or concerned citizen. In many cases the legislator works closely with organizations that are concerned about the issue. In this document, these organizations are listed in the right hand column under “Contacts” for the various states.

Once a measure is “introduced,” the legislature generally holds a hearing about the bill in a policy committee. Policy committees are comprised of a group of legislators, known as committee members, who collectively review and debate bills related to specific policy areas. For example, most legislatures have an insurance committee that reviews all bills related to insurance. A committee may decide not to review a bill assigned to it. If it does, however, decide to consider the bill, then it holds a hearing on the bill. After a committee holds a hearing on a measure, in general, it then votes on it. Committee members must vote on whether or not to “pass” a bill “out” of the committee and on to the full body of a house for consideration. If a measure is “passed out of committee,” it generally then goes to the full body of the house for consideration and a vote (often referred to as the “floor vote”). Generally, if the bill calls for action that costs money, it is referred to a finance committee of some kind as well before it is voted on by the full body. This finance committee may or may not hold a hearing on the bill and/or a vote on the bill. If they do, and if they “pass the bill out of committee,” then in general the full body of the house hears the bill and votes on it. If a vote is taken and the vote is favorable, the bill then is passed over to the second house for consideration. Generally, in the second house, a policy committee also holds a hearing on the bill, and then votes on it. Occasionally, bills can have hearings in more than one policy committee if they relate to multiple subjects.

If a bill passes through the appropriate committee hearings of both houses, and is approved on the floor by the majority of members from both houses, the Governor has the option of signing the measure. If she or he signs it, it then becomes state law, and is then applicable to all individuals living in that state.

## California

### Current Law

Employees who are temporarily disabled for medical reasons (including pregnancy and childbirth) can receive partial wage replacement through a temporary disability insurance program, known in California as State Disability Insurance. California workers can receive income replacement to care for a new child or seriously ill family member for up to six weeks per year through an expansion of the State Disability Insurance program. Employees who work for an employer with more than 24 employees can take up to 40 hours per year, no more than 8 hours a month, to participate in a child's school activities. Eligible employees are required to use existing vacation, personal leave, or compensatory time for such leave. State employees who contribute to the State Disability Insurance Program are eligible for the same family and medical leave benefits as workers in the private sector. State employees may use a direct leave donation program. In California law, domestic partners have the same rights and responsibilities as spouses.

### 2005

Assembly Member Blakeslee introduced AB 747 on February 17, 2005, which removes the distinction between certain state employees who are "excluded" from receiving leave donation from other state employees. Under the bill, both "excluded" and "rank and file" employees can transfer annual, vacation, and holiday leave, (but not sick leave) to each other in the event an employee has exhausted all leave due to a catastrophic illness. The bill was introduced on February 17, 2005 and referred to the Public Employees, Retirement and Social Security Committee. It received a unanimous favorable recommendation on April 20, 2005 and was referred to the Appropriations Committee, where it also received a unanimous favorable recommendation. It unanimously passed a floor vote in the General Assembly on May 5, 2005. The bill moved to the Senate and was referred to the Public Employment and Retirement Committee, where it was amended and received a unanimous recommendation in favor of passage on June 21, 2005. It passed the Senate on a Third Reading with a vote of 38-2. The Assembly concurred with the Senate amendments with a vote of 77-0 and the Governor approved the bill on October 5, 2005.

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## Connecticut

### Current Law

Employees who work for employers with more than 75 employees can use up to two weeks of accrued paid sick days to care for a child, spouse, or parent suffering from a serious health condition, or to care for a new baby. State employees may use some accrued sick leave to care for certain sick family members. State employees can access a paid sick day pool if all paid leave is exhausted.

### 2005

Senator Prague and Representative Ryan introduced HB 6798, permitting state employees to donate sick or vacation leave, or personal days, to any other state employee, not just those in the same agency or bargaining unit. The Joint Committee on Labor and Public Employees held a hearing on March 1, 2005, and only favorable testimony was offered. The bill received a favorable report and a unanimous vote in favor from the committee on March 22. It was then sent to the Appropriations Committee, where no further action was taken. It may be reintroduced, however, in the next session.

Senator Prague and Representative Ryan also introduced SB 1018, an Act Concerning Medical Leave, similar to last year's SB 336, which authorizes employees of towns, boards of education, and private and parochial schools to use up to 2 weeks of accumulated paid sick leave for FMLA purposes. It again passed the Joint Committee on Labor and Public Employees with a vote of 10-1 on February 22, 2005, and passed the Education Committee with a vote of 20-4 in favor (5 absent) on April 8, 2005. The bill was then referred to Appropriations, where no further action was taken before the session ended.

HR 28 and SR 22 are identical bills which approve an agreement between the State of Connecticut and two state employee unions allowing the donation of vacation and personal leave by state employees working for the Department of Mental Retardation. It was referred to the Joint Committee on Appropriations, had a hearing on April 20, 2005, and issued a favorable report. It was then filed with the Legislative Commissioner's Office, referred to the Office of Legislative Research and Fiscal Analysis for a Fiscal Report, then tabled for the calendar until it became law.

Representative Hamm introduced SB 5398 guaranteeing full-time, private sector employees seven paid sick days a year. The Joint Committee on Labor and Public Employees held a hearing on March 10, 2005, but no vote was taken and the committee failed to act further.

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## Delaware

**Current Law**

State employees may use some of their accrued sick leave for the birth or adoption of a child or to care for certain sick family members. State employees may use a direct donation program and a sick leave pool under certain circumstances.

**2005**

HB 30 was introduced by Representative Williams on January 26, 2005 and was referred to the House Administration Committee. The provisions of the bill seek to effect the same change as those contained in HB335 in 2004, easing the restrictions on the donation and use of sick leave banks. The bill was immediately re-assigned to the House Education Committee. It was reported out of committee on March 23, 2005, but no further action was taken.

Representative Spence and Senator McBride introduced HB 198, which allows state employees employed for at least one year to use accumulated paid sick leave for travel abroad to adopt a child. It was introduced and assigned to the Labor Committee on June 1, 2005. That committee reported it out favorably on June 15, and it passed a floor vote in the House the next day by a vote of 38-0 (3 absent). The bill then was referred to the Senate's Labor & Industrial Relations Committee, and was again reported out favorably on June 28, 2005. It passed a floor vote in the Senate 21-0 and was signed into law on July 7, 2005.

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## Georgia

### Current Law

State employees may use some of their accrued sick leave to care for certain sick family members. State employees are provided temporary disability insurance at their own expense.

### 2005

HB 543 was introduced by Representative Casas on February 18, 2005 and permits school district employees to donate sick leave to a spouse who is an employee of the same local board of education for specific purposes, such as maternity leave, illness, or the illness or death of a family member. The bill was referred to the Education Committee and favorably reported out on March 3, 2005. It passed the House with a vote of 138-9 (23 not voting, 10 excused). It was subsequently referred to the Senate's Education & Youth Committee, which has taken no action on it. However, Committee Chairman Dan Moody advises that the bill will be taken up again soon.

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## Hawaii

### Current Law

Employees who are temporarily disabled for medical reasons (including pregnancy and childbirth) receive partial wage replacement in the form of temporary disability insurance benefits. Employers of 100 or more employees who provide sick leave must allow employees to use up to 10 days of their accrued and available sick leave to care for a child, parent, spouse, or reciprocal beneficiary with a serious health condition, or to care

for a new child. State employees may use some accrued sick leave to care for certain sick family members. State employees may use a direct leave donation program and are provided temporary disability insurance. State employees may use up two hours of paid leave on no more than two occasions per year per child to attend parent-teacher conferences or parent-caregiver conferences.

## **2005**

Three bills were introduced in 2005. SB 533, An Act Relating to Family Leave, and its companion HB1130, sought to close a loophole created by 2003 enactments to the family leave law by amending the definition of “sick leave.” These bills also sought to allow the use of sick leave in excess of the statutory minimum amount for temporary disability benefits for family leave benefits. The House bill was referred to the Labor Committee which failed to act. The measure has been carried over to the 2006 Regular Session.

The Senate version, SB 533, was introduced on January 24, 2005, and first referred to the Labor Committee, which held a hearing on February 4, 2005. Representatives from the following organizations testified in favor: Hawaii State AFL-CIO, the United Public Workers, AFSCME, Local 646, AFL-CIO, the Hawaii State Teachers Association, and ILWU Local 142. Opposition was offered by the Society for Human Resource Management (SHRM). The committee voted in favor, 2-1 (1 excused) with Senator Slom voting against. The Ways & Means Committee held a public hearing on February 24, 2005, which also resulted in a 13-2 recommendation to pass the bill. The bill passed on its Third Reading in the Senate on March 8, 2005, with a vote of 18-6 (1 excused). It was sent to the House, and referred to the Labor Committee on March 10, 2005. No action was taken, and this measure has been carried over to the 2006 Regular Session.

The third bill, HB 325, introduced January 24, 2005, allows private sector employees to use Temporary Disability Insurance sick leave benefits, in excess of the minimum statutory TDI requirements, for family leave purposes. The Labor and Public Employment Committee had a hearing on February 4, 2005, at which supporting testimony was offered by the Hawaii Credit Union League, Society of Human Resource Management-Hawaii Chapter, Watson Wyatt Worldwide, Waikiki Beach Marriott Resort & Spa, The Sultan Company, Queen Kapiolani Hotel, and other concerned individuals. Further comment was offered by the Department of Labor and Industrial Relations, and the Department of Human Resources Development. The bill left the committee with a Pass recommendation: 6-1 (2 excused).

The Finance Committee reviewed the measure on February 24, 2005, with representatives of the Hawaii State Teachers Association, ILWU Local 142, and Hawaii State AFL-CIO supporting the bill. As in the Labor Committee, the Departments of Labor & Industrial Relations and Human Resources Development commented upon the bill. The bill emerged from Finance with a Pass recommendation, 15-1 (3 excused) (Representative Moses voting against). HB 325 passed a floor vote with only 3 votes against and proceeded to the Senate. After review by the Labor and Ways and Means Committees, the bill was slightly amended, then passed the Senate with a 19-6 vote.

Upon return to the lower chamber, the House refused to accept the Senate amendments. The ensuing Conference Committee met on April 22, 2005, and recommended that the bill be passed with amendments. It passed its Final Reading in the Senate, 18-7, and also passed its Final Reading in the House. It was subsequently transmitted to the Governor and became law without the Governor's signature on July 12, 2005.

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## Illinois

**Current Law**

State employees may use some of their accrued sick leave to care for certain sick family members. State employees can access a paid sick day pool if all paid leave is exhausted and are provided temporary disability insurance. Certain state employees may be eligible for paid family and medical leave.

**2005**

HB 3470 was introduced by Representative Hamos on February 23, 2005 to create a family leave insurance program and provide paid family leave to care for a new child, a family member with a serious health condition, or to care for an employee's own serious health condition. The bill was assigned to the Labor Committee, which failed to take any action. It was re-assigned to the Rules Committee on March 10, 2005, where it is currently stalled. The legislative session continues until November 2006, so it is possible that the bill could progress further, although there is no indication of such activity at this time.

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## Kentucky

### Current Law

State employees may use some of their accrued sick leave to care for certain sick family members. State employees may use a direct leave donation program.

### 2005

Representative Harmon introduced HB 274 on February 2, 2005, permitting a local board of education to establish a policy allowing employees to use up to 5 days of sick leave annually for personal leave and establishing a sick leave donation program. The bill was referred to the Education Committee, never received a hearing, and died at the end of the session.

HB 478, introduced February 14, 2005, introduced by Representative Meeks, requires a district board of education to establish a sick leave bank and donation program. This bill was also referred to the House Education Committee, received no hearing, and died at the end of the session.

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## Maine

### Current Law

State employees may use some of their accrued sick leave to care for certain sick family members. As of September 2005, public or private employers with 25 or more employees must allow an employee with paid leave to use the paid time off to care for a sick family member.

### 2005

Senate President Edmonds introduced LD1044, An Act to Care for Families, requiring a public or private employer with 25 or more employees to allow an employee with paid leave, such as sick leave or vacation time, to use the paid time off to care for a sick family member, such as a child, spouse, or parent. The bill was referred to the Joint Standing Committee on Labor and there was a hearing on May 17, 2005. Over twenty

witnesses testified in favor of the measure, including but not limited to, representatives of: Maine Women's Lobby; American Cancer Society; Maine Equal Justice Project; Maine Alzheimer's Association and the Roman Catholic Diocese. Six witnesses testified against. The committee report, issued May 27, 2005, was divided, with 8 members supporting and 4 against. The bill passed back and forth between the House and Senate and various amendments were added and debated, finally passing the House on June 15, 2005 with a vote of 97-49. It passed the Senate to be enacted on June 17, and became law on June 24, 2005.

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## Massachusetts

### Current Law

Employees covered by the FMLA may take a total of 24 hours of unpaid leave or may elect to use available paid leave per year to participate in their child's school activities. State employees may use some accrued sick leave to care for certain sick family members. State employees can access a paid sick day pool if all paid leave is exhausted and certain employees are provided temporary disability insurance at their own expense.

### 2005

Two bills were introduced this year, both of which are stalled in the Joint Committee on Labor and Workforce Development. Introduced by Representative Cabral, HB 3944 establishes 6 weeks of paid family and medical leave, including leave to care for a domestic partner. This is a refile of HB 2383, introduced in 2003. It has not yet received a hearing, and is currently under the Committee Chairman's review. The current session does not expire until June, 2006.

Senator Tolman introduced SB1130, the Paid Sick Days Act, with Representatives Jehlen, Paulsen, and Swan's House petition, HB 3788, which affords a minimum of 7 paid sick days per year to all employees in the state. A hearing was held on May 4, 2005, and over two dozen witnesses offered testimony in favor of the bill. They included representatives from Take Back Your Time, Local 509, the Massachusetts Business and Professional Women, the Institute for Women's Policy Research, Massachusetts AFL-CIO, and the Labor Project for Working Families. The Associated Industries of Massachusetts testified in opposition to the bill. No vote has been taken, and the bill is still in committee at the time of writing.

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## **Minnesota**

### **Current Law**

Employees are entitled to 16 hours of unpaid leave or may elect to use available paid leave in a 12 month period to attend their child's school-related activities. Employers with 21 or more employees must allow employees to use accrued paid sick days to care for sick or injured children. Parents who meet certain income requirements may receive some income replacement to care for infants through the At-Home Infant Care (AHIC) program. State employees may use some accrued sick leave to care for certain sick family members. State employees are provided temporary disability insurance at their own expense.

### **2005**

HF1249 was introduced by Representative Hansen on February 22, 2005 and referred to the Health, Policy, & Finance Committee. The bill directed the commissioner of health to prepare a study on the use of sick leave to care for an employee's parent and submit a report to the legislature by January 1, 2007. The report is to cover federal, state, and local policies of both public and private employers. No hearing has occurred to date, and none is scheduled, however the bill does not die until the end of the legislative session in 2006.

HF61 and SF378 are companion bills which expand the use of caregiver sick leave benefits beyond children to spouses, siblings, parents, stepparents and grandparents. This legislation also establishes an internet-based caregiver support program and a home care tax credit of up to \$200/month to offset expenses incurred by the caregiver. HF61 was introduced and referred to the Health, Policy & Finance Committee on January 10, 2005, where it had a hearing on March 30, 2005. Sponsor Representative Thissen discussed the importance of caregiver support, as the cost to the state would be enormous should family members be unable or unwilling to perform these services for each other. A representative of the Alzheimer's Association – Minnesota, North Dakota testified. The bill received a pass recommendation, but was re-referred to the Commerce and Financial Institutions Committee. On April 14, 2005, it was re-referred to the Taxes Committee. There has been no further action.

SF378 was introduced by Senator Kiscaden and referred to the Health and Family Security Committee on January 19, 2005. On February 17, 2005, it had a hearing and received a pass recommendation, and was referred to the Jobs, Energy & Community Development Committee. It again received a Pass recommendation and was referred to the Finance Committee on March 14, 2005.

The substance of HF61 and SF378 was contained in a budget bill, SF2266; however, the relevant provisions were dropped before final passage due to political opposition.

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## Mississippi

### Current Law

State employees may use some accrued sick leave to care for certain sick family members. State employees may use a direct leave donation program under certain circumstances.

### 2005

A number of very similar bills were introduced in Mississippi relating to the leave donation between state employees (*see* HB 211, SB 2586, HB 1277, HB 1340, and SB 2567). Ultimately, SB 2567, introduced by Senator Thames, continues the current leave donation policy for public employees, which formally contained a repealing provision. This bill was passed and signed by the Governor.

Introduced by Representative Green, HB 1277 allows leave donation between state employees in different agencies who are family members. It was referred to the Appropriations Committee upon introduction on February 1, 2005 and no further action was taken.

HB 1340, introduced by Representative Hines redefines the term “catastrophic illness or injury” among other terms referenced in the current leave donation program for state employees. It too was referred to the Appropriations Committee on February 1, 2005 and no further action was taken.

SB 2155, introduced by Senator Harden, seeks to establish a paid sick leave policy for employees of state school boards of seven days per year, including a leave donation policy between employees. The bill also includes three days of paid personal leave per year. It was referred to the Education, then Appropriations Committee, where it received no further action.

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## **Montana**

### **Current Law**

State employees may use some accrued sick leave to care for certain sick family members. State employees can access a paid sick day pool if all paid leave is exhausted, may use a direct donation leave program, and temporary disability insurance is provided to certain state employees.

An At-Home Infant Care (AHIC) Program was established in law in 2003, following an agency AHIC pilot program. The program is currently unfunded; however, the law provides that funding may be available by an appropriation added to the general appropriations act or by a budget amendment. This has not yet occurred.

### **2005**

Representative Olson introduced HB45, an act amending sick leave laws for state employees to include existing customs and practice of how paid sick days are used, specifically permitting the application of sick days under the FMLA to physical or mental illness, maternity or pregnancy-related disability, including birth, pre-natal care, and medical care for an employee's child, relative or household member. Sick leave now also applies to routine medical appointments and the death or funeral attendance of an immediate family member, or another person, at the agency's discretion.

The bill was introduced in December of 2004, referred to the State Administration Committee, and received a hearing on January 18, 2005. The bill was passed that day by a vote of 12-4. It received a floor vote in the House on April 12, 2005 and passed with a vote of 73-23. It proceeded to the Senate, and was referred to that chamber's State Administration Committee on April 13, 2005. All 11 committee members voted in favor of the bill on April 15, 2005, and it was returned to the Senate Floor for a Second Reading and a favorable voice vote, 49-1, the following day. On April 18, 2005, a Third Reading occurred and the bill was passed 46-4. It was signed into law on May 6, 2005.

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## Nebraska

### **Current Law**

State law allows public employees with sick leave to use this leave to care for certain sick family members. State employees may use a direct donation leave program and are provided temporary disability insurance at their own expense.

### **2005**

LB 413 was introduced by Senator Price, and is effectively the same as LB 37 from 2003. The Wage Replacement Savings Act would allow workers to set aside funds to be used when taking leave under the FMLA. This time, the bill was referred to the Revenue Committee on January 14, 2005 and had a hearing on February 23, 2005, where testimony was offered by Senator Price, Senator Redfield, Lisa Good of the Nebraska Commission on the Status of Women, Tom Vickers of the Nebraska Nurses Association, and Ken Mass of the Nebraska AFL-CIO. The Committee voted to indefinitely postpone the measure by a vote of 6-2 on March 9, 2005, effectively killing it.

Senator Price also introduced LB 661, the Advocacy Leave Act, which would grant employees up to 24 hours leave in a 12-month period, assuming their employer had 15 or more employees, for the purpose of participating in advocacy activities addressing the important needs of a changing family structure. The “Statement of Intent” related to the bill states that the leave is to be paid, however, the transcript of the hearing in the Business and Labor Committee taking place on March 14, 2005, indicates significant confusion on this point, where witnesses state the leave is unpaid. The conflict is not resolved, and the bill remains stalled in the committee.

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## **New Jersey**

### **Current Law**

Employees who are temporarily disabled for medical reasons (including pregnancy and childbirth) receive partial wage replacement in the form of temporary disability insurance benefits. State employees may use some accrued sick leave to care for certain sick family members. State employees may use a direct donation leave program and are provided temporary disability insurance.

### **2005**

Introduced by Assemblywoman Oliver, A 173 amends the temporary disability law to provide family leave insurance for covered employees to care for a family member with a serious health condition. Introduced in 2004, the bill progressed no further throughout 2005.

S 440, introduced by Senator Ciesla, and its House companion bill, A 1495, introduced by Assemblyman Conaway, Jr., authorizes 24 hours of paid leave per year for parents and guardians of children with special needs who attend public schools to attend school-related activities. The bill progressed no further throughout the 2005 session.

A 1871, introduced by Assemblyman Cohen, establishes sick leave banks for school employees, and likewise introduced in 2004, is stalled in the Assembly's Education Committee.

A 1892, introduced by Assemblyman Oliver, and its companion bill in the Senate, S 239, introduced by Senator Coniglio, provides benefits for family temporary disability leave by amending current law, remain stalled in the Labor Committees of their respective chambers.

Finally, A 2826, introduced by Assemblyman Diegnan, Jr., and its twin S 1047, introduced by Senator Buono, extend the definition of sick leave to include birth or the placement for adoption of a child. The bills remain in committee.

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## **New Mexico**

### **Current Law**

State employees may use an unlimited amount of accrued sick leave to care for certain sick family members. State employees may use a direct leave donation program and are provided temporary disability insurance. Eligible lower income parents may receive partial income replacement to care for infants through a pilot At-Home Infant Care (AHIC) program in one county of New Mexico.

### **2005**

Senator McSorley introduced the Family Leave Act, SB 449, which allows all employees in the state to use sick or other paid leave for FMLA purposes. It was referred to the Corporations and Transportation Committee, and has seen no further action. SB 448, also introduced by Senator McSorley, would establish a tax credit for employers who provide paid family medical leave to their employees. This bill was also referred to the Corporations and Transportation Committee, which, on February 25, 2005, gave it a Do Pass recommendation by a vote of 7-0 and referred it to the Finance Committee. No further action was taken.

Senator Lopez introduced SB 333 to the Health and Human Services Committee to make an appropriation for the continuance of the AHIC pilot program. The bill, and its companion bill HB 954, introduced by Representative Gail Beam, would have appropriated \$180,000 from the general fund to the Children, Youth and Families Department to extend the pilot program into 2006. The bill did not pass; however, the

AHIC pilot program was appropriated \$90,000 in July of 2005 by the General Appropriation Act of 2005 (SB 190 and HB 2).

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Senator Linda Lopez  
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## **New York**

### **Current Law**

Employees who are temporarily disabled for medical reasons (including pregnancy and childbirth) receive partial wage replacement in the form of temporary disability insurance benefits. State employees may use some accrued sick leave to care for certain sick family members. State employees may also use a direct leave donation program and are provided temporary disability insurance (usually relying on their paid sick day policy).

### **2005**

This session saw eight paid leave bills introduced into the New York General Assembly, but none were enacted. A2673, introduced by Assemblywoman Glick, amends the labor law to allow employees in companies of 50 or more to use sick leave to care for family household members and domestic partners. It was referred to the Labor Committee and emerged with a favorable report on May 3, 2005. It passed the Assembly on May 31, 2005, on a vote of 96-45 without a hearing, and arrived in the Senate. The bill was referred to that chamber's Rules Committee but lacked a sponsor, so no further action was taken. It was referred back to the Assembly on January 4, 2006.

A3408, the "No Parent Left Outside Act," was introduced by Assemblyman Miller and requires employers to grant 20 hours per year for school conferences and activities, the substance of A10062 from 2004. The bill provides that leave may not be taken unless the employee has exhausted all accrued leave and any leave that may be granted (except sick leave and disability leave). It also provides for reimbursements to eligible employees for lost wages up to \$7.15 per hour by the state education department. It was referred to the Labor Committee on February 2, 2005, but no further action was taken. It was again referred to Labor on January 4, 2006.

A3693, introduced by Assemblywoman Glick, and its companion bill, S1887, introduced by Senator Schneiderman allow employees to use sick leave to care for domestic partners, were referred to the Judiciary Committees of their respective chambers, but have had no hearings or further action. They were referred again to the Judiciary Committees on January 4, 2006.

A3964, introduced by Assemblyman Sanders, gives five days of paid leave to parents of students disciplined for repeated disruptive activity for the purpose of attending counseling, parenting support, or other activities directed at curtailing such activity. It was referred to the Governmental Operations Committee on February 7, 2005, but no further action was taken. It was referred again to the same committee on January 4, 2006.

The Family and Medical Leave Independent Savings Account Act, made another appearance as A6150, introduced by Assemblyman Acampora, and in the Senate as S2836, Senator Flanagan permits all employees to defer part of their compensation tax-free for the purpose of providing funds for leave taken under FMLA. It was referred to the Labor Committee on March 7, 2005, but received no action. Efforts will continue to get it to a floor vote in 2006.

A8749, introduced by Assemblyman Englebright, amends the civil service law to provide paid leave to state employees for the purpose of caring for elderly parents or relatives. It was referred to the Governmental Employees Committee on June 8, 2005, where no action was taken. It was automatically reintroduced on January 4, 2006.

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## Oklahoma

### Current Law

State employees may use some accrued sick leave to care for certain sick family members. State employees may use a direct leave donation program and are provided temporary disability as an optional benefit.

### 2005

HB 1803, introduced by Representative Cargill and Senator Coates, is a tax credit bill benefiting employers who provide paid leave under FMLA for the birth or adoption of a child. It was referred to the Revenue and Taxation Committee, and emerged with a Do Pass recommendation on February 23, 2005. It passed the House on its Third Reading unanimously with 93 votes. It was then sent to the Senate and referred to the Finance Committee where it likewise received a favorable report, but was never put before the full Senate.

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## Oregon

### Current Law

State employees may use some accrued sick leave to care for certain sick family members. State employees are provided disability insurance at their own expense.

### 2005

Representative Rosenbaum introduced HB 3054, which allows employees to use accrued paid sick or vacation leave while taking family leave. The measure was referred to the Business, Labor, and Consumer Affairs Committee on March 17, 2005, where it languished and died. The current legislative session continues throughout 2006, so the bill will not be considered for re-introduction until 2007.

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## Pennsylvania

### Current Law

State law allows public employees to use sick leave to care for certain sick family members. State employees may use a direct leave donation program.

### 2005

“The Paid Family and Medical Leave Tax Credit Act” was introduced as HB 685 by Representative Frankel and referred to the Finance Committee. It offers tax credits to employers who provide paid leave under FMLA. It received no attention this session, but will not be officially dead until the session ends at the end of November 2006. It may be re-introduced during the next session.

“The Family Temporary Care Act” was introduced as HB 1459 by Representative Veon, and referred to the Finance Committee on May 2, 2005. It provides 12 weeks of wage replacement benefits per year while the employee cares for a newly born or adopted child, or a sick family member. The bill was referred to the Insurance Committee on May 2, 2005, which has indicated no inclination to take up the measure. It is expected to die at the end of the session in November, 2006.

SB 314, introduced by Representative Stack, provides short-term family leave not to exceed 4 hours in any 30-day period to participate in school activities, attend to the child’s routine medical or dental appointments, attend a family member’s routine medical, dental, or professional services appointment, or to respond to a medical emergency involving the employee’s child. The bill permits the employee, at his or her own discretion, to use accrued paid leave, including vacation and personal leave, for this time off. The bill was referred to the Labor and Industry Committee on February 16, 2005, where no further action was taken.

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## South Carolina

### Current Law

State employees may use some accrued sick leave to care for certain sick family members. State employees can access a paid sick day pool if all paid leave is exhausted.

### 2005

H.4229, introduced by Representative J.H. Neal, affords the employer an income tax deduction if it allows eight hours of additional paid leave per year for school conferences. The bill was referred to the Ways and Means Committee on May 26, 2005, but has seen no action.

### Contact:

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## Virginia

### Current Law

State employees hired before 1999 can use some accrued sick leave to care for certain sick family members; employees hired after 1999 can only use their personal days to care for sick family members. State employees may use a direct leave donation program and are provided temporary disability insurance if hired after 1999.

### 2005

Virginia passed HB 1946, which, among many other matters unrelated to paid leave, allows state personnel to substitute 33 percent of accrued paid sick leave or 100 percent of any other paid leave to leave taken under FMLA. The bill was introduced by Representative Saxman on January 10, 2005 and referred to the Committee on General Laws, emerging successfully with a 22-0 vote. It was then referred to Appropriations, emerging successfully with a 23-0 vote. It passed a House floor vote 98-0 on February 8, 2005, and was communicated to the Senate, where it was referred to that chambers General Laws Committee. That committee voted unanimously in favor, and the bill passed the Senate on February 21, 2005, 40-0. It was approved by the Governor on March 21, 2005 and became effective July 1, 2005.

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## Washington

### Current Law

Employees with paid leave can use this leave to care for a sick child, spouse, parent, parent-in-law, or grandparent. State employees may use a direct leave donation program.

### 2005

The “Family Leave Insurance Fund,” HB 1173, introduced by Representative Dickerson and its companion Senate bill, SB 5069, introduced by Senator Kaiser, establishes a family leave insurance program which provides five weeks of partial wage replacement to care for a seriously ill family member or a new baby. The House bill was introduced and referred to the Commerce & Labor Committee on January 18, 2005. A public hearing was held on January 31, 2005. Supporting testimony was offered by representatives of Amtech Corporation, Hallmark Services, Greenwood True Value Hardware, the Economic Opportunity Institute, the Senior Citizens Lobby, and concerned citizens. Opposing testimony was offered by representatives of the Washington Retail Association, the Association of Washington Business, Washington Food Industry, Washington Farm Bureau, the Independent Business Association, and the National Federation of Independent Business. It received a Do Pass recommendation and was then referred to the Appropriations Committee, where no further action was taken before the session ended. The bill was reintroduced for the 2006 session on January 9 and retains its present status.

The companion Senate bill, SB 5069, was introduced and referred to the Financial Institutions, Housing and Consumer Protection Committee on January 12, 2005. It was re-referred to the Labor, Commerce, Research & Development Committee without recommendation two days later. A public hearing was held on January 31, 2005. The bill received a Do Pass report, and was referred to Ways and Means. That committee had a hearing on March 7, 2005, with supporting testimony offered by the same witnesses as for the House bill, with the addition of a representative of the Family Leave Coalition. Opposing testimony was offered by the same witnesses as for the House bill. The committee gave the bill a Do Pass recommendation, and the bill passed the Senate on a Third Reading on March 15, 2005 by a 26-21 vote. It was sent to the House, on March 17, 2005, successfully passed through the Commerce & Labor Committee, and was referred to the Appropriations Committee for a public hearing on April 2, 2005. It was returned to the Senate Rules Committee for a third reading by resolution on April 24, 2005, but the session expired without further action. It has been reintroduced in the 2006 session and has retained its present status.

SB 6059, introduced by Senator Berkey, authorizes state agencies to create sick leave pools. It was introduced on February 28, 2005 and referred to the Labor, Commerce, Research & Development Committee which held a public hearing on March 1, 2005. There was no testimony against, and only the sponsor, Senator Berkey and concerned citizen Monty Futch testified. The committee passed the bill and referred the bill to the Rules Committee for a Second Reading, but cut-offs expired without further action. On January 9, 2006, the bill was reintroduced by resolution and retains its current status.

SB 5850, introduced by Senator Spanel, clarifies the definition of “parent” to include adoptive parents and the definition of “sick leave” to also include time allowed to an employee under a disability policy. If an employee does not have paid time off for illness, “sick leave or other paid time off” in the Family Care Act includes time allowed under a state law collective bargaining agreement, or employer policy for disability under plans not covered by ERISA or maintained through insurance. The bill was taken up by the Labor, Commerce Research & Development Committee, which held a public hearing on March 1, 2005 and reported it out with a Do Pass recommendation on a vote of 4-3. The Senate passed the bill on a Third Reading, 48-0, and was sent to the House. That chamber’s Commerce & Labor Committee held a public hearing on March 21, 2005, and reported the bill Do Pass on a vote of 4-3. It passed the House on a Third Reading with a 58-38 vote. A dispute over various amendments necessitated further votes for final passage, with the House voting in favor on April 19, 2005, 71-27, and the Senate voting on April 22 38-4 in favor. The Governor signed the bill on May 17, 2005.

HB 1626, introduced by Representative Dickerson, amends Washington’s Family Care Act to include domestic partner as a family member for whom the employee may take sick leave. It was introduced on January 5, 2005 and referred to the Commerce & Labor Committee on January 31, which took no action on it. It was reintroduced by resolution on January 9, 2006, and retains its current status.

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## West Virginia

### Current Law

State employees may use some accrued sick leave to care for certain sick family members. State employees are provided temporary disability insurance as an optional benefit.

### 2005

HB 2924, introduced by Delegate Caputo, was introduced on March 7, 2005 and allows state employees to take four hours paid leave per year to attend parent/teacher conferences at their children's school. It was referred to the Committee on Government Organization, then Finance, but no action was taken.

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## Wisconsin

### Current Law

State law specifies that employees covered by and eligible for the state's family and medical leave law may elect to substitute any type of accrued paid leave they may have for the job-protected leave specified under that law. State employees may use some accrued sick leave to care for certain sick family members. State employees are provided temporary disability insurance as an optional benefit.

### 2005

AB 796, introduced by Representative Black, grants any employee, state or private, up to no more than 16 hours per year for school conferences if the employer has at least 50 employees. The leave is unpaid, but the employee may substitute other accrued paid leave. The bill was referred to the Labor Committee on October 31, 2005, but no further action has been taken.

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<sup>i</sup> For more information about the Campaign for Paid Leave, see our website, [www.nationalpartnership.org](http://www.nationalpartnership.org), or contact the National Partnership for Women & Families at (202) 986-2600.