

# Paid Family and Medical Leave Overview

January 2023 Guide



With 2023 comes a new wave of Paid Family and Medical Leave (PFML) state sponsored programs. More states than ever are considering sponsoring optional programs instead of mandates. Navigating and complying with the various PFML laws can be complicated — but it doesn't have to be. This guide outlines what you need to know for existing programs as well as a look ahead to future programs, to help you be compliant and understand when you, as an employer, have choices. The information in this guide will help you understand how each of the states are implementing paid leave programs and what the future may bring.




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# 2022: A year in review (and preview of 2023)

## What you need to know

Since a Federal PFML program has not moved forward, some states decided to address the need for PFML programs on their own. In 2022 alone, over one hundred bills were formally reviewed in 33 states (AZ, CA, CO, DE, FL, GA, HI, ID, IL, IN, KY, LA, MD, ME, MI, MO, MS, NC, NE, NH, NJ, NM, NY, OH, OK, OR, PA, TN, VA, VT, WA, WI, WV) that were looking to introduce new PFML programs, while seven states (CA, CO, NH, NJ, NY, OR, WA) with existing PFML laws looked to improve their programs, and three new states passed PFML laws:



**Delaware:** Their PFML program has two notable differences from other state programs. First, in addition to mandating the program for all Delaware workers, Delaware will also provide a voluntary offering to those employees working outside of Delaware. Second, Delaware separated their PFML into three buckets instead of the two most utilized. In addition to Medical Leave, Delaware broke out the historical Family Leave bucket into two, Family Caregiving and Parental Leave.

**Starting January 1, 2025**, contributions will begin at 0.8% of wages allocating funds into these three buckets:

- Medical Leave **0.4%**
- Parental Leave **0.32%**
- Family Caregiver Leave **0.08%**



**Starting January 1, 2026**, eligible Delaware workers will have access to the paid leave benefits.

**Maryland:** Even though the governor vetoed the program, state legislators overturned the veto with a special vote. As a result, Maryland will offer up to 12 weeks of PFML that is job protected, however, an employer will retain the ability to deny job restoration for cause. Furthermore, an additional 12 weeks may be available for bonding leave when using medical leave in the same benefit year. Additional clarification to the law is expected to help unify these provisions.

**Starting October 1, 2023**, Contributions will begin; however, the rate has not yet been set.

**Starting January 1, 2025**, eligible Maryland workers will have access to the paid leave benefits.



**Virginia:** Created a new path for voluntary insurance to expand into paid family leaves. Virginia outlined how insurers can design PFL as a rider to short-term disability policies or as a standalone policy. The state and insurance regulatory departments are working to define coordination for the expanded disability childbirth benefits and how the child bonding benefits in this new statute will work together.

**100**  
Bills  
Reviewed  
in

**33**  
States

**7**  
states looked to  
improve PFML  
programs

## States that will be deploying new PFML Programs in 2023



**New Hampshire** - MetLife was selected to partner with New Hampshire to design, build, and roll out the first all voluntary Granite State Paid Family & Medical Leave program – NH PFML.

**Starting December 1, 2022**, New Hampshire PFML group policy sales began. Unique to this program, December 1, 2022 was only a starting date, and employers can decide to participate in this program at any time going forward.

**Starting January 1, 2023**, eligible New Hampshire workers will have access to the paid leave benefits.



**Oregon**: Opened their Paid Leave Oregon website and completed five batches of regulations to assist employers with their compliance and coverage decisions. Two additional batches of rules are expected in 2023 to finalize their program. Oregon has begun registering employers for PFML using their new Francis Online system. Tax exemptions are available for employers who register to have their OR PFML equivalent private plan approved.

**Starting January 1, 2023**, contributions will begin.

**Starting September 3, 2023**, eligible Oregon workers will have access to the paid leave benefits.



**Colorado**: Opened their FAMLI website and started to complete regulations to support their state-run program.

December 1, 2022 began employer registrations in their new FAMLI portal. Colorado has made significant progress designing their program to begin contributions in 2023 in preparation for their benefit program to go live in 2024. Instead of a tax exemption, employers with a private plan approved by October 31, 2023, can qualify for a refund of the contributions paid.

**Starting January 1, 2023**, contributions will begin.

**Starting January 1, 2024**, eligible Colorado workers will have access to the paid leave benefits.

## States that made changes to their PFML Programs



**California**: Passed changes to their state's disability and paid family leave program in SB 951 that will take effect over the next two years. These changes include:

**Starting on January 1, 2024**, wages used to calculate the payroll deduction will no longer be capped.

**Starting January 1, 2025**, the benefit calculation will be revised. Redefining the weekly benefit amount to be equal to (A) \$50 if the amount of wages paid an individual during the quarter of their disability base period in which those wages were highest is less than \$722.50, (B) the greater of 70% of wages divided by 13, but not exceeding the maximum workers' compensation temporary disability indemnity weekly benefit amount, or 63% of the state average weekly wage, if the amount of wages paid an individual during the quarter of their disability base period in which those wages were highest is more than 70% of the state average quarterly wage, and (C) 90% of wages divided by 13, but not exceeding the maximum workers' compensation temporary disability indemnity weekly benefit amount, if the amount of wages paid an individual during the quarter of their disability base period in which those wages were highest is \$722.50 or more, but 70% or less than the state average quarterly wage.

Additionally, this bill removes taxable wage limits for state disability and paid family leave benefits. The current wage limit is based on the maximum weekly benefit amount. For 2023, the wage cap is \$153,164.





**Connecticut:** Benefit payments began for their PFML program. Throughout the year, several revisions, updates, and enhancements to the program were published.

As of July 1, 2022, employers are required to provide employees with a notice of rights to CT PFML benefits at time of new hire, and annually for all other employees.



**District of Columbia:** Expanded their benefit program to allow up to 12 weeks of paid time off. Additionally, they permanently removed the one week waiting period, and added an additional two weeks of prenatal care leave. At the same time, they made permanent the 2021 temporary order restricting STD benefit payments from offsetting benefits received from the District's Universal Paid Leave program. DC is fully funded by employer contributions, which started in April 2019, a full five quarters before benefits were payable (July 2020). Due in part to the stability of their fund, in 2022, DC enhanced benefits and reduced their employer paid contributions.



**New Jersey:** Collected a surplus of contributions which has led to a temporary reduction to employee payroll contributions in 2023.

**Starting January 1, 2023,** New Jersey's Temporary Disability Insurance (TDI) plan employee contribution level will be zero, and New Jersey's family leave insurance (FLI) contribution will be lowered by more than 50%. This change may have an impact on benefit taxation; you should check with your tax professional to see how this temporary change in 2023 may impact your NJ TDI plan. New Jersey has confirmed that this contribution change is a 'temporary' change and therefore, we do expect employee contributions to return in 2024.



**New York:** Expanded their paid family leave (PFL) definition of family member to include siblings. They also discussed 23 additional bills which were not passed, but all proposed expansion to the paid leave program. For example, bills discussed but not passed included leave for bereavement, child bereavement due to stillborn birth or miscarriage, and unpaid leave for victims of domestic abuse.



**Washington:** Enacted a variety of changes to their paid family and medical leave program to ease complexity in claim administration, expand benefits, and ensure solvency to help protect the future of their program.

To help protect the solvency of the program, the state has allocated more of the contributions collected to be used for PFL benefits, shifting more of the cost to workers since paid family leave (PFL) is 100% funded by employee contributions and the paid medical leave is split 45% funded by the employee and 55% funded by the employer. In addition, in 2Q 2022, the state requested financial support from the Governor to subsidize benefit payments and a new COVID question is asked upon application for WA PFML benefits to identify if claim volumes may be temporarily inflated due to COVID. The program will have an actuarial study conducted to assess the future financial needs of the program.

**Starting June 9, 2022,** PFL qualifying reasons were expanded to include a bereavement leave for death of a new child, if the parent would have been able to qualify for new child PFL bonding leave. In addition, Washington simplified its filing for childbirth benefits by mandating a 'postnatal' period of 6 weeks that can be taken without proof of childbirth. If the claimant has complications to childbirth or wishes to go directly into child PFL bonding leave, certification proof is required.

# 2023: Future look at Voluntary Family and Medical Leave Insurance

New Hampshire Paid Family and Medical Leave (NH PFML) is the first in the nation to offer a state sponsored voluntary paid family and medical leave insurance program. Its concept was outlined in the Granite State Paid Family and Medical leave law, offering options for employers to participate, and allowing for individuals to participate independently if their employer does not sponsor a group plan. The state is supporting the program in several ways:

- funding PFL insurance for their own government employees
- offering Business Enterprise Tax Credits (BET tax credits) up to 50% of the employer funded premium
- providing a PFML stabilization fund to support individuals who opt in for coverage to keep premiums affordable
- sponsoring community education events home mailings, radio, and TV commercials

MetLife supported New Hampshire in bringing this voluntary insurance concept to life using its absence and paid leave experience including best practices in claims administration. Being the first of its kind, this unique program required thought leadership in outlining new pathways to purchase insurance through voluntary individual employee participation. Together with a core group of state leaders, absence, advertising, and web and technology experts, we implemented this innovative new program in less than one year compared to the two-to-three-year rollout timeframe in most other state mandated programs. In fact,

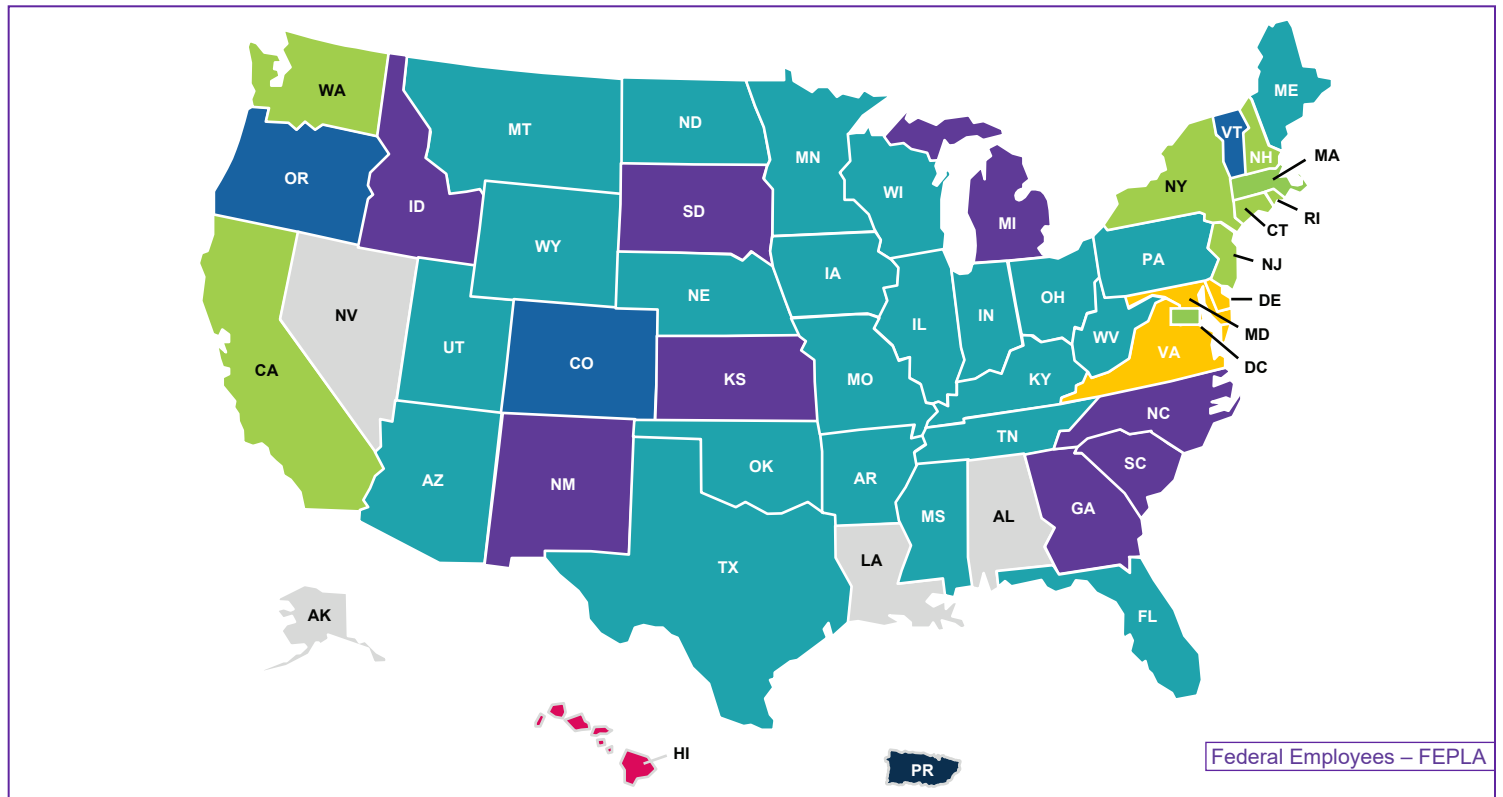
- **Vermont** is designing a very similar voluntary PFML program which will be available in various phases, with the first phase starting in 2023.
- **South Dakota** just released information looking to sponsor an insurance plan which will go live in 2023 for their state employees with a fast-following group insurance offering for other employers in the state.
- **Delaware** has both aspects of mandated benefits for workers inside the state and will also provide a voluntary PFML plan for employees who work for a Delaware situated employer but who work in another state that does not have an existing PFML state mandate.

**MetLife is proud to partner with New Hampshire to be one of five teams in the United States to design a State PFML program, behind WA, MA, CT, and DC and the first to develop a solution which supports voluntary PFML for employers and individual participants.**

# What's coming in 2023

## The Paid Family and Medical Leave landscape

As of January 2023



9

Approved and active

3

Approved - future start date

24

Proposed bill over last few years

9

State & Federal Public Employees

1

DI only

4

No plan at this time

1

Proposed bill & Disability Insurance

3

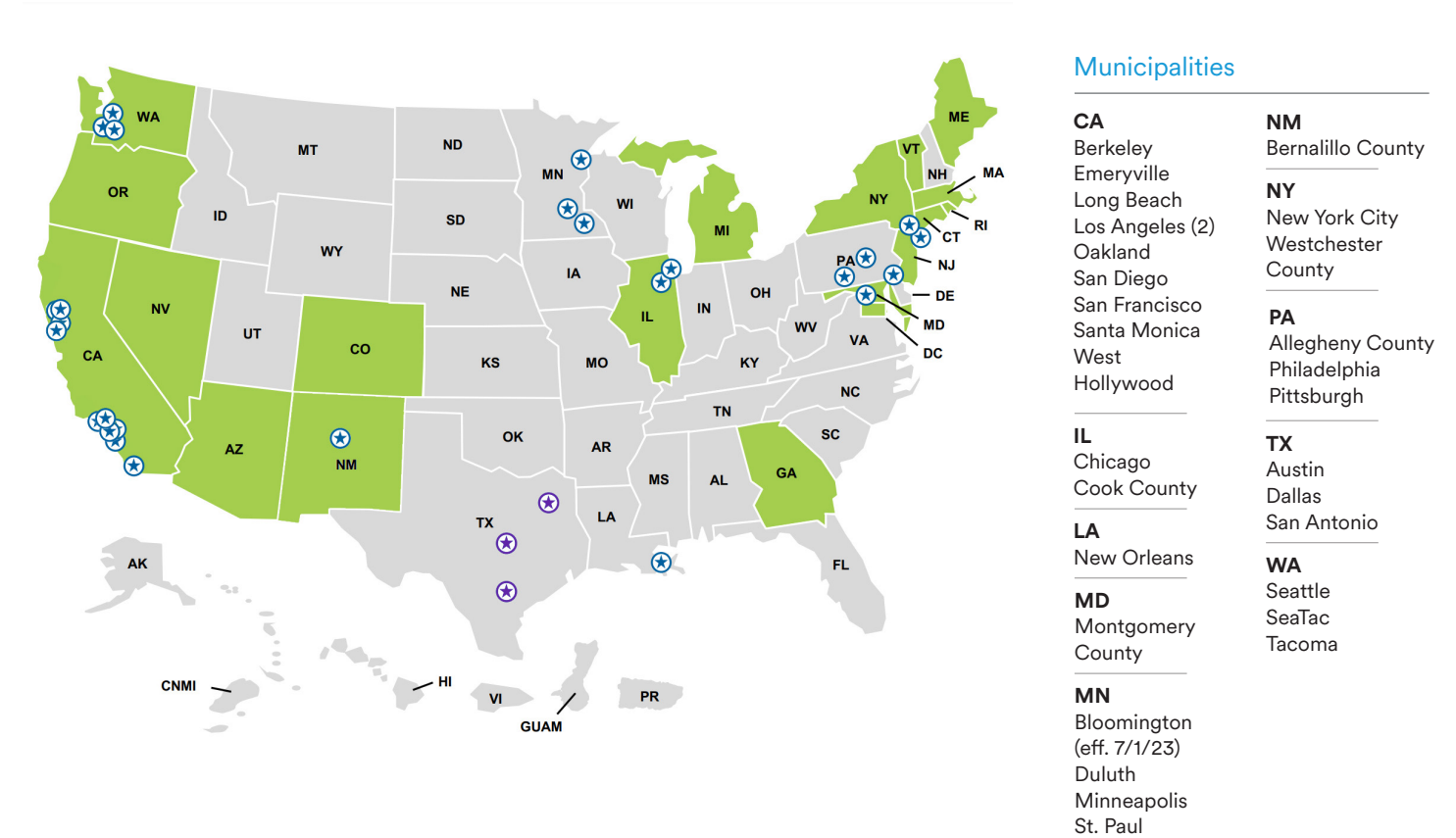
Executive orders & Approved-future start date

### States to watch:

- [Maine](#) – new PFML legislative study will provide plan recommendations, or may look to put PFML as a public ballot initiative
- [New Mexico](#) – considering a state mandated PFML program
- [Hawaii](#) – only state with mandated Disability without Paid Family Leave – still top of mind for legislators
- [Minnesota](#) – began negotiating a comprehensive PFML state mandate (NF 1200) targeting a January 1, 2024 start date
- [South Dakota](#) – released a Request for Information in December 2022 to sponsor a voluntary state program using private insurance similar to New Hampshire. Targeting 2023 start for state workers and 2024 for other employers.
- [Arizona](#) – PFL organically surfacing as voluntary plan without law

# States with sick leave laws

Sick leaves are for the immediate need. They normally replace 100% of wages and may be available without certification such as from a doctor or providing proof of absence. On the other hand, Paid Family and Medical Leaves are designed for longer absences, sometimes up to 26 weeks, and do typically require certification that the absence has merit. PFML normally provides a percentage of an employee’s wages to encourage them to return to work.



Status	<div></div> Approved states <b>(19)</b>	<div></div> Approved but not yet implemented due to pending litigation <b>(3)</b>	<div></div> Approved - in municipalities <b>(27)</b>	<div></div> None <b>(32)</b>
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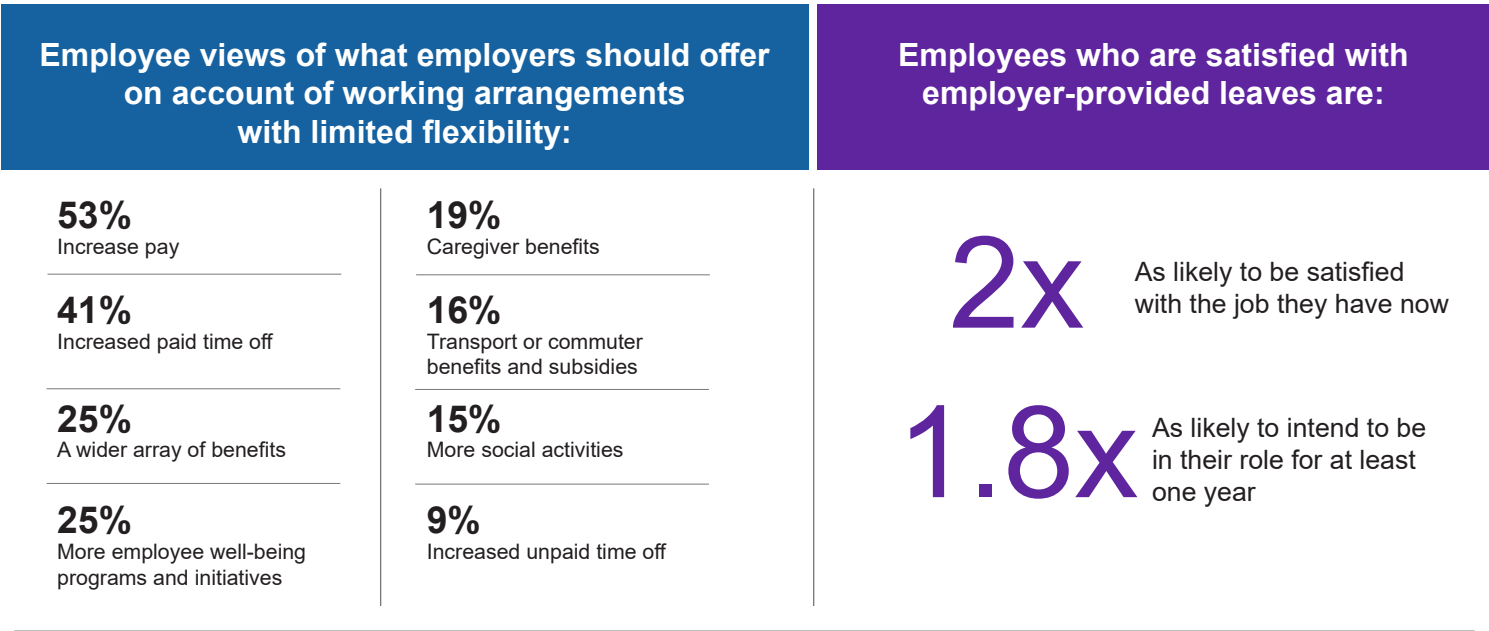
State mandated (also referred to as statutory) paid family, own medical, and disability leave and benefit laws are typically designed to provide basic benefits to ‘all’ workers in their jurisdiction; therefore, we see differences in each state’s plan designs, funding, and eligibility.

States are providing guidance on minimum standards for PFML programs that help smaller employers compete for and retain talent by providing benefits many larger employers already provide their employees.

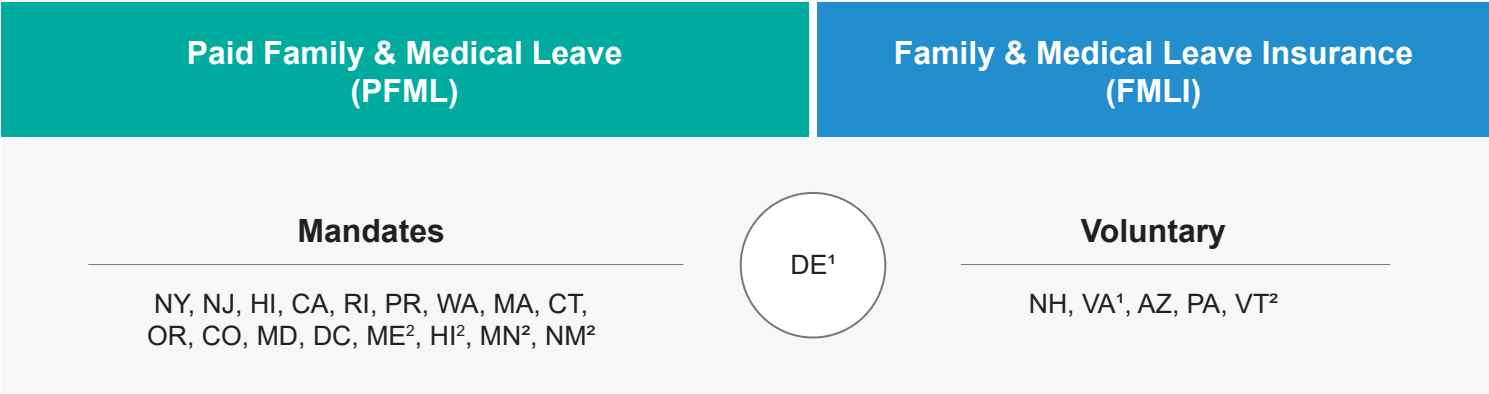


# Why are PFML trends important for employers to recognize?

According to MetLife’s 20th Annual US Employee Benefit Trends Study:



## PFML vs FMLI



<sup>1</sup> VA and DE allow workers in any state to have coverage  
<sup>2</sup> Potential future programs

# State plans with key PFML dates

35%

of US workers\* to be covered under  
Statutory mandate or voluntary DI,  
PFL or PFML program by 2026

## Future state implementation timeline:

### Colorado

Jan 1, 2023	Contributions start
Apr 30, 2023	Employer registration required
Oct 31, 2023	Deadline to file for private plan refunds
Jan 1, 2024	Benefits start

### Delaware

Jan 1, 2025	Contributions start
Jan 1, 2026	Benefits start

### Maryland

Oct 1, 2023	Contributions start
Jan 1, 2025	Benefits start

### New Hampshire

Jan 1, 2023	Benefits start group policies Individual pool open enrollment starts
Mar 2, 2023	Individual pool open enrollment ends
Aug 1, 2023	Benefits start for Individual pool participants

### Oregon

Jan 1, 2023	Contributions start
May 31, 2023	Deadline to upload proof of Equivalent Coverage to support Declaration of Intent for a private plan
Sept 3, 2023	Benefits start

Region	2022 October Workforce (rounded thousands)*
California	19,275.4
Colorado	3,256.8
Connecticut	1,903.7
Delaware	500
District of Columbia	380.2
Hawaii	676.7
Maryland	3,220.5
Massachusetts	3,745.6
New Hampshire	771.9
New Jersey	4,698.8
New York	9,518.5
Oregon	2,201.4
Rhode Island	577.6
Vermont	336.4
Virginia	4,348.1
Washington	4,007.9
SUM PFML/DI States	59,420
TOTAL US Workers	168,613

\* Source: <https://www.bls.gov/news.release/laus.t01.htm>

Below, is a state chart that shows which states have paid leaves related to medical or family leaves. Failure to comply with these laws may result in fines and penalties being imposed against the employer.

State	Paid Sick Leave	Paid Disability	Paid Medical	Paid Family
Alabama				
Alaska				
Arizona	Yes			
Arkansas				
California	Yes (plus, municipalities)	Yes		Yes
Colorado	Yes		Yes (2024)	Yes (2024)
Connecticut	Yes		Yes	Yes
Delaware			Yes (2026)	Yes (2026)
District of Columbia	Yes		Yes	Yes
Florida				
Georgia	Yes			
Hawaii		Yes		
Idaho				
Illinois	Yes (plus, municipalities)			
Indiana				
Iowa				
Kansas				
Kentucky				
Louisiana	Municipality			
Maine	Yes			
Maryland	Yes		Yes (2025)	Yes (2025)
Massachusetts	Yes		Yes	Yes
Michigan	Yes			
Minnesota	Municipalities			
Mississippi				
Missouri				
Montana				
Nebraska				
Nevada	Yes			

Below, is a state chart that shows which states have paid leaves related to medical or family leaves. Failure to comply with these laws generally results in fines and penalties being imposed against the employer.

State	Paid Sick Leave	Paid Disability	Paid Medical	Paid Family
New Hampshire			Yes, but limited (2023)	Yes (voluntary)
New Jersey	Yes	Yes		Yes
New Mexico	Yes (plus, municipalities)			
New York	Yes (plus, municipalities)	Yes		Yes
North Carolina				
North Dakota				
Ohio				
Oklahoma				
Oregon	Yes		Yes	Yes
Pennsylvania	Municipalities			
Rhode Island	Yes	Yes		Yes
South Carolina				
South Dakota				
Tennessee				
Texas	Municipalities (Blocked by litigation)			
Utah				
Vermont				
Virginia				
Washington	Yes (plus, municipalities)		Yes	Yes
West Virginia				
Wisconsin				
Wyoming				

# What does compliance look like?

Statutory paid family, medical, or disability leave, and benefit laws are designed to provide basic benefits to all. Compliance can be categorized into four primary areas: Eligibility, Funding, Benefits, and Administration.

## Eligibility

Starting with eligibility, statutory plans are different from employer sponsored plans. In most cases, they require every worker in the state to be covered. Which means that non-traditional workers such as part timers, people who are on temporary assignment, or former employees will be covered. It will be important for employers to identify the various types of workers who are eligible to receive benefits under their statutory plans and be able to report them as required under the statutory law.

## Funding

Some state programs have state established pricing, such as NY PFL. In addition to the state programs some cities, such as San Francisco, have established their own PFML programs so that the employer will fund a top up benefit allowing workers to receive 100% of their normal pay when the leave is for child bonding.

States such as Connecticut and California, have their plans 100% funded by the employee, but most states, like Washington, Massachusetts, Oregon, and Colorado, have a split funding method where both employees and employers contribute to the plan where funding limits are established utilizing either the state's average wage or the Social Security Wage Cap.

## Benefits

Benefits for one's own medical or disability leaves are usually based on the employee's own serious health condition; while paid family leave primarily means the leave allows the individual time away from work due to a need to care for a family member with a serious health condition, to bond with a child, military exigency, or potentially for safety when the employee or family is the victim of violence. Benefit durations can range from four weeks in Rhode Island to as much as 12 months in California. Many states align benefits to be taken concurrently with the unpaid federal Family Medical Leave Act (FMLA) and offer around 12 weeks.

## Payments

How much benefit an individual worker will receive, like costs, is based on their wages earned in the state. Many states' benefits allow for lower income earners to receive a higher percent of wage replacement than higher income earners. For example, Oregon's new plan will give workers 100% wage replacement, up to a cap, if they make 65% or less of their state's average weekly wage.

## Coverage

Seven states, including NJ, MA, CT, OR, CO, MD, and DE have designed state run insurance programs as well as allow an employer to opt out for private insurance or self-insured plans. WA and CA allow for self-insured plans only.

NY, Temporary Disability Insurance (TDI), and the newly passed NH PFML, wrote their statute so that private insurance would be the primary solution for coverage. In NY, approximately 95% of their statutory program is through private market offerings with only 5% of plans utilizing the State Insurance Fund.

DC and RI programs are exclusively run through the jurisdiction/state and do not allow for private plan options.





## Benefit Overlap Analysis

What does your employer benefit plan look like compared to state plans?

Eligibility	Funding	Benefits	Payments	Coverage
<ul style="list-style-type: none"> <li>✓ Full time</li> <li>✓ Part time</li> <li>✓ Any W2</li> <li>✓ Former workers</li> <li>✓ Others</li> </ul>	<ul style="list-style-type: none"> <li>✓ Employer Pay</li> <li>✓ Employee Funded</li> <li>✓ Split employee/ employer</li> </ul>	<ul style="list-style-type: none"> <li>✓ Medical or disability</li> <li>✓ Maternity</li> <li>✓ Child bonding</li> <li>✓ Care of Family</li> <li>✓ Military exigency</li> <li>✓ Organ donation</li> <li>✓ Safe leave</li> </ul>	<ul style="list-style-type: none"> <li>✓ 100% Salary Continuation</li> <li>✓ Same % wage replaced</li> <li>✓ Progressive % wages replaced</li> </ul>	<ul style="list-style-type: none"> <li>✓ State program</li> <li>✓ Insurance</li> <li>✓ Self-insured/ TPA</li> </ul>

## Similar Employer Responsibilities

Once an employer knows they are mandated to provide coverage and have identified their impacted employees, there are similar responsibilities regardless of the statutory state. Employers must, among other things:

- Coordinate the payroll deductions or contributions required
- Comply with notification requirements (i.e., Notice for Payroll Deductions, Posters, Statement of Rights, etc.)
- Participate in the claims process, when applicable
- Ensure nondiscrimination, non-retaliation, and where applicable, job protection, when applicable
- Continue healthcare coverage for the workers while out on leave, when applicable

This can get complex when an employer must do all of this for employees who work in multiple different states.

# PFML Coordination

Did you know?

**One baby could mean 16\* benefits for new parents.**

\*In California, one baby could mean 21 benefits



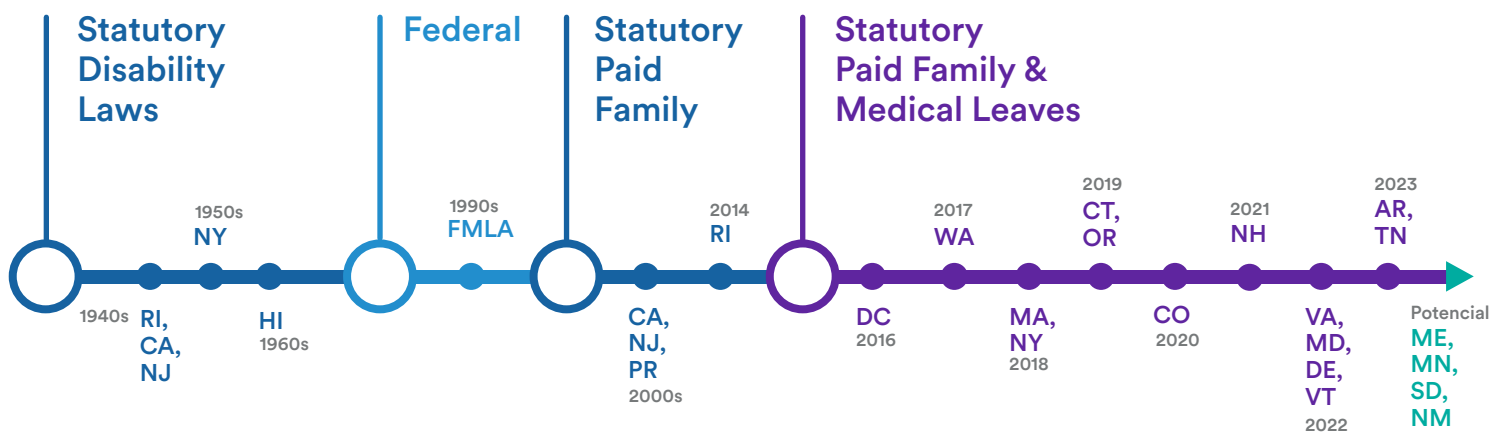
With the growing number of absence related leaves, there is a corresponding increased need for helping employers with coordinating state PFML programs with federal and/or employer sponsored programs.

When states allow for private insurance or self-insured programs, the insurer or administrator of these programs can help harmonize all programs on behalf of the employer and employee, allowing for a seamless claimant experience.

# How did we get here?

## PFML Timeline

Statutory disability laws first appeared back in the 1940s when men were coming back from war and were considered the primary income source while women were expected to stay at home to raise a family. Today's families have a very different dynamic where it is common to have both parents working and adult age children still living in the same home, contributing to the household expenses. In November 2020, Colorado's general election voted in a state PFML program that included a state tax associated with the benefits. This reflects the public consensus that paid leave is necessary and workers are willing to make financial contributions to fund the benefit plans.



In 2022, with the federal PFML program stalled, employers working to redefine worksite with more hybrid work from home/ work in the office flex schedules, employers looking to fill positions due to the great resignation employee shortage, and with the economy rebounding from the COVID-19 pandemic, PFML became a priority for state specific solutions to meet the constituent needs. Four states passed laws, three conducted in depth studies (NM, HI, ME) and several others are using private insurance Request for Information/Request for Proposals (RFI/RFP) to define the worker's needs for paid leave.

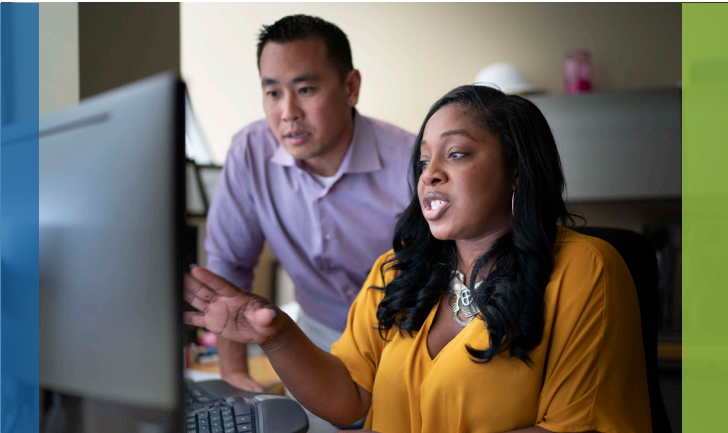
Given this change in dynamic, in recent years paid leaves have risen to the top of conversation within larger corporations and within our own government to help mitigate a family's financial risk if any income earner cannot work due to their own or a family member's medical needs.

“ Out of 193 countries in the United Nations, only a small handful do not have a national paid parental leave law: New Guinea, Suriname, a few South Pacific island nations and the United States\*.

\* [Countries Around The World Beat The U.S. On Paid Parental Leave : NPR](#)

# We're here to help

MetLife has several materials to assist you in understanding and navigating the various PFML Statutory programs. Please visit [www.MetLife.com/PFML](http://www.MetLife.com/PFML).



## MetLife's Coverage Solutions at a Glance

Jurisdiction	Plan	Statutory Plan	MetLife Solution
CA	SDI, PFL	State Primary, Voluntary self-insured available	Self-insured administration
CO	PFML	State Primary, Private Plans can be insured or self-insured	Fully insured and self-insured administration
CT	PFML	State Primary, Private Plans can be insured or self-insured	Fully insured and self-insured administration
DC	PFML	District only	Not available, state run only
DE	PFML	State Primary, Private Plans can be insured or self-insured	Fully insured and self-insured administration (2026)
HI	TDI	Private Plan only	Fully insured and self-insured administration
MA	PFML	State Primary, Private Plans can be insured or self-insured	Fully insured and self-insured administration
MD	PFML	State Primary, Private Plans can be insured or self-insured	Fully insured and self-insured administration (2025)
NH	PFML	Voluntary – MetLife Preferred Carrier	Fully insured
NJ	TDI, FLI	State Primary, Private Plans can be insured or self-insured	TDI only - Fully insured and self-insured administration PFL (2024)
NY	DBL, PFL	Private Plans primary; state fund available	Fully insured and self-insured administration
OR	PFML	State Primary, Private Plans can be insured or self-insured	Fully insured and self-insured administration
PR	DI	PR Primary, Voluntary self-insured available	Fully insured and self-insured administration
RI	TDI, TCI	State only	Not available, state run only
VA	PFL	Voluntary only	TBD
VT		Voluntary only	TBD
WA	PFML	State Primary, Voluntary self-insured available	Self-insured administration

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