



Paid Family & Medical Leave Laws

Taking Stock—Building a Strategy

April 28, 2022



Paid Family Medical Leave Laws

Welcome

Why Paid Family Leave

What is this thing

Evaluating our Options—Developing a Strategy

Understanding Use

WA and OR Basics

What is Next

Employers are Evaluating the Needs of the New Workforce Post-COVID

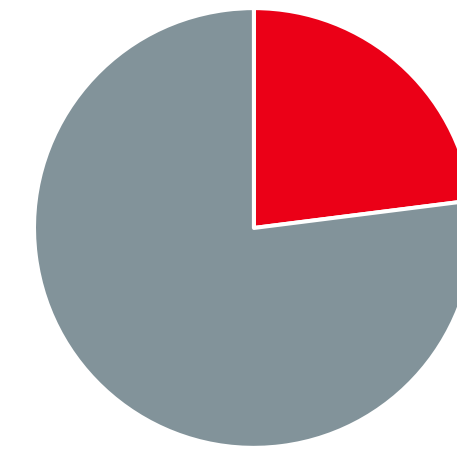
The Great Resignation is impacting employers' ability to deliver products and services, causing them to change how they define the talent pool and their approach to benefits. In parallel, the world is becoming more diverse. An employer's ability to engage this diverse workforce is essential to the development of talent to meet business objectives.



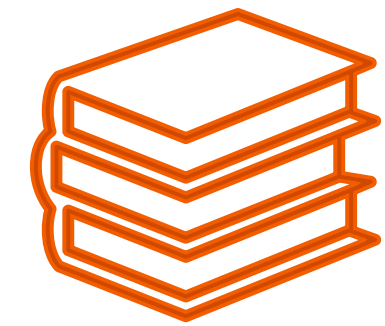
The progress of **women** and particularly women of color have been impacted by the pandemic with more women leaving the workforce.



Caregivers miss on average about **12 hours** of work monthly due to caregiver responsibilities ¹



Only **23%** of employees have access to Paid Leave as part of a Regulatory requirement. Employers are evaluating equitable benefits offerings



45% of employees are caregivers to either (or both) children and aging parents or infirmed spouses ⁵

The United States is the only developed nation that doesn't mandate paid leave

Benefits of Paid Leave to Employees and Employers

Paid leave decreases the amount of burnout employees experience

Within the last 15 years, state leave laws have aided millions of families ⁴

The US is one of only 4 nations that does not guarantee PTO to new mothers

Paid leave provides financial security for caregivers who can't afford to take unpaid leave ¹

More than 300 million individuals have used FMLA to care for themselves or their families ⁴

Over 30 states enacted paid and unpaid family and medical leave laws in the last several years

Paid Sick Leave and Family Leave: How did we get here?

Paid Sick Leave

- 1. 2007 the first paid sick leave law enacted by the city of San Francisco**
 - Requiring employers to provide paid leave
 - Providing “all” employees time to address incidental health issues—own and family
- 2. Currently over three dozen city, county and, state laws, and 1 federal contractor law...and growing**
- 3. Laws regulate across many attributes:**
 - Accrual/Frontload
 - Eligibility
 - Carryover
 - Qualified Uses
 - Family Members

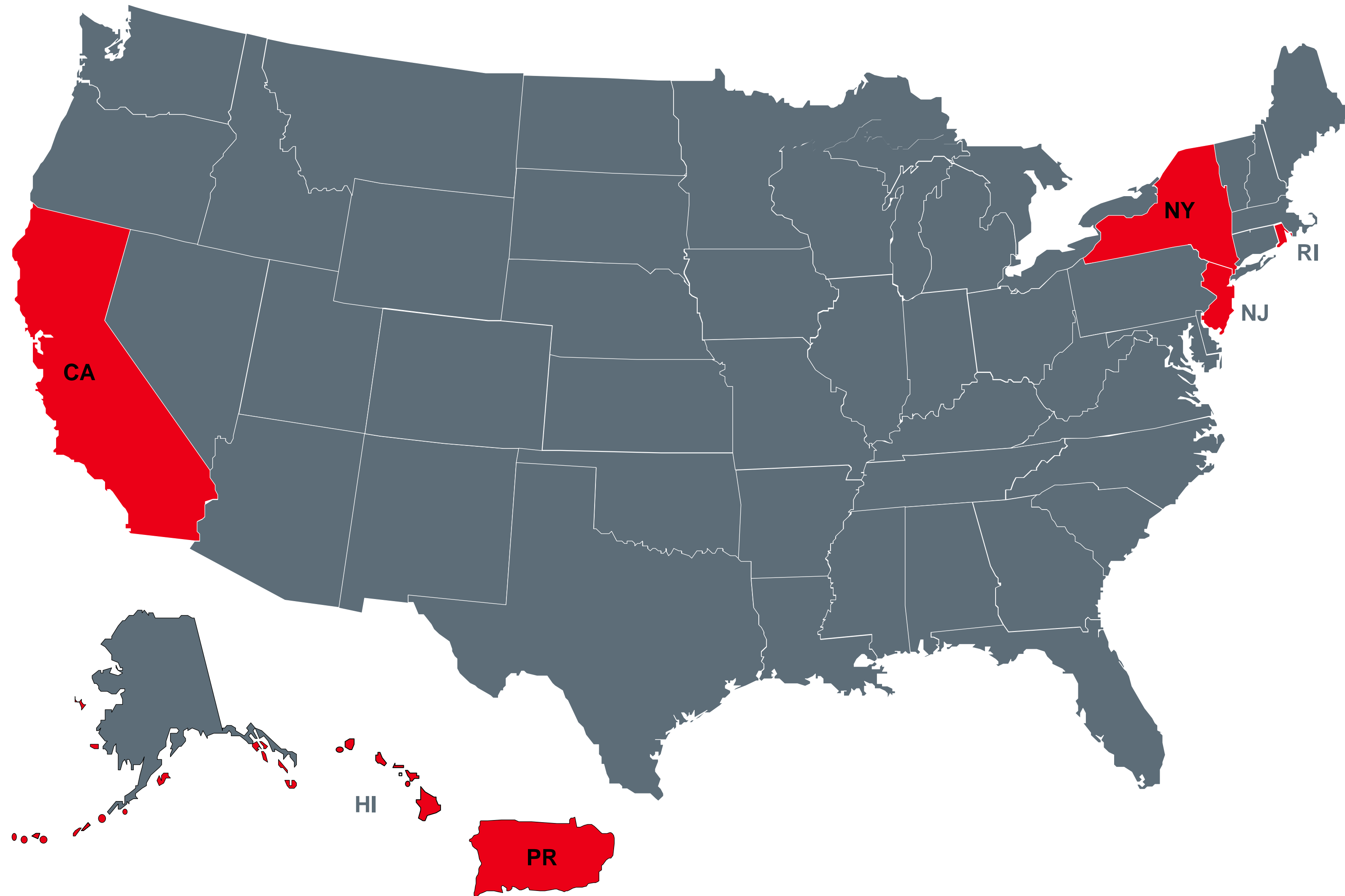
Paid Family Leave

- 1. 2004 the first paid family leave law enacted by the city of San Francisco**
 - Requiring employee contributions (in most states)
 - Providing paid leave for care of family members health issues, bonding, etc.
- 2. Currently 12 city, state, and district laws**
- 3. Laws regulate across many attributes**
 - Eligibility
 - Duration
 - Wage Replacement
 - Contribution
 - Qualified Uses
 - Family Members

Laws are designed with focus on small businesses who have traditionally not provided paid leave, but laws do not exempt large, national employers who do provide paid leave

Statutory Disability Leave

Note: all but Hawaii has established a paid family medical leave benefit in parallel to the disability program. These programs do not extend job protection

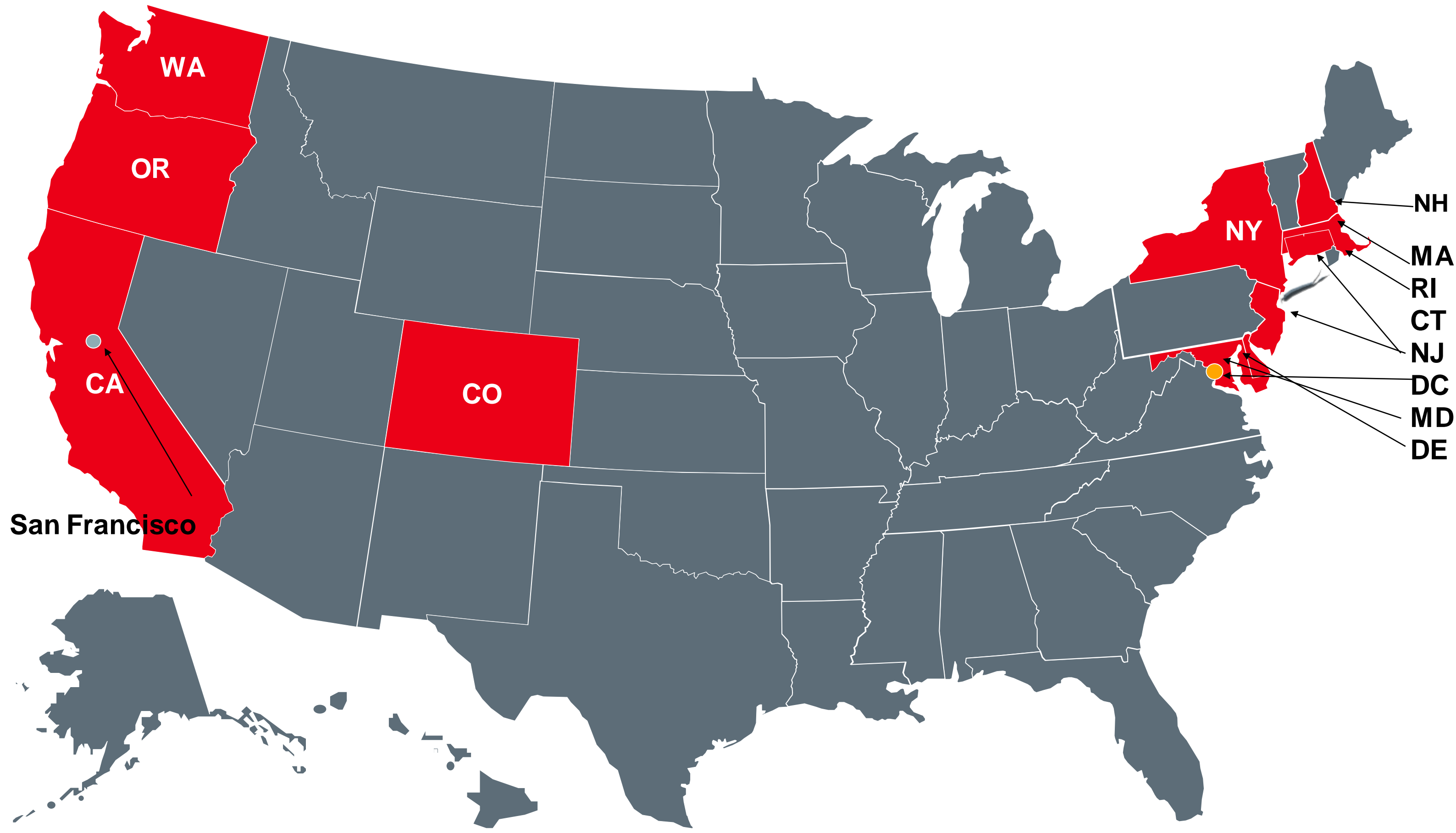


Effective Dates (benefits)

Rhode Island	1942
California	1946
New Jersey	1948
New York	1949
Puerto Rico	1968
Hawaii	1969

Paid Family/Medical Leave Laws

Current as of April 2022



Effective Dates (benefits)

California		7/1/2004
New Jersey		7/1/2009
Rhode Island		1/1/2014
San Francisco	CA	1/1/2017
New York		1/1/2018
Washington		1/1/2020
Washington	DC	7/1/2020
Massachusetts		1/1/2021
Connecticut		1/1/2022
New Hampshire		1/1/2023
Oregon		1/1/2022
Colorado		1/1/2023
Maryland		1/1/2023
Delaware		1/1/2025

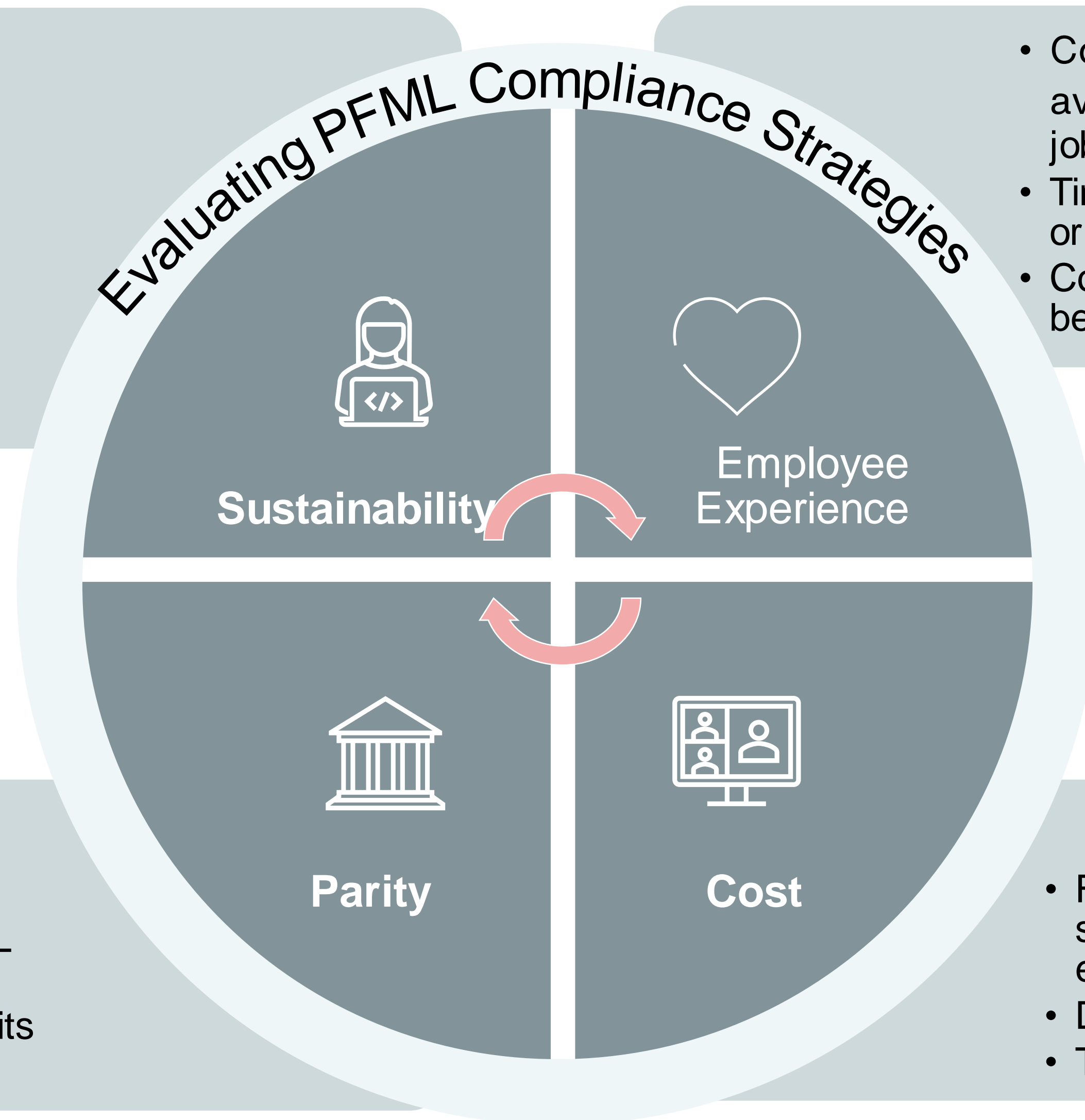
States Cities

Blue = not yet effective

PFML: Supporting Employees and Being Compliant

- Approach to delivering and overseeing compliance with PFML laws
- Washington has identified they are reassessing the premiums charged
- A surcharge is expected for 2023

- Confusion regarding what benefits are available; how to apply and how paid and job protected programs coordinate
- Timing of benefit payments may be delayed or out of sync
- Confusion regarding employer sponsored benefits and the value they offer



- Employees in different states have different benefits
- What to do for employees in non-PFML States
- How to administer supplemental benefits
- How to communicate

- Funding options evaluating the impact of self-funding—cost vs. employee experience
- Defining the benefits
- Taking contributions or not

PFML— Developing a Compliance Strategy

Defining Goals

Locations with PFML

Single state PFML
Multiple states with PFML

Employee Experience

Primary concern
Coordination with STD and FML

Administrative Resources

Payroll coordination
HRIS and Time & Attendance
Leave administration
Internal vs. Co-sourced



Risk Tolerance

Contributions are adequate
Offset by STD, PPL, etc.

Establish your goals, evaluate the options and continue to challenge the programs effectiveness

Be prepared ---

- Noise for leave programs is greater than the utilization
- Expect the unexpected – COVID, and
- Higher utilization during the initial implementation period – new program novelty and heightened awareness
- Report/Track experience and impact to benefit cost and operations staffing
- Challenge return to work, ADA interactive process to engage employees to return to work
- Review other paid leave benefits and the interaction

Replacement Ratio (RR) Analysis

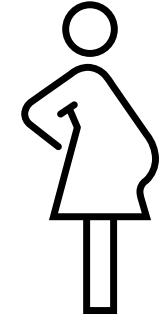


- 80% replacement ratio for all employees earning less than state Average wages
- Annual salaries >\$75k produce replacement ratios below 60%

Example: Financial Impact Analysis – 2024 Projection

Time Away Plan	Assumption	Change in Benefit Cost	Change in Replacement Cost	Commentary / Rationale
Group STD	91% reduction in premium due to PFML offset	-\$3,203,000	+\$97,000	<ul style="list-style-type: none"> PFML plan will be used to offset the benefit of the current STD Over 80% of team members' PFML benefit would be greater than their STD benefit
Executive STD	16% reduction in claim costs due to PFML offset	-\$12,000	\$0	<ul style="list-style-type: none"> PFML plan will be used to offset the executive STD program
PPL	Assume all PPL leaves covered under PFML	-\$598,000	+\$65,000	<ul style="list-style-type: none"> PPL benefits can top off the PFML
PFML	Incidence: 6.6% Duration: 9.2 weeks ER Contributions: 0.45% of Covered Payroll	+\$2,414,000	+\$346,000	<ul style="list-style-type: none"> Benefit cost represents employer contributions This represents the incremental replacement costs of increased incidence and duration for paid leaves compared to unpaid leaves
Total		-\$1,399,000	+\$508,000	<ul style="list-style-type: none"> Net savings of \$0.9M

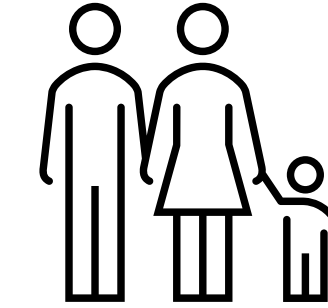
What Can We Learn from PFML Use?*



Females represent approximately **2/3** of those requesting a family leave



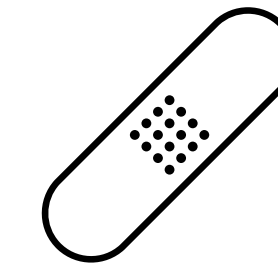
50% of time requested for bonding time was used by males



The **highest use** is by employees between the ages of 30 and 39 for family bonding and pregnancy complications



Longest continuous period of leave is for bonding. Average duration of leave ranges between **8.2 weeks and 9.3 weeks**



Approximately **30%** of the leaves are used intermittently. Intermittent time used ranged from 17 to 32 hours per week

Source: Program Utilization Study, Employment Security Study May 2021

Paid Family & Medical Leave – The Basics At a Glance

	Washington	Oregon****
Eligibility	Employees who have worked for an employer for at least 820 hours in a qualifying period	Employees who have earned at least \$1,000 during base period
Qualifying Reasons	<ul style="list-style-type: none"> • Birth, adoption, or foster placement • Employee's serious health condition* • Serious health condition of family member • Certain military-connected events 	<ul style="list-style-type: none"> • Birth, adoption, or foster placement • Employee's serious health condition* • Serious health condition of family members • Safe leave
Funding	Shared (employee and employer paid)	Shared (employee and employer paid)
STD/Supplement	Must be designated as a supplemental benefit If not designated, will be used to offset the state benefit	TBD
Job Protected	Yes (if employ 50 or more, have worked 12 months and 1250 hours); may run concurrent with FMLA	Yes, if employed 90 days or more
Continuation of Health Coverage	Yes, if leave overlaps FMLA by one day	Yes

* Medical component of paid family leave functions as a statutory disability requirement

**** Contributions start 1/1/2023, benefits start 9/3/2023

Paid Family & Medical Leave – At a Glance

	Washington	Oregon****
Income Replacement	<ul style="list-style-type: none"> • Percentage of wages above or below statewide average weekly wage, with weekly cap of or 90% or \$1,327 (2022) • 12 weeks family leave or medical leave (16 weeks if combined) • 2 additional weeks available if involving pregnancy incapacitation (max 18 weeks if combined family/medical) 	<ul style="list-style-type: none"> • 50-100% of the worker's average weekly wage, maximum of 120% of the state average weekly wage, for up to 12 weeks in a benefit year • Up to two additional weeks of benefits for limitations related to pregnancy, childbirth, or a related medical condition, including but not limited to lactation
Allowable Plan Type(s)**	<ul style="list-style-type: none"> • State insurance fund (state plan) • Self-insured voluntary plan 	<ul style="list-style-type: none"> • State insurance fund (state plan) • Self-insured private plan
Notice Link to Poster	<p><u>Poster and timely notice</u></p> <p>https://paidleave.wa.gov/employer-roles-responsibilities/</p>	TBD

**All insured plans must be with state-approved carriers; all self-insured plans must be approved by the state

**** Contributions start 1/1/2023, benefits start 9/3/2023

WA PFML Expanding Use

What is Next

Compassion Leave available for up to seven days after death (continuation of a leave):

- Miscarriage or stillbirth
- New child during bonding leave

Postnatal leave for six weeks after birth deemed medical leave (unless employee specifies to use family leave) and certification of serious health condition is not required

State must publish list of employers with approved voluntary plans on its website

Other administrative changes made to support actuarial projections and fund solvency

- Collect data on whether leave is for COVID, only used for solvency evaluation
- Enhanced actuarial reporting
- Creation of a task force to recommend legislative modifications to recommend lowest future premium rates to ensure fund solvency—report 12/30/22
- Conduct a performance audit
- End CBA exception

Paid Leave Law

Trends

Paid Leave Laws are continuing to evolve providing more employees eligible and more reasons to use available time

- Multiple states considering adoption of paid sick leave laws and paid family leave laws in parts of the country previously appearing immune
- No federal laws on the horizon
- PSL laws are expanding the reasons for use
 - Bereavement as a reason for use—currently available under the Oregon PSL Law
 - Public health emergency
 - Care of service animal—Emeryville, CA
 - Any use—PTO laws
- Expanding definition of family member—quality of the relationship vs. blood relations



Re-Thinking PFML Compliance: What is Right for My Organization

Defining a strategy—annually review

Self-Fund State Program

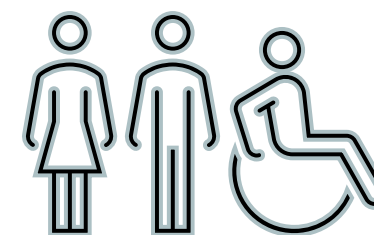
- **Goals?**
- **Contributions self-sustaining?**
- **Appetite for risk?**
- **Who will benefit?**
- **Coordination with other benefits?**
- **Administrative capabilities available?**
- **Administrative capabilities deliver superior support?**

Offer STD, PPL, etc.

- **Funding – insured or self-funded?**
- **Employer paid or voluntary?**
- **Alignment to benchmark?**
- **Gap for higher wage earners?**
- **Gap to LTD?**

Role of STD/FML Administrator

- **Guidance to apply for benefits from the state?**
- **Support application to the state?**
- **Support quarterly/annual reporting to the state?**
- **Engage employee through process?**



Aon Contact For Further Information

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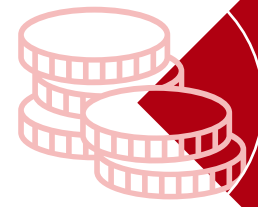
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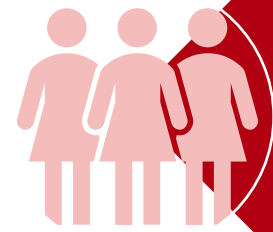
Appendix

Paid Family Leave Policy: Framing How We Think



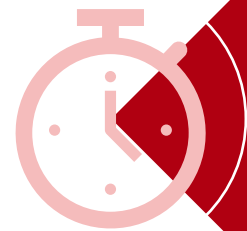
Funding Options

Each state defines the options: insured &/or self-funded. Not all options are available in all states



Apply to Most Employees

Eligibility varies by state, from FML and employer sponsored plans



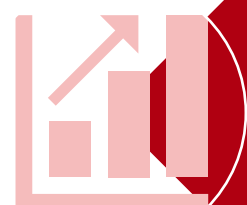
Benefit

Benefit percentage, maximum and maximum duration vary by state



Protected Time

Time and attendance policies may conflict with use of protected leave



Use

Definition of family member and reason for use vary greatly from state to state



Administration

Depends on funding. Coordination with the state, employer sponsored plans and FMLA

Paid Sick Leave Laws

Location	Effective Date	Location	Effective Date	Location	Effective Date
Arizona	7/1/2017	Maryland	2/11/2018	Rhode Island	7/1/2018
California	7/1/2015	Montgomery County, MD	10/1/2016	Vermont	1/1/2017
Berkeley, CA	10/1/2017	Massachusetts	10/1/2016	Virginia**	7/1/2021
Emeryville, CA	7/1/2015	Michigan	3/1/2019	Washington***	1/1/2018
Long Beach, CA	1/1/2013	Minnesota	No statewide law	SeaTac, WA	1/1/2014
Los Angeles, CA	7/1/2016	Duluth, MN	1/1/2020	Seattle, WA	9/1/2012
Oakland, CA	3/2/2015	Minneapolis, MN	7/1/2017	Tacoma, WA	2/1/2016
San Diego, CA	7/11/2016	St. Paul, MN	7/1/2017	Washington, D.C.	9/29/2014
San Francisco, CA	2/1/2007	New Jersey	10/29/2018		
Santa Monica, CA	1/1/2017	New Mexico	7/1/2022		
Colorado	1/1/2021	New York	1/1/2021		
Connecticut	1/1/2015	New York, NY	4/1/2014		
Florida	No statewide law	Oregon	1/1/2016		
Miami-Dade County*	9/11/2021	Pennsylvania	No statewide law		
Illinois	No statewide law	Allegheny County	12/15/2021		
Chicago, IL	7/1/2017	Philadelphia, PA	5/13/15		
Cook County, IL	7/1/2017	Pittsburgh, PA	3/15/20		

Excludes COVID-19 Emergency Laws
Excludes Prevailing Wage Law Requirements

Red: Not yet effective

* Applies only to certain service employees employed by County contractors

** Applies only to certain home health workers

*** Effective 1/1/2023, transportation network companies must make available earned paid sick leave to drivers operating on their driver platforms

Paid Leave Laws

PTO, Paid Family Leave and Non-Jurisdictional Laws

Earned Paid Time Off Laws

Location	Effective Date
California	
West Hollywood, CA	1/1/2022
Maine	1/1/2021
Nevada	1/1/2020
New Mexico	No statewide law
Bernalillo County, NM	7/1/2020

Non-Jurisdictional Laws

Applicable Requirement	Effective Date
Federal Contractor EO Paid Sick Leave Requirement	1/1/2017
Accreditation Council for Graduate Medical Education (ACGME) Medical, Parental, Caregiver and PTO Requirements	7/1/2022

Red: not yet effective



Excludes Prevailing Wage Law Requirements

Paid Family/Medical Leave Laws

Location	Contributions Effective Date (newer laws)	Benefits Effective Date
California		7/1/2004
San Francisco, CA	Employer pays directly	1/1/2017
Colorado	1/1/2023	1/1/2024
Connecticut	1/1/2021	1/1/2022
Maryland	10/1/2023	1/1/2025
Massachusetts	10/1/2019	1/1/2021
New Hampshire	Not yet specified	1/1/2023
New Jersey		7/1/2009
New York	1/1/2018	1/1/2018
Oregon	1/1/2023	9/3/2023
Rhode Island		1/1/2014
Washington	1/1/2019	1/1/2020
Washington, D.C.	7/1/2019	7/1/2020

Red: not yet effective

State & Local PFML Laws with Public Health Provisions

Status Check

Jurisdiction	Type of Law	Expired?	Expiration Date?	Source
California PFL	Change to existing law	No	The end of the state of the emergency declared by the governor	CAP14-20200311182909
New Jersey FLI	Change to existing law	No	Permanent	S2304 (state.nj.us)
New York PFL	Change to existing law	No	Will remain in effect the duration of any mandatory or precautionary order of quarantine or isolation with respect to a worker or their dependent child	https://paidfamilyleave.ny.gov/COVID19
Rhode Island TCI	Change to existing law	Yes	Unclear	Temporary Disability / Caregiver Insurance RI Department of Labor & Training
Washington, D.C.	Change to existing law	No	Some provisions permanent	https://does.dc.gov/page/dc-paid-family-leave

State Statutory Disability Laws with Public Health Provisions

Status Check

Jurisdiction	Type of Law	Expired?	Expiration Date?	Source
California DI	Change to existing law	No	The end of the state of the emergency declared by the governor	CAP14-20200311182909
New Jersey TDI	Change to existing law	No	Permanent	S2304 (state.nj.us)
New York DBL	Change to existing law	No	Will remain in effect the duration of any mandatory or precautionary order of quarantine or isolation	https://paidfamilyleave.ny.gov/COVID19 (same link for both PFL & DBL)
Rhode Island TDI	Change to existing law	Yes	Unclear	Temporary Disability / Caregiver Insurance RI Department of Labor & Training

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