

UNIONS WIN IT: Federal Work Family Laws

BACKGROUND

Several U.S. laws make help for working families a right, not a privilege. These laws, while nonnegotiable, can set the floor to bargain for broader work family language. From there, unions can negotiate wording for expanded protections and greater benefits by clarifying terms and making definitions more encompassing.

THE AFFORDABLE CARE ACT (ACA)

The Act ensures that:

- Insurance companies no longer have unchecked power to cancel a policy
- Coverage can't be denied due to a pre-existing condition
- Women are not charged more than men just for being female.
- Copays and deductibles are no longer charged for preventative care, such as physicals, immunizations, pap smears, and mammograms.
- Consumers who buy their own insurance will get a rebate when their insurance company spends more on administrative costs than allowed by federal guidelines.
- Young adults can stay on their parents' plans until age 26
- Seniors save on prescription drugs

For more information, see the Department of Labor, "[Affordable Care Act](http://www.dol.gov/)," at <http://www.dol.gov/>.

Support for breastfeeding

The ACA amended the Fair Labor Standards Act so the U.S. now has a national workplace standard to ensure a time and place to pump breast milk. Because breastfed infants are healthier, breastfeeding mothers miss work less often. And companies that provide support for breastfeeding workers experience lower turnover rates and higher productivity and loyalty.

FAMILY AND MEDICAL LEAVE ACT OF 1993 (FMLA)

- The Act applies to employers with 50 or more employees, public agencies, and elementary schools.
- Eligible employees are entitled to take unpaid, job-protected leave for up to 12 workweeks in a 12-month period for the birth and care of a newborn child, the placement and care of a child for adoption or foster care, and the serious health condition of the employee or a spouse, child, or parent.
- Several states have their own family leave laws that lower the threshold to cover more workers, expand the definition of family to include a wider range of family members, and increase the options of how workers can use their FMLA leave.

Expanded Definition of Parental Rights, Including LGBT

The Department of Labor's guidance ensures that parental rights to family leave are available to *all* employees.

- **All employees — including lesbian, gay, bisexual, and transgender employees — can take FMLA leave to care for a child for whom the employee is serving as a parent, even if there is not a legal or biological relationship.** However, because federal law does not recognize same-sex relationships, the FMLA does not require employers to provide an employee with leave to care for a same-sex partner or spouse.

Pregnancy Disability Act

ACA Cont'd

Employers are now required to:

- Provide reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth.
- Offer the employee a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public.

For more information, see "[Break Time for Nursing Mothers under the FLSA](http://www.dol.gov/)," at <http://www.dol.gov/>.

FMLA Cont'd

Military Families

The FMLA was amended to expand the military family leave provisions in two ways.

Military Caregiver Leave

- Provides up to 26 weeks of leave if they qualify for FMLA and are the spouse, son, daughter, parent or next of kin of, and need to care for, a covered service member with a serious injury or health condition incurred in the line of duty. This leave extends to those seriously injured or ill members of both the regular Armed Forces and the National Guard or Reserves.

Military Exigency Leave

- Provides up to 12 weeks of leave for family members of service members in the National Guard or Reserves who qualify for FMLA and need time off to take care of situations arising from the deployment, service, injury or reintegration that places an extra burden on the family. Example: arranging child care or moving to a new location.

Airline Flight Employees

Flight attendants and airline crew members may be eligible for FMLA if they have:

- worked or been paid for at least 60% of their monthly guarantee during the past 12 months;
- have worked and been paid for 504 hours excluding commute time, vacation, medical or sick leave.

For more information on this law, see the Department of Labor's [FMLA Employee Guide](http://www.dol.gov/) at <http://www.dol.gov/>.

The PDA prohibits discrimination on the basis of pregnancy, childbirth, or related medical conditions. Women who are pregnant or affected by pregnancy-related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

- A woman cannot be turned down for a job because of a pregnancy-related condition as long as she is able to perform the major functions of the job.
- A woman cannot be fired, demoted, or denied a promotion because she is may become pregnant.
- An employer may not single out pregnancy-related conditions for special procedures to determine the ability to work but may use any procedure used to screen other employees' ability to work.
- An employer may not force a woman to stop working and take pregnancy leave at any time during her pregnancy if she is still willing and able to perform the job.
- If a woman is temporarily unable to perform the functions of her job due to a pregnancy-related condition, the employer must treat her in the same manner as any other temporarily disabled employee, by providing modified tasks, alternative assignments, disability leave, or leave without pay.
- An employer must give a pregnant employee the same level of rights, benefits, and reinstatement privileges given to other workers who are temporarily disabled.
- If an employer's health plan includes spousal coverage, the employer cannot deny coverage for the pregnancy care of a male employees' spouse.
- Pregnancy-related benefits cannot be limited to married employees.
- Employer-provided health insurance must cover pregnancy-related conditions on the same basis as costs for other conditions.

RESOURCES

[Labor Project for Working Families](#) has fact sheets on bargaining and resources on how to take action.

[Family Values @ Work](#): Learn about and join efforts in states with labor-community coalitions working for paid sick days, family leave insurance and other policies that value families at work.