



LeaveLogic
The State of Leave





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Employee Self-Serve
Leave Solution

- Paid Leave 101
- Resources
- Effective Policy
- Solutions

Decoding state-mandated paid leave

State-mandated paid leave is comprised of three main types:

Paid Family Leave
(PFL)

Paid Family and Medical Leave
(PFML)

Paid Sick Leave
(PSL)

This presentation will focus on **PFL** and **PFML**



Paid Family Leave (PFL) defined

Typically provides **time for an employee** to:



Care for a sick family member



Bond with a newborn



Take time to bond following adoption or foster placement



Some programs also allow for military exigency

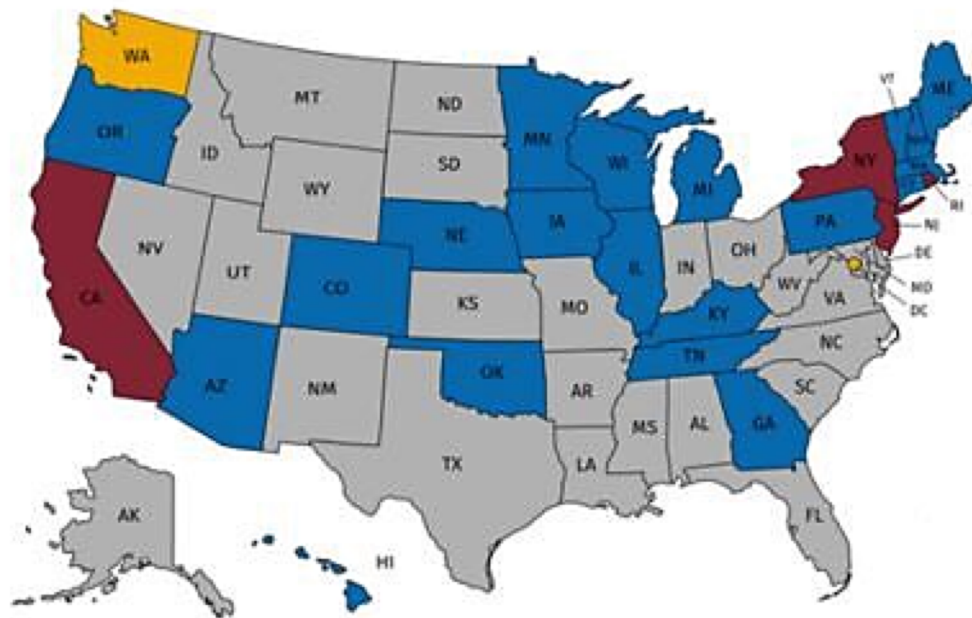
The length of leave varies by law, but it **typically a set amount** (e.g. 6 weeks)¹
The benefit amount also varies by state but is **typically a %** of payroll¹



¹ National Partnership for Women and Families, Paid Family and Medical Leave: An Overview

PFL/PFML Activity by State (2018 Q1)

PFL/PFML legislative activity is on the rise



Paid Family & Medical Leave Legislation by State (2018 Q1)

- PFL law passed
- PFML law passed, pending implementation
- No approved or pending PFL/PFML legislation
- PFL/PFML legislation proposed

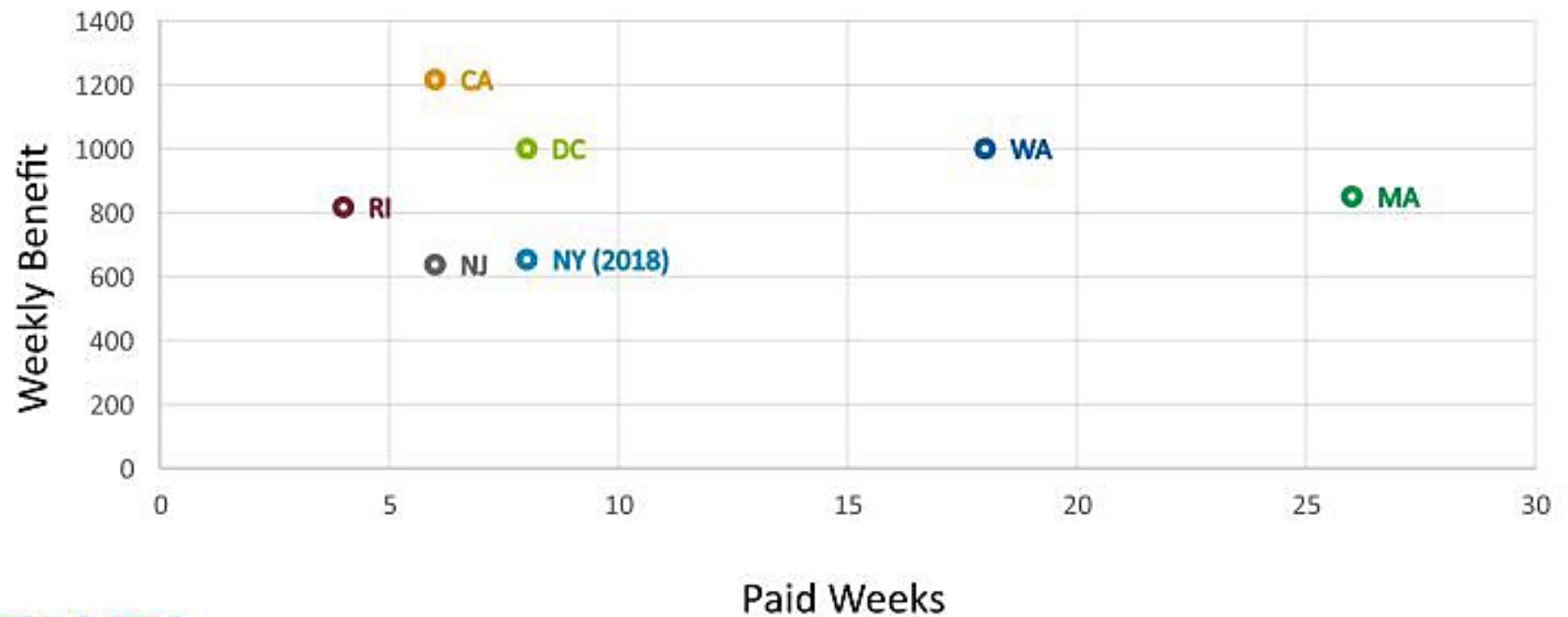
PFML programs trending: 70% of the paid family programs proposed from the start of the biennial legislative period in 2017 included a medical leave component*

*PFML: AZ, HI, CO, CT, GA, IA, MA, ME, MN, NE, NH, OR, PA, WI; PFL: IL, KY, MI, OK, TN, VT

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PFML Programs Spectrum (including WA, DC, and MA)

PFML Programs: A Comparison



Complex intersections: Short Term Disability (STD)

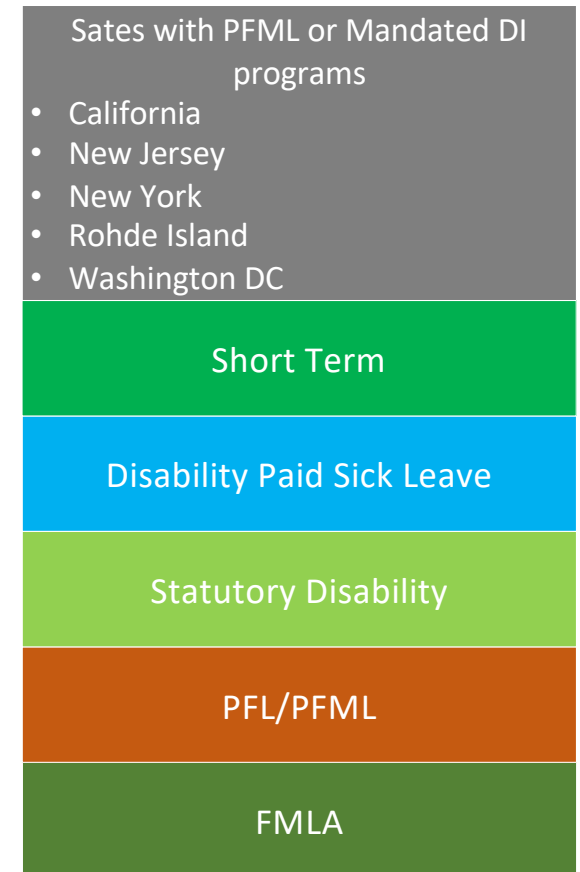
Paid Family Leave programs may include a medical leave component for an employee's own serious health conditions (PFML) that will coordinate with employer-sponsored STD programs

Complexities:

- Different eligibility requirements (including definition of disability for STD)
- Shared medical and family leave durations
- Coordinating STD/PFL payments through offsets
- Different claims management standards for STD vs. PFML
- Employee and manager education



Building Blocks



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Complex intersections: Company-Paid Leave (CPL)

Company-Paid Leave programs should be flexible to account for intersections with state-mandated PFL programs

Complexities:

- Different eligibility requirements
- Different benefit durations
- Coordinating CPL/PFL payments with insurance carrier or the state plan
- Establishing policies that do not conflict with PFL laws
- Enforcing PFL/PFML when leave qualifies for CPL
- Employee and Manager educations



Building Blocks



Complex intersections: Vacation/PTO

Careful coordination is necessary when employees used accrued vacation/PTO while on PFL/PFML leave

Complexities:

- Requiring exhaustion of Vacation/PTO under FMLA
- Coordinating PFL/Vacation/PTO payments with insurance carrier or the state plan
- Establishing policies that do not conflict with PFL laws
- Employee and manager education



Building Blocks



Putting it all together: New York City case study

Scenario: Mary works for Skyscraper USA in New York City. She is preparing to have a baby wants to understand her upcoming leave and benefits. Mary has worked for her employer for 5 years and earns \$75,000 annually

Summary of Mary's eligibility

- FMLA: 12 weeks of unpaid job protections
- NY PFL (2018): 8 weeks of paid leave at 50% of wages up to \$652.96/week
- NYC DBL*: 6 or 8 weeks of disability benefits at 50% of wages up to \$170/week
- NYC PSL: up to 40 hrs. of accrued leave per year (embedded in employer's PTO policy)
- STD*: 6 or 8 weeks of STD benefits at 66.67% STD benefit up to \$1,500/week
- Company-paid Leave: 8-weeks of Paid Parental Leave (full wages)
- PTO: 20 earned days



*Six weeks for vaginal delivery, eight weeks for C-sections.

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Putting it all together: New York City case study

Mary's entitlements

	Weeks of Leave													
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Birth of Baby	ER requires exhaustion of PTO (allowed under FMLA)*													
							Company's Parental Paid Leave**							
							NY Paid Family Leave							
	Short Term Disability													
	NY Statutory Disability (DBL)													
	FMLA													



*Company's PTO policy is more generous than NYC PSL and therefore satisfies the PSL requirement; PTO coordinates with STD % Statutory Disability Benefits payable.

**Company's parental leave benefits begin after disability benefits end and coordinate with NY PFL benefits payable.

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Putting it all together: New York City case study

Mary's benefits (based on \$75,000 annual salary)*

	Weeks of Leave													
Birth of Baby	1	2	3	4	5	6	7	8	9	10	11	12	13	14
	PTO: \$1,442/Week													
							Company's Paid Parental Leave: \$1,442/Week							
							NY PFL: \$0 payable to Mary; \$652.96/week reimbursable to company							
	STD: \$792/week after elimination period met (\$1,442*.667 less \$170 weekly DBL benefit)**													
	DBL: \$0 payable (\$170 benefit offset under STD)													
	FMLA \$0 (unpaid leave program)													

*Assumes gross income before taxes, health insurance contributions, etc.

**Assumes STD plan does not offset against PTO



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Key steps to assessing newly passed PFL/PFML programs



Gather basic information

When should you start this process?



Talk to your insurance broker

To learn if your carrier intends to participate in a voluntary offering, if allowed by the state.

When to outreach?



Gauge support from payroll vendor

When to outreach?



Engage legal counsel, as needed

PFML legislation is an iterative process.

Your advisors and vendors will compile information as regulations are developed. They may not have a comprehensive understanding of the implications to the market or your business until substantial progress has been made during the legislative process.

Staying in the know

- Set up google alerts for key states where your company has employees
- Take advantage of learning opportunities, like DMEC

Additional resources:

- Department of Labor Comparisons:
 - Rhode Island: <https://www.dol.gov/whd/state/fmla/ri.htm>
 - California: <https://www.dol.gov/whd/state/fmla/ca.htm>
 - New Jersey: <https://www.dol.gov/whd/state/fmla/nj.htm>
- NY PFL Website: <https://www.ny.gov/programs/new-york-state-paid-family-leave>
- WA PFML Website: <https://esd.wa.gov/paid-family-medical-leave>
- DC PFML Website: <https://does.dc.gov/page/district-columbia-paid-family-leave>
- Federal Tax Credit FAQs: <https://www.irs.gov/newsroom/section-45s-employer-credit-for-paid-family-and-medical-leave-faqs>

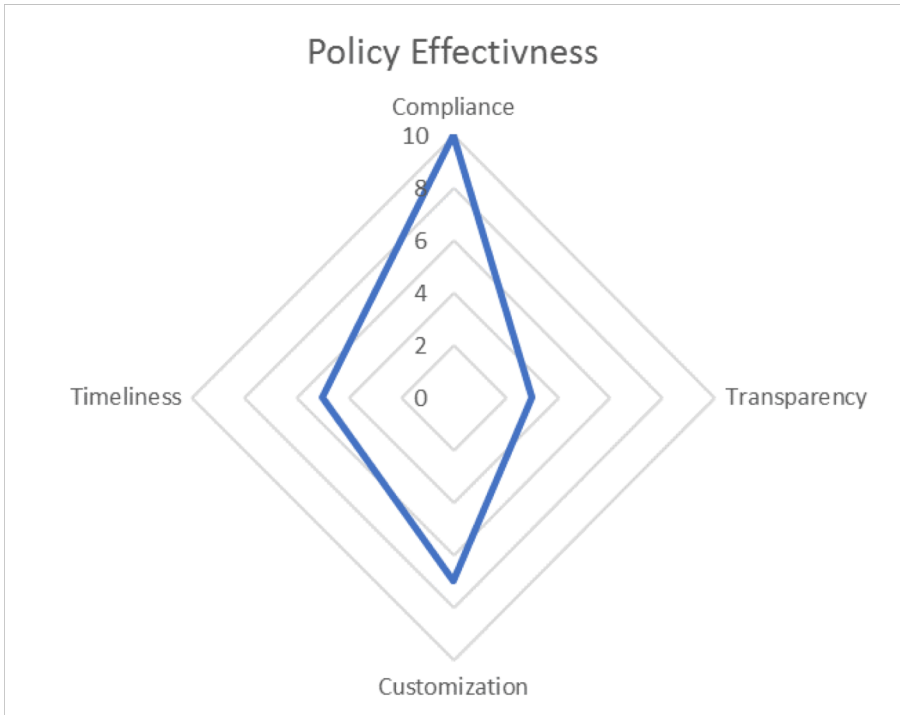
LeaveLogic Piece on WAPFL Voluntary Options- <https://leavelogic.com/why-apply-for-a-voluntary-family-or-medical-leave-plan-before-january-1-2019/>

WA Voluntary Website- https://paidleave.wa.gov/voluntary-plans?utm_medium=email&utm_source=govdelivery

Paid Leave Policies and Resources- <http://www.paidleaveproject.org/resources/>

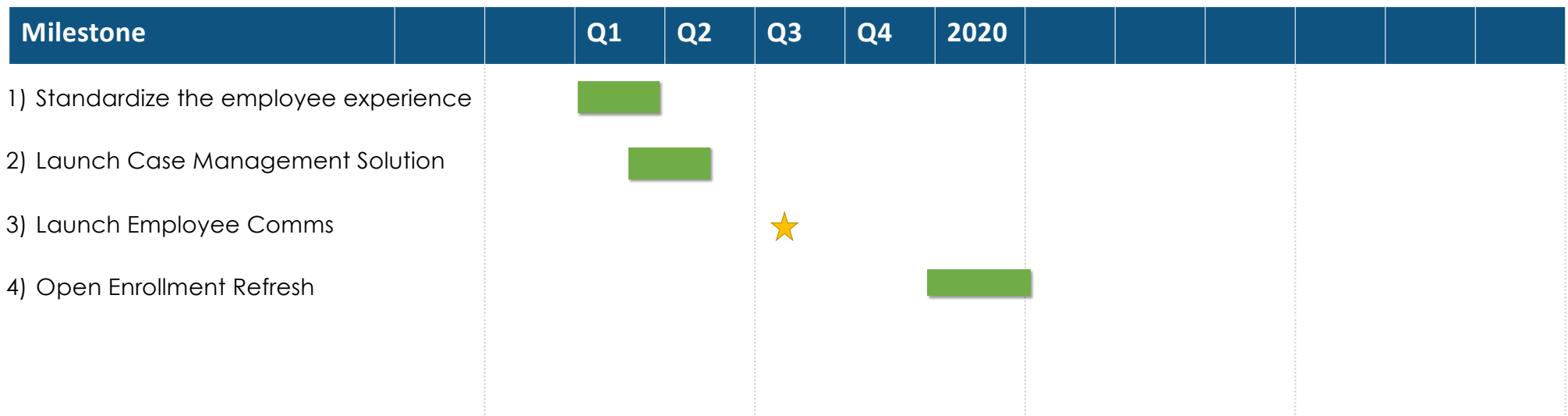


Employer Assessment



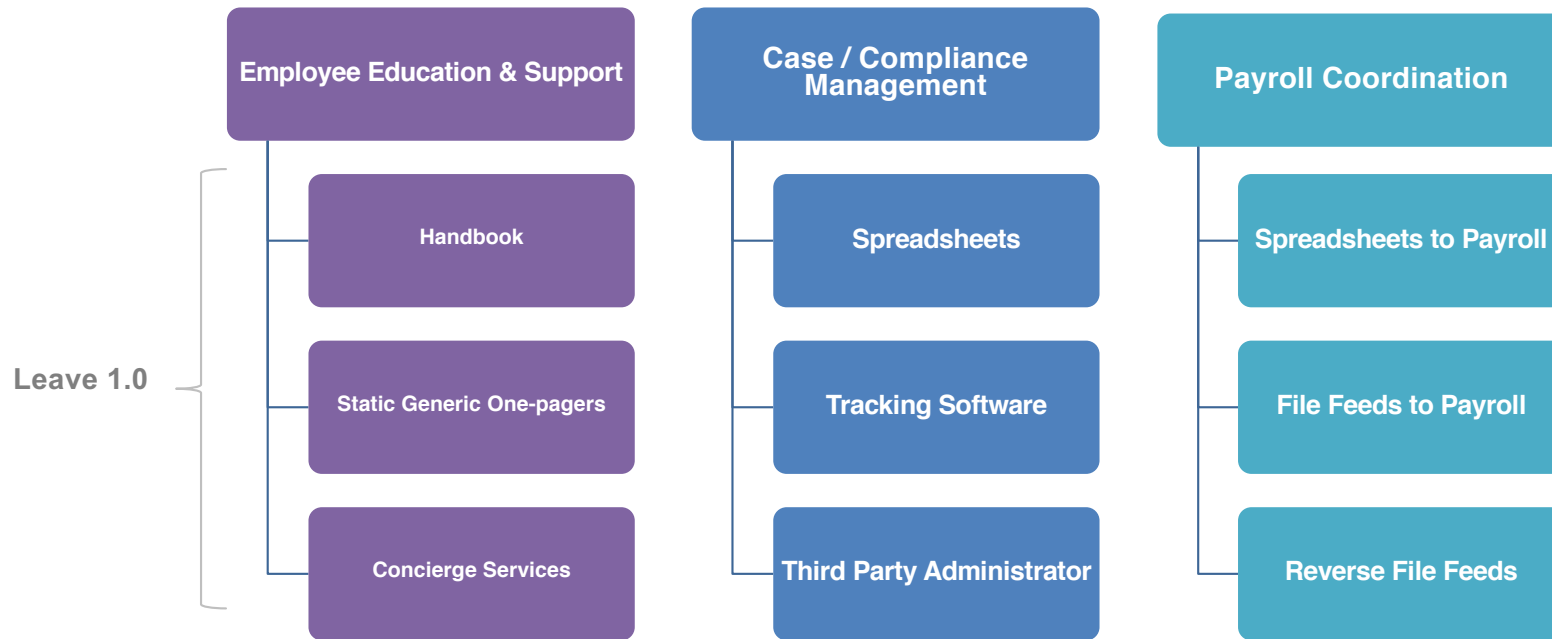
Policy Effectiveness Attribute	Score	Definition
Compliance	10	A measurement of the employer's specific policies and adherence to federal and state rules and regulations.
Transparency	3	A measurement of the availability and clarity of a company's benefits and programs from the perspective of the employee.
Customization	7	A measurement of how personalized the company's benefits and program information are presented to the employee, e.g. general disability vs. (maternity, cancer, backpain) or FMLA vs. (bonding, elder care, personal illness)
Timeliness	5	A measurement of an employer's ability to disseminate information in a consumable manner across a time horizon.

Leave Program Roadmap

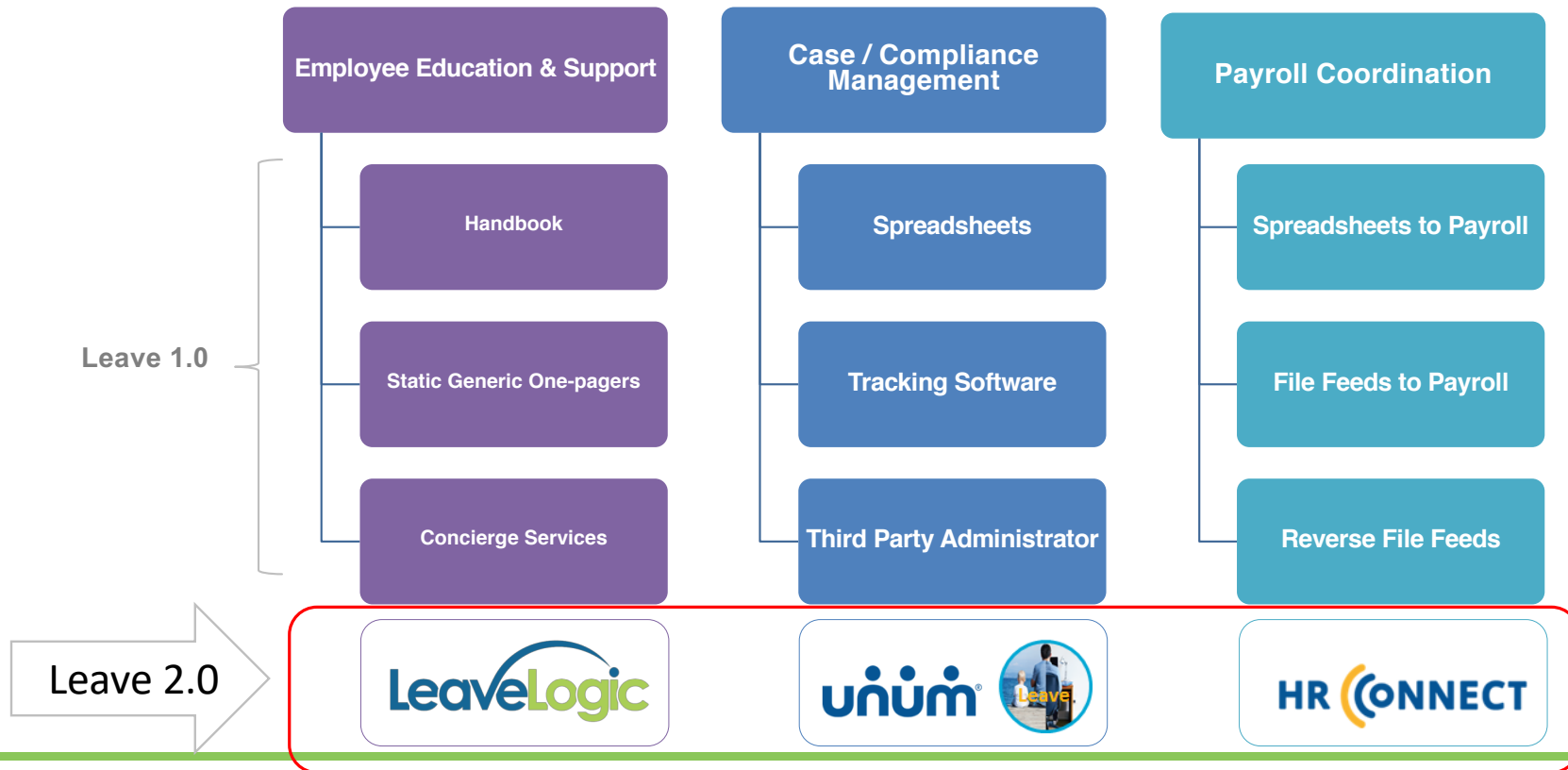


Leave Program Building Blocks	Today	Tomorrow
Policy: Materials	Policy exists, and is ok	
Case Management	In Excel, with some templates	
Communication/Education/Reminding/Q&A from Employees	Manual through email, face to face, phone	
Payroll Coordination	Manual	
Intermittent Tracking	Manual	

Leave of Absence Solutions



Leave of Absence Solutions



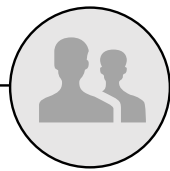
www.leavelogic.com

CONTACT INFO

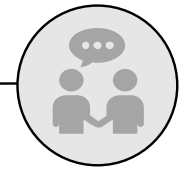


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Appendix

Active PFL programs comparison

	Rhode Island (TCI)	California (PFL)	New Jersey (FLI)	New York (PFL)
Program Name	Temporary Caregiver Insurance (TCI)	Paid Family Leave (PFL)	Family Leave Insurance (FU)	Paid Family Leave (PFL)
Administration	State-administered	Either. 1. State-administered 2. Voluntary/Private Plan	Either: 1. State-administered 2. Voluntary/Private Plan	Private Plan
Voluntary Plan Opt-Out	None	Yes	Yes	No auto enrollment; employers must establish plan with a carrier or the state insurance fund
State also Mandates Disability	Yes: Temporary Disability Insurance (TDI)	Yes: State Disability Insurance (SDI)	Yes; Temporary Disability Benefit (TDB)	Yes; Disability Benefit Law (DBL)
Interaction with other laws	TCI can run concurrently with federal FMLA, RI Parental and Family Medical Leave Act	CA PFL can run concurrently with federal FMLA, CFRA, New Parent Leave Act	FLI can run concurrently with federal FMLA, NJFLA	NY PFL and FMLA can run concurrently, subject to notice and designation requirements
Funding	EE contributions	EE contributions	EE contributions	EE contributions
Cost	1.1% (TCI/TDI: Includes both TCI and Disability Insurance)	1% (SDI: Includes both PFL and Disability Insurance)	0.09%	0.126%
Employer Eligibility	All private sector employers	All private sector employers	Private employers subject to the NJ Unemployment Compensation Law	Private vector employers with one or more employees
Employee Eligibility	EE must have earned wages in Rhode Island and paid into the TDI/TCI fund. For claims filed effective 1/7/18 or later, EE must have been paid at least \$12,120 in the base period for the claim.	EE must have earned at least \$300 from which SDI deductions were withheld during a previous period	An EE must have either: <ul style="list-style-type: none"> worked 20 calendar weeks in the base year, each being a wee in which EE had NJ earnings of \$169 or more OR a week (up to 13 weeks) in which EE were separated from employment due to a declared state of emergency during the base year; or earned \$8,500 or more during the base year. 	Full-time EEs, who work a regular schedule of 20 or more hours per week, are eligible for PFL after 26 consecutive weeks of employment. Part-time EEs, who work a regular schedule of less than 20 hours per week, are eligible after working 175 days, which do not need to be consecutive.

Active PFL programs comparison

	Rhode Island (TCI)	California (PFL)	New Jersey (FLI)	New York
Covered Conditions	<ol style="list-style-type: none"> 1. Bond with a newly born, adopted or fostered child 2. Care for a family member with a serious health condition 	<ol style="list-style-type: none"> 1. Bond with a newly born, adopted or fostered child 2. Care for a family member with a serious health condition 	<ol style="list-style-type: none"> 1. Bond with a newly born, adopted or fostered child 2. Care for a family member with a serious health condition 	<ol style="list-style-type: none"> 1. Bond with a newly born, adopted or fostered child 2. Care for a family member with a serious health condition 3. Assist loved ones when a family member is deployed abroad on active military service
Benefit Duration	Up to 4 weeks	Up to 6 weeks	Up to 6 weeks	2018: up to 8 weeks 2019: up to 10 weeks 2020: up to 10 weeks 2021 onwards: up to 12 weeks
Benefit Amount	An EE's weekly benefit rate will be equal to 4.62% of the wages paid to the EE in the highest quarter of their base period. The maximum benefit rate is \$817 per week and the minimum benefit rate is \$89 per week.	Approximately 60 to 70 percent (depending on income)	2/3 of an employee's average weekly wage, up to \$637	2018: 50% of employee's average weekly wage (AWW), up to 50% of state average weekly wage (SAWW) 2019: 55% of employee's AWW, up to 55% of SAWW 2020: 60% of employee's AWW, up to 60% of SAWW 2021 onwards: 67% of employee's AWW, up to 67% of SAWW
Job Protection	Yes	No (job protection through FMLA, CFRA or other concurrent laws)	No (job protection through FMLA, NJFLA or other concurrent laws)	Yes
Resources	http://www.dlt.ri.gov/tdi/tdifaqs.htm	http://www.edd.ca.gov/Disability/Paid_Family_Leave.htm	http://www.nj.gov/labor/fli/fliindex.htm	https://www.ny.gov/programs/new-york-state-paid-family-leave



Upcoming PFML programs

	Washington State (PFML)	Washington, D.C. (PFML)	Massachusetts (PFML)
Effective Dates	Assessment and collection of premiums: January 1, 2019 Application for and payment of benefits: January 1, 2020	Assessment and collection of premiums: July 1, 2019 Application for and payment of benefits: July 1, 2020	Assessment and collection of premiums: July 1, 2020 & Application for and payment of benefits: January 1, 2021
Administration	Either: 1. State-administered 2. Voluntary/Private Plan	City-administered	Either: 1. State-administered 2. Voluntary/Private Plan
Voluntary Plan Opt-Out	Yes. An ER may opt-out of either the state program for family leave or medical leave, or both, by having a state-approved voluntary plan	No	Yes. An ER may opt-out of either the state program for family leave or medical leave, or both, by having a state -approved voluntary plan
Interaction with other laws	Can run concurrently with federal FMLA; is in addition to any leave for sickness or temporary disability because of pregnancy or childbirth	Can run concurrently with federal FMLA, DC FMLA	Can run concurrently with the Massachusetts Parental Leave Act and/or federal FMLA



Upcoming PFML programs

	Washington State (PFML)	Washington, D.C. (PFML)	Massachusetts (PFML)
Funding	<p>Family leave premiums: may be fully EE-paid Medical leave premiums: shared EE/ER funding; EE share up to 45% of the premium</p> <p>Special rules for small business ERs:</p> <ul style="list-style-type: none"> • Less than 50 EEs: not required to pay the ER portion of premiums for family and medical leave; may apply for a grant if ER elects to pay the premiums and under certain circumstances • Less than 150 EEs: may apply for a grant under certain circumstances 	ER-funded	<p>May be shared between employer and employee</p> <ul style="list-style-type: none"> • Medical leave: may be up to 40% employee-paid • Family leave: may be 100% employee-paid
Cost	<p>Total Premium Rate = (1/3 family leave) + (2/3 medical leave)</p> <ul style="list-style-type: none"> • From January 1, 2019 to December 31, 2020: Total Premium Rate = 0.4% of individual EE's wages • From 2021 onwards: the total premium rate shall be based on the family and medical leave insurance account balance ratio as of September 30th of the previous year. 	0.62% of EE's wages	0.63% of employee's wages (initial rate)



Upcoming PFML programs

	Washington State (PFML)	Washington, D.C. (PFML)	Massachusetts (PFML)
Employer Eligibility	All private sector employers; small business employers are still required to provide benefits but special rules apply for funding under certain circumstances.	All private sector employers; does not apply to the US federal government, the D.C. government, or other employers not authorized to be taxed in D.C.	All private sector employers
Employee Eligibility	EEs are eligible for family and medical leave benefits after working for at least 820 hours in employment during the qualifying period	EEs who spend more than 50% of their work time in D.C, regardless of residence	All employees, including self-employed (who elects coverage) and former employees separated from employment for not more than 26 weeks at the start of their family or medical leave
Covered Conditions	<p>Family leave:</p> <ol style="list-style-type: none"> 1. Bond with a newly born, adopted or fostered child 2. Care for a family member with a serious health condition 3. Assist loved ones when a family member is deployed abroad on active military service. <p>Medical leave: EE's own serious health condition</p>	<ol style="list-style-type: none"> 1. Parental leave: bond with a newly born, adopted or fostered child 2. Family leave: care for a family member with a serious health condition 3. Medical leave: EE's own serious health condition 	<p>Medical leave: employee's own serious health condition, pregnancy</p> <p>Family leave: bonding (birth, adoption, foster), family member's serious health condition, qualifying military exigency, care for service member</p>
Benefit Duration	<p>Family leave: up to 12 weeks</p> <p>Medical leave: up to 12 weeks; may be extended an additional 2 weeks if the EE experiences a serious health condition with a pregnancy that results in incapacity.</p> <p>Combined family and medical leave: up to 16 weeks; may be extended to 18 weeks total if the EE experiences a serious health condition with a pregnancy that results in incapacity.</p>	<p>Medical leave: up to 2 weeks</p> <p>Family leave (care): up to 6 weeks</p> <p>Parental leave (birth, adoption, or placement): up to 8 weeks</p>	<p>Family leave: up to 12 weeks (with a maximum of 26 weeks for care of a covered service member)</p> <p>Medical leave: up to 20 weeks</p> <p>Combined family and medical leave: up to 26 weeks</p>



Upcoming PFML programs

	Washington State (PFML)	Washington, D.C. (PFML)	Massachusetts (PFML)
Benefit Amount	<p>Weekly benefit for family and medical leave:</p> <ul style="list-style-type: none"> If the EE's average weekly wage is 50% or less of the state average weekly wage: 90% of the EE's average weekly wage If the EE's average weekly wage is greater than 50% of the state average weekly wage: the sum of: (i) 90% of the EE's average weekly wage up to 50% of the state average weekly wage; and (ii) 50% of the EE's average weekly wage that is greater than 50% of the state average weekly wage. <p>Maximum weekly benefit</p> <ul style="list-style-type: none"> On or after January 1, 2020: \$1,000 Every January 1st beginning in 2021: The commissioner shall adjust the maximum weekly benefit amount to 90% of the state average weekly wage by September 30, 2020; the adjusted maximum weekly benefit amount takes effect the following January 1st <p>Minimum weekly benefit</p> <ul style="list-style-type: none"> \$100 per week or the EE's average weekly wage at the time of family and medical leave, whichever is less. 	<p>Eligible EEs will receive leave benefits that vary depending on income.</p> <ul style="list-style-type: none"> Individuals with an average weekly wage equal to or less than 150% of the District's minimum wage multiplied by 40 will receive a 90% benefit. Those earning more than 150% of the minimum wage multiplied by 40 will receive the underlying 90% benefit plus an additional 50% of the amount the eligible individual's average weekly wage that exceeds 150% of the District's minimum wage multiplied by times 40. <p>Benefits will be capped at \$1,000 per week until October 1, 2021.</p> <p>On October 1, 2021, and on October 1 of each successive year, the maximum weekly benefit amount may be increased depending on any increase to the Consumer Price Index and with support from the D.C. Chief Financial Officer.</p>	<p>Covered individuals will receive leave benefits that vary depending on income. The portion of an individual's average weekly wage that is less than or equal to 50% of the state average weekly wage will be replaced at a rate of 80%, plus an additional 50% of the portion of an individual's average weekly wage that is more than 50% of the state average weekly wage.</p> <p>Benefits will be capped at \$850 per week until December 31, 2021. Every year thereafter, the commissioner shall adjust the maximum weekly benefit amount to 64% of the state average weekly wage, which shall take effect on the following January 1st.</p>



Upcoming PFML programs

	Washington State (PFML)	Washington, D.C. (PFML)	Massachusetts (PFML)
Job Protection	Yes	No (job protection through FMLA, DC FMLA or other concurrent laws)	Yes
Resources	https://www.esd.wa.gov/paid-farnily-medical-leave	https://does.dc.gov/page/district-columbia-paid-famiy-leave	https://ma.legislature.gov/Bills/190/H4640

