National Partnership
for Women & Families

September 17, 1998

Nicole Rabner
Associate Director for Domestic Policy
The White House
1600 Pennsylvania Avenue, NW
Second Floor, West Wing
Washington, DC 20500

Dear Ms. Rabner:

As you know, this past August 5th marked the fifth anniversary of the effective date of the Family and Medical Leave Act (FMLA) of 1993. We have attempted to do a "round-up" of the media coverage that this anniversary received -- which included a feature on ABC's Good Morning America with a live appearance by our General Counsel Donna R. Lenhoff. *Christian Science Monitor*, *Marketplace*, Bloomberg Radio Network and many regional newspapers, ranging from the *Boston Globe* to the *San Francisco Chronicle*, also ran FMLA pieces.

Most of the media were particularly interested in interviewing individuals and businesses who have had experiences with the FMLA, and who support expanding the FMLA. We have posted the stories of over 40 such "FMLA users" -- all of whom are willing to talk to the press and public -- on our website, at http://www.nationalpartnership.org/workandfamily/fmleave/stories/storymain.html.

For your convenience, I've enclosed a packet of print media coverage with this letter.

The struggle to meet both work and family responsibilities remains a top concern for American women and men. The FMLA has helped 20 million Americans in their efforts to meet these responsibilities, and its fifth anniversary marked a significant milestone. I thank you for your part in making family and medical leave a reality five years ago; for your continued work in ensuring its enforcement and implementation; and for your support for our efforts to expand the FMLA, to make family leave more available to more working people.

Sincerely,

Judith L. Lichtman

Judith L. Lichtman
President

Enclosures

1875 Connecticut Avenue, NW / Suite 710 / Washington, DC 20009 / 202.986.2600 / Fax: 202.986.2539 / Web Site: http://www.nationalpartnership.org

Christian Science Monitor
August 5, 1998

Family Leave Offers a Matchless Gift – Care Time at Home

By Marilyn Gardner
Staff columnist of The Christian Science Monitor

As anniversaries go, it will be a low-key celebration. No big parties, no cakes with five candles, no balloons and noisemakers. But for family advocates in Washington and elsewhere, today marks a significant, hard-won victory for American families.

This is the fifth anniversary of the federal Family and Medical Leave Act. Since Aug. 5, 1994, workers at firms with 50 or more employees have been able to take as many as 12 weeks of job-protected, unpaid leave to care for a baby or a family member, or to recover from their own illness. An estimated 20 million families have benefited, according to the National Partnership for Women & Families in Washington.

Connections

As extended families scatter, more employees find themselves shouldering caregiving responsibilities alone.

The story actually begins 14 years ago. In 1984 a federal court struck down California's maternity-leave law, calling it sex discrimination against men. Donna Lenhoff, general counsel of the National Partnership, formerly the Women's Legal Defense Fund, received a desperate call from Rep. Howard Berman (D) of California, who as a state legislator had helped sponsor the bill. How, he asked, could they save maternity leave in the state?

During a meeting Ms. Lenhoff, Representative Berman, and a few others took a broader approach. "We wanted it to be national, to cover not just maternity but paternity, and not just childbirth but adoption and sick leave," Lenhoff explains.

After leaving the room, she sat down at a typewriter – remember typewriters? – and drafted an outline in statutory language. As she describes it, "The great-great-great granddaughter of that proposal became the Family and Medical Leave Act."

Initially, many employers' objections centered around money, even though leave time is unpaid. But in an encouraging study released two weeks ago by the Families and Work Institute in New York, 42 percent of businesses say benefits outweigh costs. Another 42 percent report that the law is cost-neutral, with benefits and costs offsetting one another. Just 17 percent of businesses find that costs outweigh benefits.

Other objections are philosophical. Some opponents, Lenhoff says, believe that "the private market should always decide matters between employers and employees – that there should be no government standard set." Many in this group, she adds, would oppose minimum-wage or overtime laws on similar grounds.

As the workplace becomes more diverse, and as extended families scatter, more and more employees find themselves shouldering caregiving responsibilities alone. And although the media spotlight has typically focused on the need to care for newborns, the importance of family leave may be shifting to include a less visible generation.

In a new survey by the Conference Board in New York, 94 percent of corporate executives at major companies in the US, Europe, Canada, and Australia say elder care will become an increasing concern over the next five years. Another study by the National Partnership finds that more than half of employees think they will need to care for an elderly parent or relative in the next 10 years.

This demographic shift could strengthen support for family leave. If senior executives who have been less than sympathetic to the needs of young families find themselves needing to help their own parents, the act might suddenly take on new meaning for them.

The long arm of the law is always a suspect intruder in family matters. But without the benefits the act has brought, many employees would face the unacceptable alternatives of five years ago, when the workplace ultimatum too often was: "Your family or your job." This is one measure from Washington that is proving to be not only efficient and effective but also compassionate.

Fresno Bee
Fresno, CA
August 8, 1998

Editorials

Happy birthday to family leave

One small step is taken toward making workplaces friendlier.

The Family and Medical Leave Act, 5 years old this week, has led to some welcome shifts toward more humane workplaces across the nation. For tens of millions of working Americans, the act has offered a priceless benefit — up to 12 weeks' leave, unpaid but with no loss in job security — to recover from serious personal illness, spend time with a newborn or newly adopted child, or care for a seriously ill family member.

Today, it's hard to believe the act took so long to pass — it was vetoed twice by President Bush — or that it remains at all controversial. The act still draws criticism from some employers, who say it is cumbersome to administer or who fear it may lead to malingering by dishonest workers. But many have come to realize the such compassionate policies more often lead to employee loyalty.

The federal Commission on Leave estimates that during an 18-month period in 1994 and 1995 about 20 million people, 58% of them women, took FMLA leaves.

Family leaves allow employees precious time to deal with difficult issues that affect us all such as caring for a dying relative or the sleeplessness and emotional adjustments that arrive with a newborn without the added stress of losing a job or health benefits.

The FMLA has also encouraged the promising trend of fathers taking time to stay home with newborns, a benefit that was relatively rare before the act's passage.

Still, 42% of employees in the private sector are not covered by the act, which applies only to firms with 50 or more employees. Many who are covered remain discouraged from taking needed leave, either by a workplace culture that is dismissive of personal issues, or by an inability to afford the loss of salary during unpaid leave.

While the FMLA is the only federal law mandating maternity leave — unpaid — a study of 152 countries by the United Nations International Labor Organization found 80% offered some paid maternity leave. Viewed in that context, our Family and Medical Leave Act seems a mere baby step on the path toward a family-friendly workplace.

St. Petersburg Times
St. Petersburg, FL
August 16, 1998

Celebrating the Family and Medical Leave Act

TERESA BURNEY
COLUMN

A truck driver in Texas was fired a few years ago when he took unpaid leave to take care of his wife, who was pregnant with triplets. The U.S. Department of Labor intervened and the worker got a $10,000 settlement from his former employer.

Five years ago, before the Family and Medical Leave Act took effect, that truck driver would have been out of a job and out of luck, Labor Secretary Alexis M. Herman said on the law's fifth birthday on Aug. 5.

The act guarantees that employees of companies with 50 or more employees can take up to 12 weeks of unpaid leave each year to care for seriously ill family members, for the birth or adoption of a child, or for their own serious health problems and still keep their job or an equivalent job.

On the law's recent anniversary, Herman declared it a success. She said that the act is helping workers balance their work and family lives and that it has not been as disruptive as some business owners had feared.

"The landmark measure reaffirmed a basic American principle: No worker should have to choose between the job they need and the family they love," she said. "The Family and Medical Leave Act gives workers legal assurance that they can be there for their families in the difficult times without jeopardizing their jobs or health insurance."

While the law has been a step in the right direction, it still does not provide enough protection for enough workers, says Ellen Bravo, co-director of 9 to 5, the National Association of Working Women.

"We do think it's been terrific and has made a big difference," said Bravo. "On this anniversary of implementation . . . let's use it as an opportunity to improve things even more."

About 30 percent of all workers in America are not covered by the law because it applies only to people who work for public agencies or private employers with 50 or more employees. The exemption was added in response to small businesses whose owners argued that they had too few workers to compensate when one goes on leave and that their businesses would take too great a financial hit if it was necessary to hire a substitute.

As a result, that same truck driver who was able to collect money from his employer when he was fired for taking time off to be with his wife and triplets would have had no recourse if his employer had employed 49 or fewer people.

There is a bill in Congress that would lower the threshold, making employers with 25 or more employees comply with the law, Bravo said.

Even employees of bigger companies are not covered unless they have worked for a company for a year. That presents a problem for those who are newly off welfare and in jobs. They could be fired for taking time off for a child's illness, Bravo said.

Nor does the act kick in for three days unless there is a medical emergency. That is a problem for someone who is sick with a routine illness for less than three days and doesn't have sick leave. Those people have to take the sick time without pay and could be fired for not showing up at work, Bravo said.

"People have this myth that everybody has not only sick leave, but sick leave they can use for sick children," she said.

"That is not true."

There is another bill in Congress that would allow people to take up to 24 hours of unpaid leave a year for things such as routine illnesses and school visits.

In any case, the act allows only for unpaid leave. That means many people may need to take time off to deal with a personal or family illness but do not because they cannot afford it.

In a 1996 survey, the main reason people said they did not take leave when they needed to was they could not afford it, Bravo said.

There are no bills in Congress to deal with that problem.

Since the Family and Medical Leave Act has been around, the Department of Labor has taken action on 12,633 complaints about employers not following the law. About 90 percent of those cases have been successfully resolved.

For information about rights and responsibilities under the Family and Medical Leave Act, call (800) 959-3652 or check the U.S. Department of Labor's Web site at http://www.dol.gov/elaws.

Kansas City Star
Kansas City, MO
August 2, 1998

Resources explain fine points of Family and Medical Leave Act

By The Star's Staff

The fifth anniversary of the Family and Medical Leave Act will be Wednesday. The federal act grants up to 12 weeks of unpaid, job-protected leave a year to certain qualified employees to help them care for personal or family medical needs, including childbirth and adoption.

The FMLA currently applies only to private employers who have 50 or more employees, but Congress is considering an amendment which would expand coverage to cover employers of 25 to 46. (Federal workers already have leave rights similar to those granted by the law.)

A study last year by the bipartisan Family Leave Commission in Washington found that 42 percent of employees already covered by the law did not know about it. Partly for that reason, the National Partnership for Women & Families has undertaken a public education effort.

The partnership's free *Guide to the FMLA* is available by writing its headquarters at 1875 Connecticut Ave., N.W., Washington, D.C. 20009. The information also may be downloaded from its Web site at **www.nationalpartnership.org**.

A Time For Caring

San Francisco Chronicle
San Francisco, CA
August 3, 1998

BY LIZ HAFALIA/THE CHRONICLE

Scott Jones, an account executive at Federal Express, took 12 weeks off to care for his baby, Mallory.

Family & Medical Leave Act is a workplace success story

By Ilana DeBare
Chronicle Staff Writer

Angela Holman took five months off from her job at Wells Fargo Bank when her daughter Alyssa was born in 1996. She's now taking another five months off to care for her second child, 2-month-old Kayla.

Holman says she will treasure this time for the rest of her life — along with the law that made it possible.

"Every time I look into my two babies' eyes, I am ever so grateful for the Family & Medical Leave Act," said Holman, a 35-year-old Menlo Park resident.

This week marks the fifth anniversary of the Family & Medical Leave Act, which requires large and midsize companies throughout the United States to provide 12 weeks of unpaid leave to employees with a newborn or newly adopted child, serious personal illness or a seriously ill family member.

The act initially was very controversial. Opposed by business groups as an unnecessary government intrusion into the workplace, it was vetoed twice by former President George Bush before President Clinton signed it into law.

But since taking effect on August 5, 1993, family leave has become firmly established as a part of life in corporate America.

Tens of millions of workers, like Holman, have taken FMLA leaves, secure in the knowledge that their jobs still will be there when they come back.

Employers complain that the FMLA is too complicated to administer and that it's so broadly worded that relatively minor ailments like ingrown toenails can prompt a leave.

But employers also have learned to live with the law. Wells Fargo, for instance, now employs about a dozen people whose sole responsibility is tracking leaves for the bank's 36,000-person workforce.

Some companies even acknowledge that the benefits of the FMLA outnumber its administrative costs.

"There's no question that the benefits outweigh the hassles," said Scott Fortmann, a human resources lawyer for Intel Corp., which gave FMLA leave to about 2,400 of its 64,000 workers last year. "Leave provides a release valve for employees dealing with some pretty difficult issues. We're willing to suffer through some administrative hassles to get to a broad social good like this."

The FMLA covers an estimated 55 percent of the U.S. workforce — people who have been employed for at least a year by a government agency or by a company with 50 or more workers.

Under the law, workers can get up to 12 weeks off each year in blocks of time ranging from one long leave for "baby bonding" to a series of three-hour absences for chemotherapy. Employers must continue workers' health coverage while they're on FMLA leave. They also must allow workers to return to their old job, or an equivalent one, unless the position is eliminated as part of a broader set of layoffs.

There are no firm numbers on how many Americans have taken FMLA leave during the past five years, but the total is in the tens of millions.

The Commission on Leave, a group set up by Congress to study the law, estimated that about 20 million people, or 17 percent of the workforce, took FMLA leaves during an 18-month period in 1994 and 1995.

Most of those people — 60 percent — used the time to handle their own health problems.

Another 21 percent took time off to care for a new or seriously ill child, while 9 percent took time off to care for an ill parent.

Amy Calhoun, a supervisor at a Bay Area mortgage company, used an FMLA leave to fly to Utah when her father suddenly suffered a brain aneurysm while driving from Indiana to California. She spent three months there, visiting him in the hospital and helping her mother settle into temporary living quarters in Utah.

"A new law has never directly affected me so much (as the FMLA)," said Calhoun, a resident of Forestville. "I am eternally grateful for this law."

Meanwhile, San Francisco resident Velma Parness used an FMLA leave to care for her husband when he was dying of leukemia. The time off gave Parness and her husband a chance to talk and reminisce. Her presence also allowed him to spend his last months at home rather than

BY LIZ HAFALIA/THE CHRONICLE

Scott Jones took time off so his daughter, Mallory, wouldn't have to be in day care.

in a hospital.

"Without a leave, I would have had to quit my job and lose my health benefits and retirement," said Parness, a continuing-education specialist for the University of California at Berkeley. "The fact I could stay home with him and not worry about my job or insurance meant so much for us."

The Commission on Leave found that women use family leave much more than men: Women made up 46 percent of the workforce but took 58 percent of the leaves in the commission's study.

But the FMLA also has proven particularly helpful for one small group of men — new fathers who want to stay home for a while with their babies.

Very few companies offered any formal paternity leave before the FMLA. Now, all employers covered by the law must offer 12 weeks of parental leave to men as well as women.

"There was a strong message that came across with this law, that this is for women *and* men," said Judy David Bloomfield, director of One Small Step, a coalition of Bay Area employers interested in work/family issues.

Scott Jones, an account executive at Federal Express in Burlingame, is one local beneficiary of the law.

Jones currently is taking 12 weeks off to care for his baby daughter, Mallory. He took his leave right after his wife finished hers so that Mallory wouldn't have to be in day care until she was six months old.

"This time with Mallory is invaluable," Jones said. "I love it. And I never would have considered it, never would have asked for it, without this law."

Work/family experts say the level of FMLA use varies greatly among companies — or even among departments in the same company.

Some employers go well beyond what the law requires. Wells Fargo, for instance, offers its California employees four months of leave rather than the 12 weeks required by the FMLA.

That policy, combined with a few weeks of pregnancy disability leave, is what allowed Angela Holman to stay home with each of her two babies for five months.

On the other hand, some managers send out subtle messages that discourage workers from taking off any time at all.

"One junior-faculty male here wanted some time off to be a first-time father but was basically told that it would have a negative impact on his tenure decision," said Paula Rayman, an economist at the Radcliffe Public Policy Institute of Harvard University. "Employers can say they support family friendly policies. But if people are hearing something different from their supervisors, it doesn't matter what's on the books."

Family leave advocates say the biggest problem with the law is that it doesn't cover everyone who needs it.

Nationally, 42 percent of private-sector employees are not covered by the FMLA because they work for firms with fewer than 50 employees. And many workers who *are* covered cannot afford to take as much leave as they need because the time off usually is unpaid.

"It isn't fair because some families are in a much better position to save up for leaves than others are," said Donna Lenhoff of the National Partnership for Women & Families, which led the drive to pass the FMLA.

Employers, meanwhile, say the FMLA is unnecessarily hard to administer.

They say it's tough to figure out how the FMLA intersects with other laws involving time off from work — such as state family leave laws, pregnancy disability laws, workers' compensation laws and the federal Americans with Disabilities Act.

"The ones for whom it's a burden are smaller employers who are just big enough to qualify for FMLA coverage but don't have the staffing to track these things," said Conley Baker, a human resources consultant with The Employers Group in San Francisco.

"This was not intended to cover short-term conditions, but there have been instances where people have claimed FMLA coverage for ingrown toenails."

— DEANNA GELAK, a lobbyist with Society for Human Resource Management.

Employers also complain that the federal government has defined "serious health condition" too broadly, creating room for workers to abuse the law.

The Department of Labor says workers qualify for FMLA leave not just if they're hospitalized, but if they're incapacitated by a chronic condition like asthma or if they miss more than three days of work for an illness that has caused them to see a doctor.

"Someone can have a headache, go to the doctor three times and have that covered by the FMLA," said Estella Castillo, a human resources assistant at Mother's Cookies in Oakland.

"This was not intended to cover short-term conditions, but there have been instances where people have claimed FMLA coverage for ingrown toenails," said Deanna Gelak, a lobbyist with the Society for Human Resource Management.

Both backers and critics of the FMLA are pursuing their agendas in Congress and state legislatures.

Supporters are pushing bills that would extend the FMLA to smaller workplaces, apply it to other family crises, such as domestic violence, or provide some kind of pay for people on leave. Critics are seeking legislation that, among other things, would tighten up the definition of "serious health condition."

But Congress isn't anywhere close to voting on either set of bills this session. And the outlook for FMLA expansion or reform next year will depend on the outcome of this fall's Congressional races.

What is clear now is that, five years after the FMLA took effect, family leave is here to stay.

"Just having the law has made a difference in people's consciousness," both among employees and employers," said Rayman of the Radcliffe Public Policy Institute.

"The general public is vastly supportive of this law, which has allowed them to spend time with their children and dying mothers," said Chris Owens, editor of "The Family Medical Leave Handbook." "Employers are griping because they're dealing with the nuts and bolts of it all. But employees are in favor of expanding the law."

FAMILY & MEDICAL LEAVE ACT RESOURCES

Want more information on how the Family & Medical Leave Act applies to you? Here are some resources:

FOR EMPLOYEES

National Partnership for Women & Families. Nonprofit group that lobbied to pass the FMLA and is now pushing to expand it to cover more people. They offer brochures in English and Spanish on the FMLA. See their Web site at *www.nationalpartnership.org*, or call (202) 986-2600.

Employment Law Center. This San Francisco group, a project of the Legal Aid Society, offers free legal advice on FMLA issues at (800) 880-8047.

Equal Rights Advocates. San Francisco group that offers free legal advice in English and Spanish. Their main focus is sex discrimination, but they also cover questions about the FMLA at (800) 839-4372.

Labor Project for Working Families. Nonprofit group based in Berkeley that helps labor unions add family related benefits, such as leave programs, to their contracts. Call (510) 643-6814.

FOR EMPLOYERS

One Small Step. Bay Area employer association that encourages the development of work/family benefit programs. It has a 77-page booklet titled "The Nuts and Bolts of FMLA, CFRA & PDL" that addresses employers' questions about family and pregnancy leave. It costs $45 and can be ordered from (415) 772-4315.

Disability Leave & Absence Reporter. A 12-page monthly newsletter geared toward human resource professionals. It covers FMLA, the Americans with Disabilities Act and other leave-related laws. Published by the Bureau of Business Practice in Waterford, Conn., it costs $315 a year. Call (800) 243-0876.

The Family Medical Leave Handbook. A how-to guide for drafting company FMLA policies. Published by Thompson Publishing Group, it costs $298 and includes a monthly newsletter. Call (800) 677-3789, or see *www.thompson.com*.

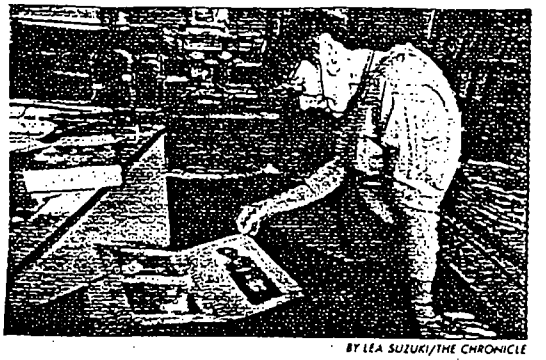
Society for Human Resource Management. National group that offers its members information on the FMLA and other personnel issues. Call (703) 548-3440, or see *www.shrm.org*. Its Bay Area chapter, the Northern California Human Resources Association, offers occasional workshops on the FMLA. Call (415) 291-1992.

GENERAL INTEREST

Department of Labor. The actual text of the FMLA is available from the Department of Labor at *www.dol.gov/dol/esa/public/regs/statutes/whd/fmla.htm*. The regulations on how to implement the FMLA can be found at *www.dol.gov/dol/esa/public/regs/compliance/whd/1421.htm*. The Labor Department also offers a useful interactive computer program to answer FMLA questions at *www.dol.gov/elaws/fmla.htm*. Or call the local Labor Department office at (415) 744-5590 or (800) 959-3652.

Department of Fair Employment & Housing. State agency that offers question-and-answer brochures on the California Family Rights Act and on pregnancy disability leave. Call (800) 884-1684 for more information.

Commission on Leave. Congress set up a commission to study the impact of FMLA. The commission issued a 1996 report titled "A Workable Balance" that is available online at *www.ilr.cornell.edu/lib/bookshelf/e_archive/FamilyMedical/*.



BY LEA SUZUKI/THE CHRONICLE

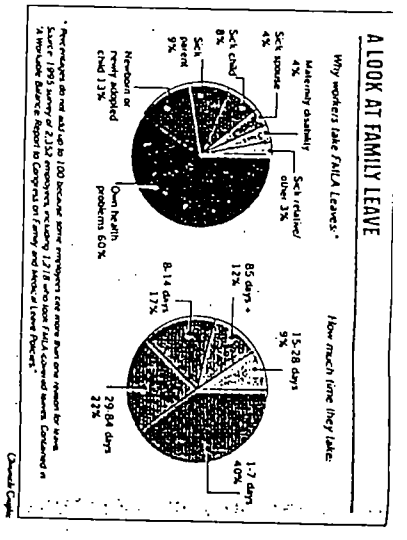
Velma Parness used an FMLA leave to care for her husband while he was dying of leukemia.

CALIFORNIA LEAVE LAWS

California employers must comply with three different laws that cover family or pregnancy leave. Here's what each says and how they differ:

	Family & Medical Leave Act (U.S.)	California Family Rights Act (Calif.)	Pregnancy Disability Leave (Calif.)
Which employers are covered?	Private companies that employed 50 or more workers for at least 20 weeks of the current or preceding year. Government agencies regardless of number of employees.	Private companies with 50 or more workers. State and local government agencies, regardless of number of employees.	Employers with five or more workers, except for nonprofit religious groups.
Which workers are covered?	Employees who have worked for a covered employer for 12 months and worked at least 1,250 hours in the 12 months before their leave. Their company must also employ at least 50 people within a 75-mile radius of their work site.	Same as FMLA.	Any employee, full or part time.
How much time off is provided for?	Up to 12 weeks of leave in a 12-month period. Can be taken at one time or in intermittent segments.	Same as FMLA.	Up to four months.
What justifies a leave?	Serious health condition of the employee, including pregnancy disability; care of a parent, spouse or child with a serious health condition; birth of a child or placement of a child for adoption or foster care.	Same as FMLA, except state CFRA leave cannot be used for a pregnancy disability leave.	Disability related to pregnancy, childbirth, or related medical conditions.
What happens to an employee's health benefits while on leave?	Employer must continue health coverage under the same terms as if the employee were working, for up to 12 weeks.	Same as FMLA.	Employer is not obligated to continue health coverage. However, to the extent that pregnancy disability leave coincides with FMLA leave, the employer must continue health coverage under the provision of FMLA.
Is the employee entitled to his or her old job back?	Same or equivalent job, with equivalent pay. However, some high-level employees (the highest-paid 10 percent) may not be entitled to reinstatement if it would financially hurt the company.	Same or comparable job, with same exception as FMLA for high-level employees.	Same job. However, employer can provide a comparable job if reinstating a worker to her previous job would substantially harm the business.
Can the leave be added on to these other forms of leave?	No. Time off under CFRA or PDL is counted toward an employee's 12-week FMLA limit. So if an employee has already spent four months on pregnancy disability leave, she is not entitled to 12 more weeks under FMLA.	Can be added to pregnancy disability leave. So an employee could get four months off for pregnancy disability, and then another 12 weeks of family leave to bond with her baby or care for an ill relative.	Can be added to CFRA. So an employee could get four months off for pregnancy disability, and then another 12 weeks of family leave to bond with her baby or care for an ill relative.

Source: "The Nuts and Bolts of FMLA, CFRA & PDL" by One Small Step, San Francisco.



Orlando Sentinel
Orlando, FL
August 5, 1998

Workstation

The Orlando Sen

What does it take to be a police or fire dispatcher?

Question: Orlando's fire and police departments are advertising they need dispatchers. What's the difference between the two jobs, and what kind of training do you need for each?

Answer: The jobs are similar but can differ in pace and in the kind of information handled. The jobs don't require firefighter or police officer training, and they pay about the same.

Let's start with the basics. Dispatchers — or emergency communications specialists — answer incoming 911 phone calls and send rescue workers out to help. Their shifts cover 24 hours a day every day of the year.

On the job

DIANE SEARS CAMPBELL

In Orlando, the Police Department has three kinds of employees who might be considered dispatchers: call takers, who answer all the city's 911 calls and forward them to either law enforcement or fire and rescue; dispatchers, who choose which squad cars to assign to which emergency; and computer operators, who post and research nationwide data on issues such as missing persons and stolen vehicles.

Orlando trains its emergency communications specialists to do all three jobs, said Taunya Harris, the communications coordinator.

At the Fire Department, dispatchers receive all medical and fire emergency calls from the police call takers and send out rescue vehicles for each one, said communications manager Laura Miholics.

In a medical emergency, such as a heart attack, the dispatcher stays on the phone and gives the 911 caller detailed instructions to make the patient comfortable while the ambulance is on its way.

Police dispatchers work with a larger number of calls per shift — as many as 200 — and handle several situations at a time. Fire dispatchers answer fewer calls but spend more time on each one.

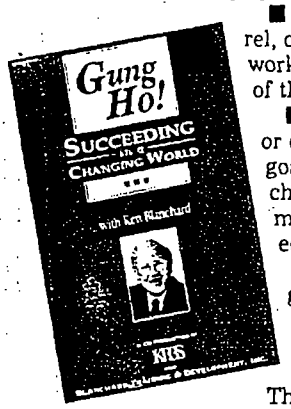
Both police and fire dispatchers require the same type of skills and training.

Orlando requires applicants to have good customer service skills, type at least 25 words per minute, and pass a communication skills test. Applicants must have good listening, memory and reasoning skills, and fluency in languages other than English is a plus. The pay range for both jobs is $9.80 an hour to $17.31 an hour.

Back-to-nature motivation

Workers and managers looking for motivation might want to try going back to nature.

In a TV show that will air this week on WMFE-Channel 24 (PBS), management expert Ken Blanchard offers three motivational theories based on Native American imagery:



- The spirit of the squirrel, or worthwhile work. Each worker must know the value of the project.
- The way of the beaver, or control of achieving the goal. Instead of taking charge, a good leader makes sure each worker is equipped to do the job.
- The gift of the goose, or cheering each other on. Positive reinforcement is the best inspiration.

The hourlong program by the author of *The One Minute Manager* is based on a book he co-wrote with Sheldon Bowles, *Gung Ho! Succeeding in a Changing World* (William Morrow & Co., $20). It airs at 5 p.m. Saturday, 5 p.m. Monday and 6 p.m. Aug. 23.

Level the playing field

Women, do you want to know how to bond with those men you know at work? Here's the secret: Read the sports pages.

That advice comes from Sandra Beckwith of New York, author of *Why Can't a Man Be More Like a Woman?*

Co-workers should find common interests, Beckwith said. So in Central Florida, it wouldn't hurt for a woman to toss out phrases like "How 'bout them Gators!" or "Go Magic!"

Desktop data

- Men and women must be doing something right to bridge the gender gap. In a study out of Chicago, 63 percent of the women surveyed said they communicate equally well with both genders at work; 25 percent have more trouble communicating with women and 12 percent with men.

In the same study, performed by business training and information publisher Dartnell Corp., 53 percent of the women surveyed said they don't mind working for either gender. Thirty-seven percent said they prefer working for a man, while 10 percent prefer a woman boss.

- Today is the fifth anniversary of the day the federal Family and Medical Leave Act took effect. The law allows workers at companies with at least 50 employees to take up to 12 weeks of unpaid leave to recover from a serious illness or care for a family member. Since 1993, the law has helped an estimated 20 million Americans.

Workplace reporter Diane Sears Campbell writes on employment issues each Wednesday in Living. She also does a "Career Makeover" each Sunday in Business. She welcomes your questions and suggestions. Mail: The Orlando Sentinel, *MP-6, P.O. Box 2833, Orlando, 32802-2833. Phone: (407) 420-5369. E-Mail: Dcampbell@Orlando sentinel.com*

Sacramento Bee
Sacramento, CA
August 6, 1998

Some calling for expansion of leave act

By Cathleen Ferraro
Bee Staff Writer

Working Americans never should have to choose between the job they need and the family they love. That was the Clinton administration's message Wednesday as it trumpeted the fifth anniversary of the Family and Medical Leave Act – a sweeping federal law allowing workers to take up to 12 weeks of unpaid, job-protected leave.

Alexis M. Herman

But since the Aug. 5, 1993, launch of the FMLA – meant to help people manage work while dealing with everything from giving birth to treating a mental illness caused by allergies – some say it should be expanded.

"We know the law has served as a catalyst, a framework enabling some companies to expand on it (in their own way)," said U.S. Labor Secretary Alexis M. Herman in a conference call Wednesday.

Herman also said helping American workers balance work and family, partly

Please see FAMILY, page F2

Family: Changes in law being pushed

Continued from page F1

through amendments to the ground-breaking law, is a top priority.

Over the past year, work-family advocates have pushed for FMLA's evolution during the next five years to embrace people and circumstances now left out of the law.

That might mean three months unpaid leave for gay employees to care for a seriously ill domestic partner; time for a battered woman to obtain a temporary restraining order, testify in court, take herself or her children to counseling, without losing her job; inclusion of businesses that employ up to 25 workers, accounting for a significant segment of the nation's labor force; or relief for working parents unable to squeeze in routine medical appointments for their kids or parent-teacher conferences.

Other proposals include covering part-time workers, requiring employers to pay employees during their leave or expanding states' existing unemployment or disability insurance.

Some ideas are supported in legislation moving through Congress, though observers say the Republican-controlled Congress is likely to oppose most of them. Still, Donna R. Lenhoff, the Washington, D.C., lawyer who drafted the original version of the law in 1984, was optimistic.

"Two ideas – dropping a company's employee threshold to 25 instead of the current 50 and allowing parents (limited) time off to deal with their kids – have the most support in the current political climate," said Lenhoff, general counsel at the National Partnership for Women & Families.

Earlier this year, President Clinton endorsed amending the FMLA to give parents 24 hours off a year, without dipping into their vacation or sick time, to attend kids' school functions or nonemergency medical appointments.

In its current form, roughly two-thirds of the nation's private and public employees are covered by the FMLA, with up to 20 million workers taking part since its inception five years ago.

If the law is expanded to include smaller employers, another 13 million workers could be covered nationwide – more than a million in California – studies show.

"The past five years have produced ample evidence that this law worked," Herman said. "Employees whose family commitments are honored are more loyal and productive workers. The FMLA has also enabled American businesses to compete more effectively in the global economy."

A 1996 report by a bipartisan commission on the effect of the law shows that the median length of leave was 10 days, with mothers 25-34 years old with an annual income of $20,000-$30,000 the most likely users.

Newsday
August 6, 1998

Family Leave a Success / In 5 years, act has aided 20M, with few gripes

By Patricia Kitchen. STAFF WRITER

Jennifer Affrunti, 32, of Wantaugh, is grateful for the Family and Medical Leave Act. In effect for five years as of yesterday, the act allowed her to tack seven unpaid weeks on to an eight-week paid maternity leave from her job as an accountant with Marks Shron and Co. in Great Neck.

That extra time, she says, gave her the chance to really bond with her new daughter, Lauren, born in October. "The first eight weeks they sleep and cry and eat. Afterwards their personalities start to emerge. I got to see things firsthand [her first smile], instead of hearing it from someone else," she said.

Affrunti, who has since gone back to work part-time, is one of an estimated 20 million people who have benefited from the act, which allows up to 12 weeks of unpaid leave a year for care of a seriously ill family member, the birth or adoption of a child or a worker's own serious health problems. The law applies in organizations of 50 or more employees.

So far, the law has been low in cost and easy for employers to administer - even for small businesses, U.S. Labor Secretary Alexis Herman said yesterday on a conference call with reporters, though some small-business owners take exception. Employers also benefit, she said, because "it's the happy worker who is making a greater investment and who gives you a good return as a business owner."

Still, questions on the act abound. "It prompts well over 100 inquiries a week," says Irv Miljoner, director of the Long Island District Office of the U.S. Department of Labor's Wage and Hour Division, which enforces the act. Who calls? Mostly pregnant women, he says. "I probably hear from more pregnant women than any single gynecologist on Long Island."

The most common question? "Am I covered by the act," says Miljoner. The answer is "yes" if an employee has worked at least 1,250 hours in the year preceding the leave, and has worked for the employer a total of 12 months, not necessarily consecutively.

His office has resolved 40 to 60 complaints a year. The most common violations, he says, involve an employer's failure to notify employees of their rights under the act, refusing to grant time off or firing an employee for taking the time. But in a significant number of complaints, he says, the employer is complying and the employee didn't understand the extent of entitlements. That's why his office does educational outreach to both companies and employees.

Still, some managers say the act is burdensome. No employee has taken advantage of the full 12 weeks' leave, said Manny Martinez, vice president of Kings Park-based Utopia Home Care, which has 500 employees in New York, Connecticut and Florida. But he says that replacing people even for shorter periods can be a problem in this economy: "They're not answering the [help wanted] ads the way they used to."

What about the move to expand the act to cover smaller companies, those with 25 or more employees, which would extend the act's benefits to an additional 13 million people?

"Lowering it to 25 definitely puts unnecessary burdens on a small business, especially if it [the leave] involves key personnel," says Dennis Sneden, chief executive of the Huntington Chamber of Commerce.

How would an owner come up with, say, a 12-week-replacement controller who would know the integral operations of the company, he asks. Instead of legislation, he would rather see the issue negotiated.

That expansion, endorsed by President Bill Clinton, is now before both houses of Congress. The bill also would provide for up to 24 additional hours of unpaid leave a year for children's educational activities, such as a parent-teacher conference; routine family medical needs; or the health and other professional needs of elderly relatives.

"We accommodate employees regardless of the law on the books," says Susan Winters, executive vice president and a principal of Bulbtronics, a specialty light bulb distributor in Farmingdale with 75 employees. She says she can count on one hand the number of employees who have used the act.

She admits that it's difficult to think of replacing key people if they were to be away for 12 weeks, but, she says, "As an employer and as an entrepreneur, you have to plan back-up situations anyways. Something unexpected could happen at any time."

Where to Get Information For More Information ...

Where to get more information on the federal Family and Medical Leave Act:

- Long Island District Office of the U.S. Department of Labor's Wage and Hour Division in Garden City. Phone: 516-227-3100.
- New York City District Office of the U.S. Department of Labor's Wage and Hour Division. Phone: 212-264-8185.
- "Guide to the Family and Medical Leave Act" - in English and Spanish, Publication A50. To get a copy, write to the National Partnership for Women and Families, 1875 Connecticut Ave., NW, Suite 710, Washington, D.C. 20009. Also see its Web site at www.nationalpartnership.org. The guide in Spanish is available locally from the National Conference of Puerto Rican Women Inc., Long Island Chapter, P.O. Box 3073, Huntington Station, NY 11746. E-mail LINaCOPRW@aol.com.
- U.S. Department of Labor's Wage and Hour Division. Phone: 800-959-***FMLA.*** Interactive Web site: www2.dol.gov/elaws/

Family Leave a Success / In 5 years, act has aided 20M, with few gripes., 08-06-1998, pp A63.

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Family Leave Act, five years later

By Ann Bookman, 08/03/98

This week marks the fifth anniversary of the Family and Medical Leave Act, the groundbreaking law that enables workers at companies with at least 50 employees in order to take 12 weeks of job-protected, unpaid leave to care for a newborn baby, newly adopted child, care for an ill family member, or recover from a serious illness.

What has this act accomplished for working families in its first five years? A good deal, but not enough.

The story of Marie is a case in point. A second-generation American whose parents worked at manual jobs, she has a 9-to-5 office job she loves at a biotechnology company. She has a high school diploma, but takes community college courses whenever she can.

As a working mother with two young children, Marie finds it hard to work, be a parent, and attend school. In fact, she has had to put her career development on hold to struggle with pressing questions: Is her daughter's day care meeting her social and developmental needs? Did she stay home long enough with her son?

The Family Leave Act enabled Marie to stay home for three months after her second child was born. Her employer paid her for two of those months. She wanted to take more time, but one month without pay was all her family could afford.

Marie was lucky to work for a company whose policies go beyond the federal law and provide some wage replacement. She was unlucky because her husband is not covered by the act and had no time off with his new son. And because she worries about taking any more time off now, Marie recently refused an invitation to accompany her daughter's day-care class on a field trip.

When it was time for Marie to return to work, she discovered that child care for two children was prohibitive. "It would cost me as much as I make, my whole paycheck," she said. "If I didn't have my mother and mother-in-law to leave the baby with, I would have had to quit my job."

Marie's situation is typical of young families who hold jobs, have families, and want to upgrade their skills and education. Yet the policies that shape their options around parental leave and infant child care undermine their plans for a future of economic security. Many young families are forced to deplete their savings to fund unpaid leaves and cover costly child-care expenses. Some even quit their jobs when

the math of working and child care does not add up.

The Family Medical Leave Act has helped more than 15 million working Americans. And it is not the burden to business that many feared. A 1996 report to Congress, issued by a bipartisan commission, found that more than 90 percent of employers said most aspects of the law were "very easy" or "somewhat easy" to administer, more than 89 percent found they incurred "no cost" or "small costs," and more than 86 percent reported "no noticeable effect" on productivity, profitability, and growth.

The act's anniversary is a good time to celebrate its accomplishments and to set goals for the future. Goals such as:

• It should be a universal law. It now covers only 55 percent of the work force. The other 45 percent who work for small businesses, including young fathers like Marie's husband need job-protected leaves, too.

• It should expand the reasons workers can take leaves. Specifically, it should cover parents, like Marie, who want to be involved in their children's education no matter what the child's age.

• It should provide for some wage replacement. While the mechanism for funding these leaves requires further study, we must find a way to financially support leaves for families who are raising our next generation of workers and caring for our retirees.

Finally, we should not expand the reach and scope of the law in a vacuum. We need to link it to public policies that affect the lives of young children - particularly child care for infants and toddlers. Unpaid parental leaves and the lack of quality infant care put parents in untenable positions.

We need to make staying home with an infant both more accessible and financially viable, and make infant day care more available and affordable to support the healthy development of children and the economic security of families.

Ann Bookman *was executive director of the Commission on Family and Medical Leave in 1995-96. She is on the faculty at the College of the Holy Cross.*

This story ran on page A11 of the Boston Globe on 08/03/98.

From Donna Lenhoff
986-2600

Amplicatn events - Congress

Fresh - Paternity leave

Small businesses

PROPOSED FMLA 5TH ANNIVERSARY EVENT

1. Purpose

To focus public attention on the FMLA and the need for its expansion.

2. Timing

The last week of July or the first week of August 1998 (to capitalize on the 5th anniversary date of the FMLA going into effect on August 5, 1993 and to draw attention to work and family issues for the November 1998 elections).

3. Message

a. The struggle to meet both work and family responsibilities is a top concern for American women and men. The FMLA has already helped millions of Americans in their efforts to meet these responsibilities. (People who have had these experiences will tell their stories). Employers and employees are happy with the law, and the benefits of the FMLA outweigh the costs. *(New data on the costs and benefits of the FMLA will be presented.)*

b. But almost half of Americans cannot use the FMLA because it does not cover their mid-sized employers, and the FMLA does not provide leave for routine family needs. (People who have had these experiences will tell their stories).

c. Work and family issues such as FMLA expansion should be matters in which government can help. *That's why the President supports legislation to ensure that more Americans would be able to take job-protected leave in such times of family and medical emergencies, and calls on business, the coalition of advocates, and Congress to help make that happen.*

4. Potential Speakers

- President Clinton
- Vice-President Gore
- Secretary of Labor Herman
- Congressional sponsors of FMLA expansion legislation
- Judith Lichtman, President, National Partnership for Women & Families
- Ellen Galinsky, President, Families & Work Institute
- Individuals and businesses with FMLA stories

5. Audience

Members of the FMLA coalition, including the U.S. Catholic Conference, women's advocates, health care advocates, seniors' groups (e.g., AARP), children's advocates, unions, disability groups, and education advocates (e.g., NEA, AAUW, PTA).

6. Components of Event

a. Release of new survey data on FMLA costs, benefits, and usage. The Families & Work Institute's new survey of employers on work and family issues contains new findings that almost 75% of employers surveyed found that the benefits of family leave policies outweighed the costs, or that the programs were cost-neutral. At the event, Ellen Galinsky, President of the Families & Work Institute, would announce these new data.

b. Highlight research showing public support for FMLA expansion. "Family Matters," 1998 survey conducted for the National Partnership for Women & Families shows that Americans support expansion of the FMLA by overwhelming majorities. This support crosses both political and demographic boundaries: Republicans and Democrats, working women and homemakers, baby boomers and seniors, and people who are white, black and Hispanic all support FMLA expansion and agree that employers and government should be doing more to help working families. At the event, Judith Lichtman, President of the National Partnership for Women & Families, would present this research.

c. Presentation of FMLA "stories." Individuals and businesses who have had experiences that support expanding the FMLA would tell their stories. For example:

- Flora Green and Jo Gillman, owners of "Foliage by Flora," a commercial landscaping and maintenance business with approximately 40-45 employees near Miami, Florida, who adopted a policy that is similar to the FMLA, have found it to be a "win-win" situation for the company and the employees and support FMLA expansion to cover mid-sized companies.

- Melrose Nathan, a vice-president with Adams National Bank, who was able to spend time with her dying husband and help her children cope with his loss because of her employer's generous family leave policy – even though at the time her employer had fewer than 50 employees and was not covered by the FMLA – supports expanding the FMLA so people at other mid-sized businesses can benefit from leave, as she did.

In addition, people who were unable to use the FMLA because they work for employers with fewer than 50 employees could also tell about their need for leave.

d. Announcement of expansion efforts. The President voiced his support for FMLA expansion in his January 1998 State of the Union address, but has not since had the opportunity to discuss the issue of family leave. At this event, the President and the Vice-President, supported by Secretary Herman, appropriate Senators and Representatives, and Judith Lichtman (President of the National Partnership for Women & Families and Chair of the FMLA coalition) could highlight the new endorsement of the Administration's strong support of FMLA expansion legislation, including dropping the threshold to cover mid-sized businesses, and call on the audience of FMLA coalition members to help.

For more information contact: Donna Lenhoff
National Partnership for Women & Families
202-986-2600

EXPANDING THE FAMILY AND MEDICAL LEAVE ACT TO HELP FAMILIES BALANCE WORK AND FAMILY RESPONSIBILITIES

January 27, 1998

In the new economy, most parents work harder than ever. They face a constant struggle to balance their obligations to be good workers -- and their even more important obligations to be good parents. The Family and Medical Leave Act was the very first bill I was privileged to sign into law as President in 1993. Since then, about 15 million people have taken advantage of it, and I've met a lot of them all across this country. I ask you to extend that law to cover 10 million more workers, and to give parents time off when they have to go see their children's teachers or take them to the doctor.

--President Bill Clinton
State of the Union Address, 1/27/98

In his State of the Union Address, President Clinton called on Congress to extend the benefits of the Family and Medical Leave Act -- the first piece of legislation that the President signed into law -- to ten million more American workers.

BIPARTISAN REPORT SHOWS THE LAW IS WORKING. Since the Family and Medical Leave Act was enacted in 1993, at least fifteen million Americans have taken FMLA-covered leave. Today, workers are eligible for FMLA-protected leave if they work at a business with 50 or more employees and if they have worked at least twelve months and 1,250 hours for the employer. FMLA allows eligible employees to take up to 12 weeks unpaid, job-protected leave to care for a newborn or adopted child, to attend to their own serious health needs, or to care for a seriously ill parent, child or spouse. The bipartisan Commission on Leave -- chaired by Senators Craig and Dodd -- reported that the law is working:

- **67 million Americans -- over half of all workers -- are guaranteed they can take leave** from their job to care for a sick relative or a newborn child without fear of losing their job or health insurance.
- **Millions of Americans have taken leave since the enactment of FMLA.** During the 18-month period covered by the Commission's study (1/94 - 6/95), an estimated 12 million Americans took leave for FMLA-covered purposes.
- **40% of all workers think they will need to take leave** for a covered reason at some time in the next five years.
- **Despite its opponents' claims, compliance is easy and costs are low for most employers now covered by the law**:
  - **Nine out of ten employers find the law "very" or "somewhat" easy to administer.**
  - **Compliance entails either little or no costs for 89%-99% of businesses.**
  - **Smaller covered worksites found it easier to comply than larger sites.**
- **Some businesses have reported reduced employee turnover, enhanced productivity and improved morale** which they attribute to the Act.

NOW IS THE TIME TO EXPAND THE LAW TO COVER MORE WORKERS AND BETTER HELP WORKERS CARE FOR THEIR CHILDREN AND PARENTS. The President believes that it is time to expand the benefits of the law. He is urging the Congress to:

- **Enable workers at businesses with 25 or more workers to take unpaid, job-protected leave** -- current law covers businesses of 50 or more employees. Lowering the employer coverage threshold from 50 to 25 workers will mean that FMLA will cover up to ten million more American workers, allowing them to take up to twelve weeks unpaid, job-protected leave to care for a newborn or adopted child, to attend to their own serious health needs, or to care for a seriously ill parent, child or spouse.

- **Allow FMLA-eligible workers to take up to 24 hours of additional leave each year to meet specified family obligations**, including routine doctors appointments and parent-teacher conferences. Leave could be taken to: (1) participate in school activities, such as parent-teacher conferences; (2) accompany your child to routine dental or medical appointments; and (3)

THE WHITE HOUSE

WASHINGTON

January 23, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING

SUBJECT: Family and Medical Leave Expansions

This memorandum presents options to expand the Family and Medical Leave Act (FMLA) for your consideration before a possible announcement on this issue in your State of the Union Address. Expanding FMLA would further enable American workers to take protected time off to spend with a new or adopted child, or for medical emergencies. It would build on your strong record of helping parents meet their responsibilities to their families and their jobs, and, specifically, would complement two pieces of your current child care proposal that also help parents who wish to stay at home: (1) support for home visitation and other parent education programs in your Early Learning Fund, and (2) demonstration projects to test policies to help parents stay at home.

As you know, your advisors initially believed that a proposal to expand FMLA could help inoculate your child care initiative against conservative attack by allowing parents to spend more time with their children. Your recent child care announcement has generated overwhelmingly positive support; several leading Republicans, however, have been working on alternative proposals aimed entirely at helping parents to stay at home with their children. While an announcement on FMLA expansion would be an important marker in this area, given the nature of the proposals under active Republican consideration -- such as income splitting, income averaging, and expansion of the $500 per-child tax credit -- it is unlikely that any proposal to expand FMLA could stand up fully to these costly options. We therefore will continue our work with the Treasury Department to explore possible tax-related measures to support stay-at-home parents, in addition to any expansion of FMLA.

FMLA currently requires employers with 50 or more employees to provide up to 12 weeks of unpaid leave to eligible employees for certain family and medical reasons, including the care of a new child. Employees are eligible if they have worked for the employer for at least 12 months and for at least 1,250 hours over the previous 12 months, and if the employer has at least 50 employees working within 75 miles of the employee's worksite. Public agencies are covered by FMLA regardless of size, but employees must still meet the eligibility requirements, including working at a site where at least 50 employees are employed within 75 miles.

Options to expand FMLA include: (1) applying FMLA to businesses with 25 or more employees, either in one step or incrementally; or (2) extending the permissible leave period to 24 weeks for parents with newborns. Over the last few weeks, we have worked to determine the costs to businesses and the benefits to workers of pursuing either or both of these options. Unfortunately, we have found that useful data in this area does not exist. It is impossible to determine, for example, how many people currently taking leave to care for a newborn or adopted child would take additional leave or how additional leave would benefit people of particular income levels. Similarly, it is impossible to quantify the likely costs to small businesses.

Option 1: Expanding Coverage to Businesses with Fewer Employees. You could call for lowering FMLA's employer coverage threshold from 50 to 25, either in one step or incrementally (for example by lowering it to 40, then 35, and finally 25). Senators Kennedy and Dodd have proposed to lower the threshold to 10 employees, but your advisors believe that FMLA would be too great a burden on employers of that size.

According to the Department of Labor, 67 million employees are currently eligible for FMLA. Lowering the threshold to 40 would add 3.4 million people; lowering it to 35 would add 5.4 million people. Lowering the threshold all the way to 25 would add about 10 million people, increasing by 15 percent the number of employees covered by FMLA, and doubling the number of employers covered by the Act (from 330,000 to 690,000).

This proposal would give FMLA protection to more people at no cost to the federal government. It would receive strong support from labor, women's groups, and other core Democratic constituencies. The proposal, however, would provoke strong business opposition. Many Republican and some Democratic Members of Congress would likely criticize any attempt to lower the threshold as detrimental to small business. (According to a survey by the Family and Medical Leave Commission, however, the great majority of businesses that have implemented FMLA report little or no cost increases.)

Extending FMLA Leave from Three to Six Months

Below are three variations on this theme. The first is the most inclusive. The second limits the workers eligible to the full six months to those with two full years of job tenure with their current employer. The third limits the extent of the new benefit *and* makes it available only to new parents.

Option 2A: Extending FMLA from Three to Six Months. This option would allow workers who are currently eligible for FMLA to take longer leave. Approximately 12 million workers take FMLA leave. According to the FMLA Commission's survey, about 12.5 percent or 1.5 million workers take the full 12 week leave. Of these, 450,000 workers took 12 or more weeks leave for maternity, disability, or the care of a newborn, adopted or foster child.

This proposal would give parents additional time to spend with their new babies (again at no cost to the federal government). It might help respond to the charge that our child care proposal helps only working parents, not those who -- with a little help -- can and want to stay home with their children for a period of time. However, any family leave policy would not fully respond to that criticism because leave is by definition geared toward people who have been in the workforce and will return to it. In addition, this proposal would not help workers who currently cannot afford to take even the full 12 weeks of FMLA leave. According to the Commission's survey, 65 percent of those who would have liked to take leave to care for their newborn, foster, or adopted child could not do so for economic reasons. Because this proposal would not help such workers, FMLA advocates would likely give it only lukewarm support. Finally, businesses already covered by FMLA would oppose the extension because guaranteeing *six* months of leave would disrupt their operations.

Option 2B: Extend FMLA from Three to Six Months for Workers with Two Years Tenure. Although there is no data available, your advisors generally feel that extending FMLA to six months is a non-trivial burden on business. While businesses can arrange for other employees or temporary help to cover a co-workers' *three* month absence, a *six* month absence is harder to manage. Employers may have to hire replacement workers, thus increasing their costs significantly. Moreover, employers faced with the possibility of having to offer six months of job-protected leave to workers with only one year's tenure may be less likely to hire employees they suspect will take this leave. This option is intended to mitigate these problems by limiting eligibility for the extended leave to employees with two years of tenure.

Option 2C: Allow New Parents Up to 24 Weeks Leave in a Two Year Period. To eliminate the possibility that an employee could work only six months *each year* by taking six months of job protected leave annually, this proposal would instead allow new parents only to take six months of job protected leave *every two years*. Under this option, by taking the full six months to care for a newborn, the employee would forego any right to paid leave in the following year. Current law allows six months every two years, but restricts it to two three month periods. This proposal simply gives employees additional flexibility in taking their leave while adding only minimally to the business burden.

Recommendations: Your advisors agree that lowering the employee threshold will provoke significant opposition, but some of your advisors, including the First Lady, believe that it is a fight worth having. The First Lady believes strongly that lowering the threshold to 25 will make a real difference in people's lives, covering about 10 million more American workers with this significant benefit. She believes that, politically, it is an important thing to be for.

Some of your advisors feel that a decision about lowering the threshold must be made in the context of the impact of your overall agenda on the business community. Secretary Herman, for instance, believes that if you decide to call for an increase in the minimum wage, you should not also lower the threshold. If, however, you do not propose raising the minimum wage, then she feels you could call for lowering the threshold. Administrator Alvarez opposes any changes

to current law because she feels they will engender significant business opposition and may undermine gains we have already made.

Secretary Herman supports extending the length of FMLA leave. Secretary Rubin and Janet Yellin oppose Options 2A and 2B. Secretary Rubin feels that because businesses may need to hire replacement workers to cover six month absences, the cost to business of longer leave could be greater than the cost of initial implementation of the FMLA. He is also concerned that higher income workers are more likely to benefit from longer leave, while empirical evidence would suggest that all workers will pay for this in the form of lower wages. Janet Yellin shares Secretary Rubin's concerns about Options 2A and 2B, but supports Option 2C because she feels it is a very minor change from current law. The First Lady worries that the six month leave extension will make only a marginal difference, and will disproportionately assist higher-income workers.

The NEC has concerns about six months leave, but on the whole would support Option 2B -- extending the FMLA to six months for workers with two years tenure. The NEC fears, however, that lowering the limit to 25 will cause too much opposition from Southern Democratic Senators, especially if we also propose to raise minimum wage.

The DPC recommends that you propose Option 2B -- extending the FMLA to six months for workers with two years tenure -- and if you are willing to take on a larger fight, that you propose to lower the employee threshold to 25 as well. In addition, your advisors recommend that you continue to fight for the 24-hour extension of FMLA for school visits, doctor appointments and other family responsibilities.

1. Expand FMLA Coverage to Businesses with 25 Employees

____ YES ____ NO ____ DISCUSS

2A. Extend FMLA Leave from Three to Six Months

____ YES ____ NO ____ DISCUSS

2B. Extend FMLA from Three Months to Six Months for Workers With Two Years Tenure

____ YES ____ NO ____ DISCUSS

2C. Allow New Parents Six Months Every Two Years

____ YES ____ NO ____ DISCUSS

ORSZAG_J @ A1
02/05/98 06:27:00 PM

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cc:
Subject: DODD, IN AN ELECTION YEAR, FACES OBSTACLES TO FAMILY LEAVE

Date: 02/05/98 Time: 17:51
FDodd, in an election year, faces obstacles to family leave

WASHINGTON (AP) On the fifth anniversary of the Family and Medical Leave Act, its chief author said more workers should be covered by the law's guarantee of unpaid time off to care for a new child or sick relative.

``This is a very popular idea,'' Sen. Christopher Dodd, D-Conn., said Thursday. He wants to expand the law to bring in businesses with at least 25 employees, down from the current threshold of 50. That would cover another 13 million workers.

But Dodd acknowledged that convincing his colleagues would be tough.

It took years to muster enough votes in Congress to pass the original law. It was vetoed twice by then-President George Bush, a Republican, before President Clinton signed it in a Rose Garden ceremony just two weeks after taking office.

Today, some of the bill's original opponents are still in Congress, including the Senate Republican leader, Trent Lott of Mississippi.

And there is opposition from business. John Satagaj, president of the Small Business Legislative Council, said it would be difficult for many small companies to meet the law's requirements. Requests for unusual benefits, such as lengthy time-off, are usually handled on a case-by-case basis, he said.

``We're not convinced that the problem is widespread,'' he said. ``Employees may find out that their employer is less flexible than they were before this law was imposed.''

The family leave law allows workers up to 12 weeks unpaid leave after the birth or adoption of a child, or to care for their own or a family member's serious illness. About 12 million workers took advantage of benefits offered by the law from January 1994 through June 1995, according to a commission created by Congress.

Dodd is aiming to expand the law as part of a larger initiative on child care, a White House priority. More than 40 child care bills have been introduced by Republicans and Democrats in recent months.

To mark the fifth anniversary of family leave, Dodd held a news conference with officials of the Adams National Bank, a Washington bank that started its own leave policy in 1977 as a small business. It now has more than 50 workers.

``Small businesses should not fear this,'' Barbara Blum, the

bank's president, said. ``It brings into the workforce people who stay with you.''
APNP-02-05-98 1801EST

Message Sent To:

Anne H. Lewis
Nicole R. Rabner
Jennifer L. Klein
Neera Tanden
Elena Kagan

Audrey T. Haynes 02/03/98 08:41:04 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Nicole R. Rabner/WHO/EOP, Janet Murguia/WHO/EOP
Subject: FMLA

Regarding Thurs.'s FMLA anniversary, the following events seem to be planned:

1. Women's Legal Defense Fund reported that Senator Dodd was having a press conference to celebrate the anniversary and announce more about the expansion.....(I have not confirmed with Dodd's office, however, Labor told me the same thing)

2. Carolyn Moloney is having a press conference at noon in conjunction with the Congressional Women's Caucus.....(I did not confirm, but this sounded more vague than the Dodd event)

**I can call folks Wed. a.m. to get the information on these 2 events.

As of late this afternoon, it was not clear as to what Labor would do, if anything. After our discussions this morning, they were possibly going to wait and just do the POTUS event.

Regarding states with lower thresholds as possible sites, for an event outside DC, Women's Legal Defense Fund reported the following:

DC.....threshold is 20
Maine.....threshold is 25
Minn.....threshold is 21, but law is not as broad as FMLA
Oregon.....threshold is 25
Vermont.....threshold is 10 for new born and newly adopted; and 15 for others, also allows 24 hours for dental care, etc.

Clearly, Vermont is the best state with alot of small business, but it doesn't appear the POTUS is headed anywhere near there over the next couple of weeks.

Please advise.....we'd love to see this come together in the District or out!

Thanks

Message Sent To:

Elena Kagan/OPD/EOP
Ann F. Lewis/WHO/EOP
Anne H. Lewis/OPD/EOP
Jonathan A. Kaplan/OPD/EOP
Maria Echaveste/WHO/EOP

THE WHITE HOUSE

WASHINGTON

January 23, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING

SUBJECT: Family and Medical Leave Expansions

This memorandum presents options to expand the Family and Medical Leave Act (FMLA) for your consideration before a possible announcement on this issue in your State of the Union Address. Expanding FMLA would further enable American workers to take protected time off to spend with a new or adopted child, or for medical emergencies. It would build on your strong record of helping parents meet their responsibilities to their families and their jobs, and, specifically, would complement two pieces of your current child care proposal that also help parents who wish to stay at home: (1) support for home visitation and other parent education programs in your Early Learning Fund, and (2) demonstration projects to test policies to help parents stay at home.

As you know, your advisors initially believed that a proposal to expand FMLA could help inoculate your child care initiative against conservative attack by allowing parents to spend more time with their children. Your recent child care announcement has generated overwhelmingly positive support; several leading Republicans, however, have been working on alternative proposals aimed entirely at helping parents to stay at home with their children. While an announcement on FMLA expansion would be an important marker in this area, given the nature of the proposals under active Republican consideration -- such as income splitting, income averaging, and expansion of the $500 per-child tax credit -- it is unlikely that any proposal to expand FMLA could stand up fully to these costly options. We therefore will continue our work with the Treasury Department to explore possible tax-related measures to support stay-at-home parents, in addition to any expansion of FMLA.

FMLA currently requires employers with 50 or more employees to provide up to 12 weeks of unpaid leave to eligible employees for certain family and medical reasons, including the care of a new child. Employees are eligible if they have worked for the employer for at least 12 months and for at least 1,250 hours over the previous 12 months, and if the employer has at least 50 employees working within 75 miles of the employee's worksite. Public agencies are covered by FMLA regardless of size, but employees must still meet the eligibility requirements, including working at a site where at least 50 employees are employed within 75 miles.

Options to expand FMLA include: (1) applying FMLA to businesses with 25 or more employees, either in one step or incrementally; or (2) extending the permissible leave period to 24 weeks for parents with newborns. Over the last few weeks, we have worked to determine the costs to businesses and the benefits to workers of pursuing either or both of these options. Unfortunately, we have found that useful data in this area does not exist. It is impossible to determine, for example, how many people currently taking leave to care for a newborn or adopted child would take additional leave or how additional leave would benefit people of particular income levels. Similarly, it is impossible to quantify the likely costs to small businesses.

Option 1: Expanding Coverage to Businesses with Fewer Employees. You could call for lowering FMLA's employer coverage threshold from 50 to 25, either in one step or incrementally (for example by lowering it to 40, then 35, and finally 25). Senators Kennedy and Dodd have proposed to lower the threshold to 10 employees, but your advisors believe that FMLA would be too great a burden on employers of that size.

According to the Department of Labor, 67 million employees are currently eligible for FMLA. Lowering the threshold to 40 would add 3.4 million people; lowering it to 35 would add 5.4 million people. Lowering the threshold all the way to 25 would add about 10 million people, increasing by 15 percent the number of employees covered by FMLA, and doubling the number of employers covered by the Act (from 330,000 to 690,000).

This proposal would give FMLA protection to more people at no cost to the federal government. It would receive strong support from labor, women's groups, and other core Democratic constituencies. The proposal, however, would provoke strong business opposition. Many Republican and some Democratic Members of Congress would likely criticize any attempt to lower the threshold as detrimental to small business. (According to a survey by the Family and Medical Leave Commission, however, the great majority of businesses that have implemented FMLA report little or no cost increases.)

Extending FMLA Leave from Three to Six Months

Below are three variations on this theme. The first is the most inclusive. The second limits the workers eligible to the full six months to those with two full years of job tenure with their current employer. The third limits the extent of the new benefit *and* makes it available only to new parents.

Option 2A: Extending FMLA from Three to Six Months. This option would allow workers who are currently eligible for FMLA to take longer leave. Approximately 12 million workers take FMLA leave. According to the FMLA Commission's survey, about 12.5 percent or 1.5 million workers take the full 12 week leave. Of these, 450,000 workers took 12 or more weeks leave for maternity, disability, or the care of a newborn, adopted or foster child.

This proposal would give parents additional time to spend with their new babies (again at no cost to the federal government). It might help respond to the charge that our child care proposal helps only working parents, not those who -- with a little help -- can and want to stay home with their children for a period of time. However, any family leave policy would not fully respond to that criticism because leave is by definition geared toward people who have been in the workforce and will return to it. In addition, this proposal would not help workers who currently cannot afford to take even the full 12 weeks of FMLA leave. According to the Commission's survey, 65 percent of those who would have liked to take leave to care for their newborn, foster, or adopted child could not do so for economic reasons. Because this proposal would not help such workers, FMLA advocates would likely give it only lukewarm support. Finally, businesses already covered by FMLA would oppose the extension because guaranteeing *six* months of leave would disrupt their operations.

Option 2B: Extend FMLA from Three to Six Months for Workers with Two Years Tenure. Although there is no data available, your advisors generally feel that extending FMLA to six months is a non-trivial burden on business. While businesses can arrange for other employees or temporary help to cover a co-workers' *three* month absence, a *six* month absence is harder to manage. Employers may have to hire replacement workers, thus increasing their costs significantly. Moreover, employers faced with the possibility of having to offer six months of job-protected leave to workers with only one year's tenure may be less likely to hire employees they suspect will take this leave. This option is intended to mitigate these problems by limiting eligibility for the extended leave to employees with two years of tenure.

Option 2C: Allow New Parents Up to 24 Weeks Leave in a Two Year Period. To eliminate the possibility that an employee could work only six months *each year* by taking six months of job protected leave annually, this proposal would instead allow new parents only to take six months of job protected leave *every two years*. Under this option, by taking the full six months to care for a newborn, the employee would forego any right to paid leave in the following year. Current law allows six months every two years, but restricts it to two three month periods. This proposal simply gives employees additional flexibility in taking their leave while adding only minimally to the business burden.

Recommendations: Your advisors agree that lowering the employee threshold will provoke significant opposition, but some of your advisors, including the First Lady, believe that it is a fight worth having. The First Lady believes strongly that lowering the threshold to 25 will make a real difference in people's lives, covering about 10 million more American workers with this significant benefit. She believes that, politically, it is an important thing to be for.

Some of your advisors feel that a decision about lowering the threshold must be made in the context of the impact of your overall agenda on the business community. Secretary Herman, for instance, believes that if you decide to call for an increase in the minimum wage, you should not also lower the threshold. If, however, you do not propose raising the minimum wage, then she feels you could call for lowering the threshold. Administrator Alvarez opposes any changes

to current law because she feels they will engender significant business opposition and may undermine gains we have already made.

Secretary Herman supports extending the length of FMLA leave. Secretary Rubin and Janet Yellin oppose Options 2A and 2B. Secretary Rubin feels that because businesses may need to hire replacement workers to cover six month absences, the cost to business of longer leave could be greater than the cost of initial implementation of the FMLA. He is also concerned that higher income workers are more likely to benefit from longer leave, while empirical evidence would suggest that all workers will pay for this in the form of lower wages. Janet Yellin shares Secretary Rubin's concerns about Options 2A and 2B, but supports Option 2C because she feels it is a very minor change from current law. The First Lady worries that the six month leave extension will make only a marginal difference, and will disproportionately assist higher-income workers.

The NEC has concerns about six months leave, but on the whole would support Option 2B -- extending the FMLA to six months for workers with two years tenure. The NEC fears, however, that lowering the limit to 25 will cause too much opposition from Southern Democratic Senators, especially if we also propose to raise minimum wage.

The DPC recommends that you propose Option 2B -- extending the FMLA to six months for workers with two years tenure -- and if you are willing to take on a larger fight, that you propose to lower the employee threshold to 25 as well. In addition, your advisors recommend that you continue to fight for the 24-hour extension of FMLA for school visits, doctor appointments and other family responsibilities.

1. Expand FMLA Coverage to Businesses with 25 Employees

____ YES ____ NO ____ DISCUSS

2A. Extend FMLA Leave from Three to Six Months

____ YES ____ NO ____ DISCUSS

2B. Extend FMLA from Three Months to Six Months for Workers With Two Years Tenure

____ YES ____ NO ____ DISCUSS

2C. Allow New Parents Six Months Every Two Years

____ YES ____ NO ____ DISCUSS

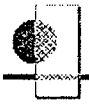
Katharine Button
07/16/98 02:14:03 PM

Record Type: Record

To: Nicole R. Rabner/WHO/EOP

cc:
Subject: FMLA

---------- Forwarded by Katharine Button/WHO/EOP on 07/16/98 02:18 PM ----------



Audrey T. Haynes @ OVP 07/16/98 11:32:16 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Maureen T. Shea/WHO/EOP, Sondra L. Seba/WHO/EOP
Subject: FMLA

I had a lengthy conversation this morning with Donna Lenoff from the National Partnership for Women and Families. The Labor Cabinet and the groups are wanting us to have a FMLA 5th Anniversary event either the last couple days of July or first of August.

Deliverables could be: Support for expansion legislation since we have not discussed since State of Union Announcement; we could possibly announce an educational campaign targeted at small business between SBA and Labor for voluntary compliance; and support for study of the National Academy of Sciences' work on how to make FMLA more affordable for working Americans.

Also, the Families and Work Institute has a new study about business benefits vs. cost which is very positive. So that could be released.

Anyway, I'm trying to gauge the possibility of the President or Vice President doing this.
I'm happy to put forth the request and see if we can work this through, but I'd like some feedback.
thanks

Message Sent To:

CONGRESSIONAL PROPOSALS TO EXPAND THE FMLA

COVERING EMPLOYEES OF MID-SIZED COMPANIES

The FMLA currently applies only to employers who employ 50 or more employees. The following bills would extend the FMLA to employees of mid-sized companies by lowering the threshold for FMLA coverage:

- Clinton Administration Proposal — Contact: Geri Palast, Assistant Secretary of Labor (202) 219-4692
- S. 183, introduced by Sen. Christopher Dodd (D-Conn.) (25 employees) — Contact: Suzanne Day (202) 224-5630
- H.R. 109, introduced by Rep. William Clay (D-Mo.) (25 employees)* — Contact: Peter Rutledge (202) 225-7117
- H.R. 191, introduced by Rep. Alcee Hastings (D-Fla.) (25 employees)* — Contact: Lindsay Rosenberg (202) 225-1313
- H.R. 234, introduced by Rep. Carolyn Maloney (D-N.Y.) (25 employees)* — Contact: Gail Ravnitsky (202) 225-7944
- H.R. 1373, introduced by Rep. Rosa DeLauro (D-Conn.) (20 employees) — Contact: Catriona Macdonald (202) 225-3661
- S.__ to be introduced by Sen. Edward Kennedy (D-Mass.) (10 employees) — Contact: Susan Green (202) 224-5441

LEAVE FOR OTHER SERIOUS FAMILY NEEDS

The FMLA currently allows employees to take leave for the birth or adoption of a baby; for the employee's serious health condition; or for the serious health condition of the employee's spouse, child, or parent. The following bills would allow employees to take leave for other important family needs:

Education -- 24 hours of unpaid leave per year to participate in children's school activities or literacy training:

- S. 280, introduced by Sen. Patty Murray (D-Wash.) — Contact: Greg Williamson (202) 224-2621
- H.R. 191, introduced by Rep. Alcee Hastings (D-Fla.)* — Contact: Lindsay Rosenberg (202) 225-1313

Education *Plus* Nonemergency Care for Children and Elderly Parents -- 24 hours of unpaid leave per year to participate in school activities as well as to accompany children and older relatives to routine dental or medical appointments:

- H.R. 109, introduced by Rep. William Clay (D-Mo.)* — Contact: Peter Rutledge (202) 225-7117
- H.R. 234, introduced by Rep. Carolyn Maloney (D-N.Y.)* — Contact: Gail Ravnitsky (202) 225-7944
- Clinton Administration proposal — Contact: Geri Palast, Assistant Secretary of Labor (202) 219-4692

Domestic Violence -- Permits employees to use FMLA leave to deal with the direct results of domestic violence and its aftermath.

- S. 367, introduced by Sen. Paul Wellstone (D-Minn.) — Contact: Charlotte Oldham-Moore (202) 224-5641
- H.R. 851, introduced by Rep. Lucille Roybal-Allard (D-Cal.) — Contact: Ellen Riddleberger (202) 225-1766

*H.R. 109, H.R. 191, and H.R. 234 both lower the coverage threshold *and* provide for leave for other serious family needs.

An Expanded FMLA Would Not Hurt Small Businesses

The FMLA already covers some small worksites that have fewer than 50 employees. Worksites with fewer than 50 employees are covered by the FMLA if they are part of a larger company with at least 50 employees within a 75-mile radius. According to the bipartisan Family Leave Commission, the majority of the 58,000 covered worksites of 25 to 49 employees found it easy and inexpensive to comply with the FMLA:

- 93% of covered worksites with 25 to 49 employees found it very or somewhat easy to determine worksite coverage, and 98% found it very or somewhat easy to determine employee eligibility.
- These smaller businesses found complying with the FMLA even easier than larger employers.
- 75% of covered worksites with 25 to 49 employees experienced little or no increase in their administrative costs; 89% experienced little or no increase in benefits costs; 83% experienced little or no increase in hiring and training costs, and 95% experienced little or no increase in other costs.

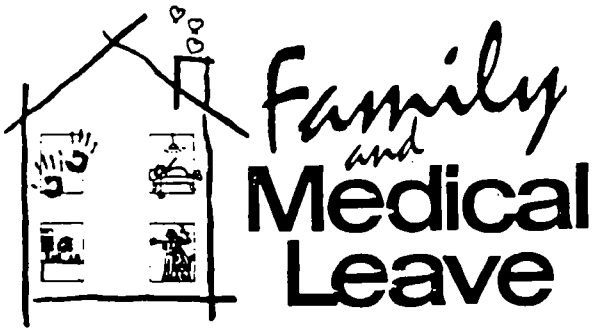
The Family Leave Commission also found that covered businesses' actual experiences with the FMLA were much more positive than non-covered businesses anticipated:

- Although almost 17% of non-covered worksites anticipated that complying with the FMLA would require a large increase in administrative costs, only 1.4% of covered worksites actually experienced a large increase.
- Although more than 18% of non-covered worksites anticipated a large increase in hiring/training costs, only 1% of covered worksites actually experienced a large increase.

ENDNOTES:

1. Except where noted, data come from U.S. Department of Labor, Bureau of Labor Statistics, "Covered Employment and Wages (ES-202) Program," (1995) and assume even distribution of establishments of 20-49 employees and of employees who work in establishments of 20-49 employees. In this fact sheet, we use the terms "employer" and "business" interchangeably with the Bureau of Labor Statistics' "establishment."

2. A Workable Balance: Report to Congress on Family and Medical Leave Policies (Family Leave Commission, 1996).



ALABAMA
MIDDLE SOUTH REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *ALABAMA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN ALABAMA?

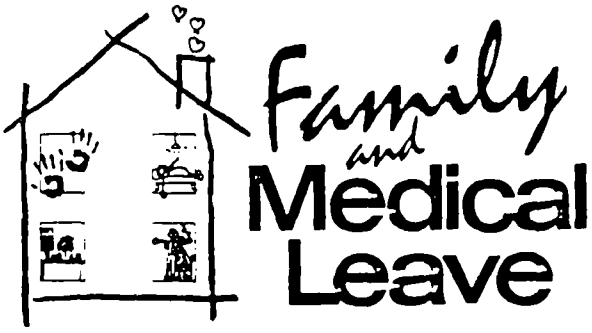
The chart below shows the numbers and rates of private-sector employees and employers in Alabama: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 204,663 more Alabamans (14.4% of the private workforce) would have the right to take FMLA leave.
- 70.2% of all Alabama's private *employees* would be covered by the FMLA -- the lowest rate in the Middle South, but only 1.1% lower than in the U.S. overall.
- Only an additional 7.1% of Alabama's private *employers* would be newly covered by the FMLA, yet this places Alabama among the 10 states in the nation with the highest increases in the percentage of covered employers.

FMLA Coverage in Alabama

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	791,233	204,663	995,896
% Employees covered	55.8%	14.4%	70.2%
# Employers covered	4,785	6,743	11,528
% Employers covered	5.0%	7.1%	12.1%

(over)



ALASKA
PACIFIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *ALASKA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN ALASKA?

The chart below shows the numbers and rates of private-sector employees and employers in Alaska: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 27,151 more Alaskans would have the right to take FMLA leave.
- An additional 15.5% of Alaska's private *employees* would be newly covered by the FMLA -- the 10th highest increase in the nation.
- Because of its small population, Alaska would rank last in the nation for number of people covered by the FMLA.
- Of all states in the country, Alaska would have the smallest number (901) of private *employers* newly covered by the FMLA.

FMLA Coverage in Alaska

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	82,040	27,151	109,191
% Employees covered	46.9%	15.5%	62.4%
# Employers covered	548	901	1,449
% Employers covered	3.4%	5.6%	9.0%

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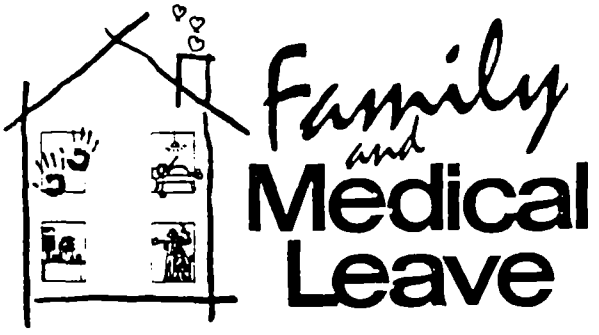

ARIZONA
MOUNTAIN REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *ARIZONA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN ARIZONA?

The chart below shows the numbers and rates of private-sector employees and employers in Arizona: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 202,834 more Arizonans (13.6% of the private workforce) would have the right to take FMLA leave.
- 72.7% of all Arizona's private *employees* would be covered by the FMLA -- only 12 states would have higher employee coverage.
- The percentage of all Arizona's private *employers* covered by the FMLA would be 11.7% -- just above the U.S. overall rate of 11.2%.

FMLA Coverage in Arizona

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	884,824	202,834	1,087,658
% Employees covered	59.1%	13.6%	72.7%
# Employers covered	4,999	6,700	11,699
% Employers covered	5.0%	6.7%	11.7%

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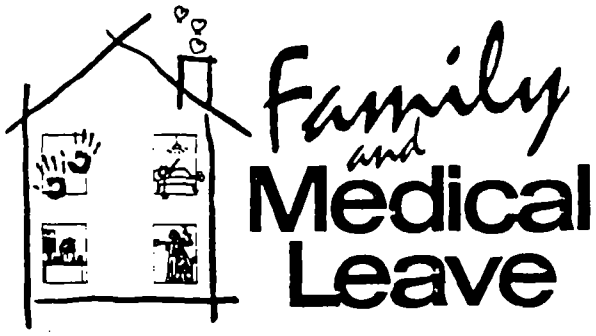

ARKANSAS
SOUTH CENTRAL REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *ARKANSAS*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN ARKANSAS?

The chart below shows the numbers and rates of private-sector employees and employers in Arkansas: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 119,366 more people in Arkansas would have the right to take FMLA leave.
- 13.8% of Arkansas' private *employees* would be newly covered by the FMLA -- the same increase as in the U.S. overall.
- An additional 6.4% of Arkansas' private *employers* would be newly covered by the FMLA -- again, the same increase as in the U.S. overall.
- The total percentage of Arkansas private *employers* covered by the FMLA would be just 10.9% -- the lowest in the South Central region.

FMLA Coverage in Arkansas

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	483,277	119,366	602,643
% Employees covered	55.9%	13.8%	69.7%
# Employers covered	2,785	3,979	6,764
% Employers covered	4.5%	6.4%	10.9%

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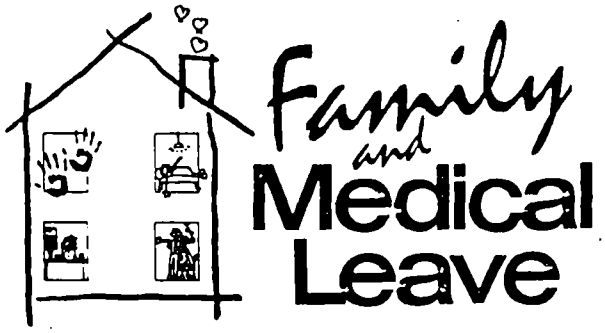


CALIFORNIA
PACIFIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *CALIFORNIA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN CALIFORNIA?

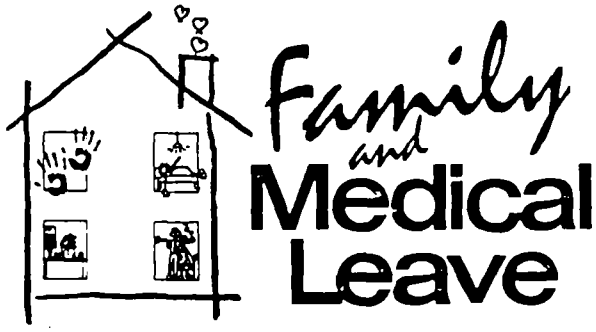
The chart below shows the numbers and rates of private-sector employees and employers in California: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 1,518,241 more people in California would have the right to take FMLA leave. California would rank 1st in the nation for the number of people newly covered by the FMLA.
- An additional 14.5% of California's private *employees* would be newly covered by the FMLA -- well above the national average of 13.8%.
- 70.0% of all *employees* in California's private workforce would be covered by the FMLA -- the highest rate in the Pacific region.

FMLA Coverage in California

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	5,813,391	1,518,241	7,331,632
% Employees covered	55.5%	14.5%	70.0%
# Employers covered	37,145	50,109	87,254
% Employers covered	4.1%	5.5%	9.6%

(over)



COLORADO
MOUNTAIN REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *COLORADO*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN COLORADO?

The chart below shows the numbers and rates of private-sector employees and employers in Colorado: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 228,653 more people in Colorado (15.3% of the private workforce) would have the right to take FMLA leave -- more people than in any other state in the Mountain region.
- A total of 67.5% of Colorado's private *employees* would be newly covered by the FMLA -- below the national average of 71.3% but above the Mountain regional average of 64.2%.
- Only 11.0% of all Colorado's private *employers* would be covered by the FMLA -- below the national rate of 11.2%.

FMLA Coverage in Colorado

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	777,984	228,653	1,006,637
% Employees covered	52.2%	15.3%	67.5%
# Employers covered	5,172	7,528	12,700
% Employers covered	4.5%	6.5%	11.0%

(over)

CONNECTICUT
NEW ENGLAND REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *CONNECTICUT*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN CONNECTICUT?

The chart below shows the numbers and rates of private-sector employees and employers in Connecticut: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 170,104 more people in Connecticut (12.8% of the private workforce) would have the right to take FMLA leave.
- 71.1% of all Connecticut's private *employees* would be covered by the FMLA -- the 2nd highest level in New England.
- The total percentage of Connecticut's private *employers* covered by the FMLA would be 10.0% -- below the national rate of 11.2% and lower than in 38 other states.

FMLA Coverage in Connecticut

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	772,268	170,104	942,372
% Employees covered	58.3%	12.8%	71.1%
# Employers covered	4,310	5,646	9,956
% Employers covered	4.3%	5.7%	10.0%

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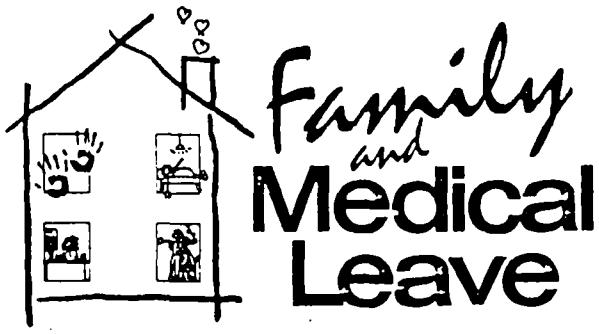

DELAWARE
SOUTH ATLANTIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *DELAWARE*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN DELAWARE?

The chart below shows the numbers and rates of private-sector employees and employers in Delaware: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 34,812 more people in Delaware would have the right to take FMLA leave.
- Although only an additional 11.5% of Delaware private *employees* would be newly covered by the FMLA -- the lowest increase in the nation -- 74.2% of all Delaware's private employees would be covered by the FMLA -- the 7th highest rate in the nation.
- Only an additional 5.9% of Delaware's private *employers* would be newly covered by the FMLA -- a lower increase than in 35 other states.

FMLA Coverage in Delaware

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	189,172	34,812	223,984
% Employees covered	62.7%	11.5%	74.2%
# Employers covered	924	1,162	2,086
% Employers covered	4.7%	5.9%	10.6%

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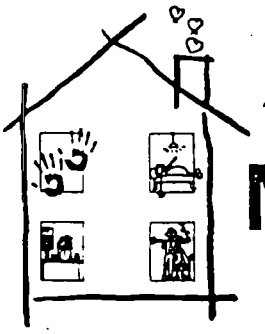


Family and Medical Leave

DISTRICT OF COLUMBIA
SOUTH ATLANTIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN THE *DISTRICT OF COLUMBIA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN THE DISTRICT OF COLUMBIA?[3]

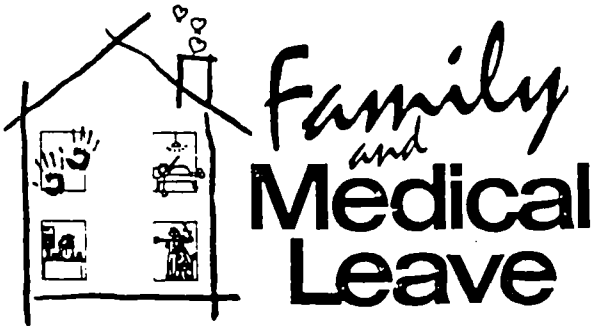
The chart below shows the numbers and rates of private-sector employees and employers in District of Columbia: who are currently covered by the federal FMLA (Size of Employer is 50+); who work for companies of 25-49 employees (Size of Employer is 25-49); and who work for companies of 25 or more employees (Size of Employer is 25+).

- 43,877 people in D.C. (11.8% of the private workforce) work for companies with between 25 and 49 employees. If it were not for the D.C. FMLA, they would not now have the right to take FMLA leave.
- 75.8% of all D.C.'s private *employees* work for companies of 25 or more employees -- the 2nd highest rate in the nation.
- The total percentage of D.C.'s private *employers* of 25 or more employees is only 11.0% -- just below the overall U.S. rate of 11.2%.

FMLA Coverage in the District of Columbia

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	238,323	43,877	282,200
% Employees covered	64.0%	11.8%	75.8%
# Employers covered	1,290	1,438	2,728
% Employers covered	5.2%	5.8%	11.0%

(over)



FLORIDA
SOUTH ATLANTIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *FLORIDA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN FLORIDA?

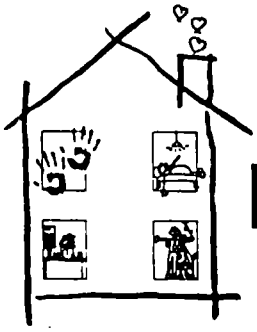
The chart below shows the numbers and rates of private-sector employees and employers in Florida who: are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 676,403 more Floridians (13.2% of the private workforce) would have the right to take FMLA leave.
- Florida would rank 4th in the nation for numbers of both *employees* and *employers* newly covered by the FMLA.
- Only additional 5.9% of Florida's private *employers* would be newly covered by the FMLA -- a lower increase than in 35 other states.
- The total percentage of Florida's private *employers* covered by the FMLA would be only 10.5% -- below the rate of 33 other states.

FMLA Coverage in Florida

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	2,942,258	676,403	3,618,661
% Employees covered	57.2%	13.2%	70.4%
# Employers covered	17,315	22,152	39,467
% Employers covered	4.6%	5.9%	10.5%

(over)



Family and Medical Leave

GEORGIA
SOUTH ATLANTIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *GEORGIA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN GEORGIA?

The chart below shows the numbers and rates of private-sector employees and employers in Georgia: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 384,518 more Georgians (14.0% of the private workforce) would have the right to take FMLA leave. Georgia would rank 10th in the nation for people who would be newly covered by the FMLA.
- 72.5% of all Georgia's private *employees* would be covered by the FMLA -- the 13th highest rate in the nation.
- An additional 7.0% of Georgia's private *employers* would be newly covered by the FMLA -- above the national average of 6.4% and the 5th highest increase in the nation (along with Missouri and Virginia).

FMLA Coverage in Georgia

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	1,605,380	384,518	1,989,898
% Employees covered	58.5%	14.0%	72.5%
# Employers covered	9,705	12,663	22,368
% Employers covered	5.4%	7.0%	12.4%

(over)

HAWAII
PACIFIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *HAWAII*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN HAWAII?

The chart below shows the numbers and rates of private-sector employees and employers in Hawaii: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 64,606 more Hawaiians (15.0% of the private workforce) would have the right to take FMLA leave.
- 67.7% of all Hawaii's private *employees* would be covered by the FMLA -- the second highest (after California) in the total percentage of covered *employees* in the Pacific region.
- An additional 6.8% of Hawaii's private *employers* would be newly covered by the FMLA -- the highest increase in the region and just above the national average of 6.4%.

FMLA Coverage in Hawaii

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	226,192	64,606	290,798
% Employees covered	52.7%	15.0%	67.7%
# Employers covered	1,454	2,133	3,587
% Employers covered	4.6%	6.8%	11.4%

(over)

ILLINOIS
MIDWEST REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *ILLINOIS*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN ILLINOIS?

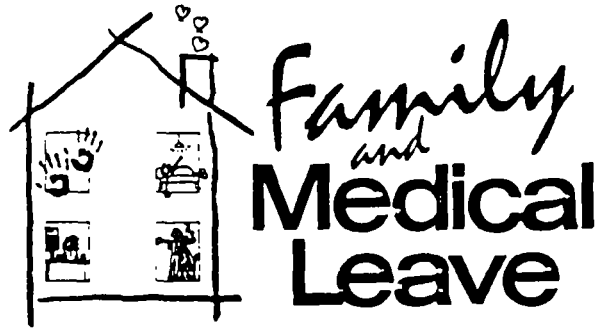
The chart below shows the numbers and rates of private-sector employees and employers in Illinois: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 573,788 more people in Illinois (12.4% of the private workforce) would have the right to take FMLA leave. Illinois would rank 5th in the nation and the highest in the Midwest for the number of people newly covered by the FMLA.
- More than 3 out of 4 (75.4%) Illinois' private *employees* would be covered by the FMLA -- the 3rd highest rate in the nation and the highest in the Midwest.
- Only an additional 6.8% of Illinois' private *employers* would be covered by the FMLA -- the lowest increase in the Midwest.

FMLA Coverage in Illinois

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	2,919,950	573,788	3,493,738
% Employees covered	63.0%	12.4%	75.4%
# Employers covered	15,921	18,819	34,740
% Employers covered	5.7%	6.8%	12.5%

(over)



INDIANA
MIDWEST REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *INDIANA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN INDIANA?

The chart below shows the numbers and rates of private-sector employees and employers in Indiana: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 321,659 more Indianans would have the right to take FMLA leave.
- 13.9% of Indiana's private *employees* would be newly covered by the FMLA -- the highest increase in the percentage of covered *employees* in the Midwest.
- 73.4% of all Indiana's private *employees* would be covered by the FMLA -- the 9th highest rate in the country (tied with Wisconsin).

FMLA Coverage in Indiana

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	1,379,005	321,659	1,700,664
% Employees covered	59.5%	13.9%	73.4%
# Employers covered	8,140	10,545	18,685
% Employers covered	5.8%	7.5%	13.3%

(over)

IDAHO
MOUNTAIN REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *IDAHO*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN IDAHO?

The chart below shows the numbers and rates of private-sector employees and employers in Idaho: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 60,318 more people in Idaho would have the right to take FMLA leave.
- An additional 16.2% of Idaho's private *employees* would be newly covered by the FMLA -- the 6th highest increase in the nation.
- Idaho would rank among the 3 states in the nation with the lowest levels of total coverage for both *employees* (59.6%) and *employers* (8.9%) in the private sector. (The other 2 states would be Wyoming and Montana).

FMLA Coverage in Idaho

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	161,770	60,318	222,088
% Employees covered	43.4%	16.2%	59.6%
# Employers covered	1,086	2,047	3,133
% Employers covered	3.1%	5.8%	8.9%

(over)

Family and Medical Leave

IOWA
NORTH CENTRAL REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *IOWA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN IOWA?

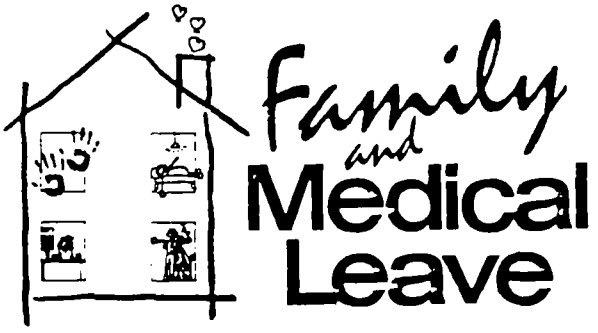
The chart below shows the numbers and rates of private-sector employees and employers in Iowa: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 154,623 more people in Iowa would have the right to take FMLA leave.
- An additional 14.3% of Iowa's private *employees* would be newly covered by the FMLA -- above the national average of 13.8%.
- Only an additional 6.4% of Iowa's private *employers* would be newly covered by the FMLA -- the same increase as in the U.S. overall.

FMLA Coverage in Iowa

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	569,551	154,623	724,174
% Employees covered	52.8%	14.3%	67.1%
# Employers covered	3,586	5,118	8,704
% Employers covered	4.5%	6.4%	10.9%

(over)



KANSAS
NORTH CENTRAL REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *KANSAS*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN KANSAS?

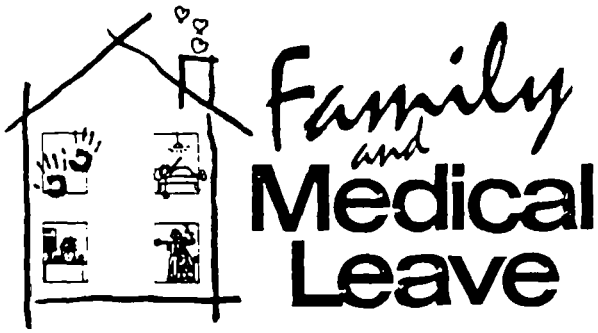
The chart below shows the numbers and rates of private-sector employees and employers in Kansas: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 142,445 more Kansans would have the right to take FMLA leave.
- 15.3% of Kansas' private *employees* would be newly covered by the FMLA -- above both the national average of 13.8% and the North Central regional average of 14.7%.
- The total percentage of in Kansas' private *employers* covered by the FMLA would be 11.1% -- just above the North Central regional average of 10.9% and below the overall U.S. rate of 11.2%.

FMLA Coverage in Kansas

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	480,727	142,445	623,172
% Employees covered	51.6%	15.3%	66.9%
# Employers covered	3,109	4,736	7,845
% Employers covered	4.4%	6.7%	11.1%

(over)



KENTUCKY
MIDDLE SOUTH REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *KENTUCKY*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN KENTUCKY?

The chart below shows the numbers and rates of private-sector employees and employers in Kentucky: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 190,989 more people in Kentucky would have the right to take FMLA leave.
- 14.7% of Kentucky's private *employees* would be newly covered by the FMLA -- well above the national average of 13.8% and the highest increase in the percentage of covered *employees* in the Middle South region.
- An additional 7.3% of Kentucky's private *employers* would be covered by the FMLA -- the 3rd highest increase in the nation (along with Ohio and Louisiana) but only 0.3% above the Middle South regional average of 7.0%.

FMLA Coverage in Kentucky

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	732,180	190,989	923,169
% Employees covered	56.3%	14.7%	71.0%
# Employers covered	4,546	6,322	10,868
% Employers covered	5.2%	7.3%	12.5%

(over)

Family and Medical Leave

LOUISIANA
SOUTH CENTRAL REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *LOUISIANA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN LOUISIANA?

The chart below shows the numbers and rates of private-sector employees and employers in Louisiana: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 214,941 more Louisianans would have the right to take FMLA leave.
- 15.8% of all Louisiana's private *employees* would be newly covered by the FMLA, placing Louisiana among the 10 states in the nation with the highest increases of covered *employees*.
- An additional 7.3% of Louisiana's private *employers* would be covered by the FMLA -- the 3rd highest increase in the nation (along with Ohio and Kentucky) but only 0.3% higher than the South Central regional average of 7.0%.

FMLA Coverage in Louisiana

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	718,801	214,941	933,742
% Employees covered	52.8%	15.8%	68.6%
# Employers covered	4,725	7,143	11,868
% Employers covered	4.9%	7.3%	12.2%

(over)

MAINE
NEW ENGLAND REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *MAINE*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN MAINE?[3]

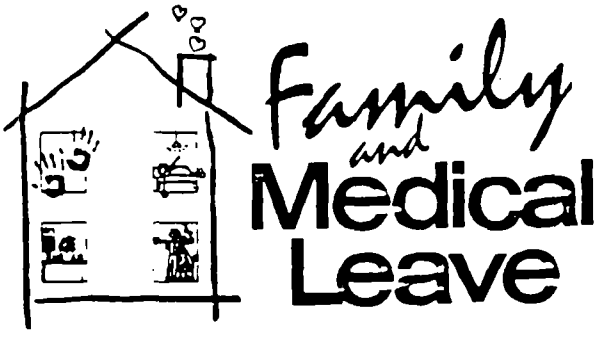
The chart below shows the numbers and rates of private-sector employees and employers in Maine: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 59,953 more people in Maine (14.3% of the private workforce) would have the right to take FMLA leave.
- An additional 5.4% of Maine's private *employers* would be covered by the FMLA -- the 2nd lowest increase in the nation (along with Washington).
- The total percentage of Maine's private *employers* covered by the FMLA would be only 9.2% -- the 6th lowest rate in the nation.

FMLA Coverage in Maine

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	212,909	59,953	272,862
% Employees covered	50.9%	14.3%	65.2%
# Employers covered	1,389	1,978	3,367
% Employers covered	3.8%	5.4%	9.2%

(over)



MARYLAND
SOUTH ATLANTIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *MARYLAND*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN MARYLAND?

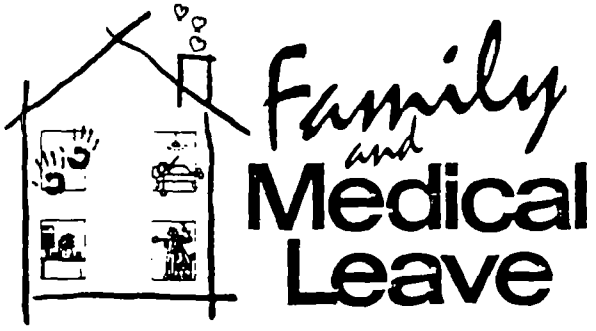
The chart below shows the numbers and rates of private-sector employees and employers in Maryland: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 243,400 more people in Maryland (14.3% of the private workforce) would have the right to take FMLA leave.
- 70.1% of all Maryland's private *employees* would be covered by the FMLA -- slightly below the national rate of 71.3%.
- The total percentage of Maryland's private *employers* covered by the FMLA would be 10.4% -- the lowest level in the South Atlantic region and lower than in 35 other states.

FMLA Coverage in Maryland

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	952,519	243,400	1,195,919
% Employees covered	55.8%	14.3%	70.1%
# Employers covered	5,923	7,998	13,921
% Employers covered	4.4%	6.0%	10.4%

(over)



MASSACHUSETTS
NEW ENGLAND REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *MASSACHUSETTS*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN MASSACHUSETTS?

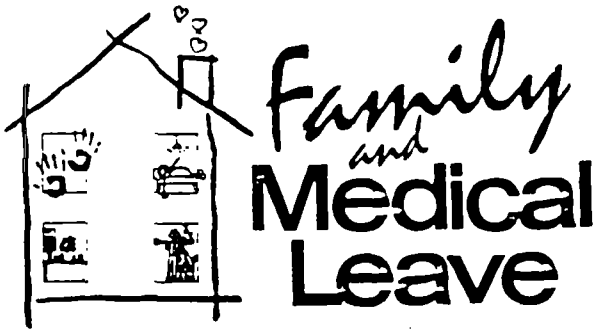
The chart below shows the numbers and rates of private-sector employees and employers in Massachusetts: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 319,308 more people in Massachusetts (12.9% of the private workforce) would have the right to take FMLA leave. Massachusetts would have the most people newly covered by the FMLA in the New England region.
- 72.8% of all Massachusetts' private *employees* would be covered by the FMLA -- the highest rate in the New England region.
- An additional 6.5% of Massachusetts' private *employers* would be covered by the FMLA -- the highest increase in New England and just over the national average of 6.4%.

FMLA Coverage in Massachusetts

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	1,483,486	319,308	1,802,794
% Employees covered	59.9%	12.9%	72.8%
# Employers covered	8,518	10,535	19,053
% Employers covered	5.2%	6.5%	11.7%

(over)



MICHIGAN
MIDWEST REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *MICHIGAN*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN MICHIGAN?

The chart below shows the numbers and rates of private-sector employees and employers in Michigan: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 437,375 more people in Michigan (12.4% of the private workforce) would have the right to take FMLA leave. This would rank Michigan 8th in the nation for the most people newly covered by the FMLA.
- 74.9% of all Michigan's private *employees* would be covered by the FMLA, placing Michigan among the 10 states with the highest rates in the nation.
- The total percentage of Michigan's private *employers* covered by the FMLA would be 12.4% -- among the 10 highest rates in the nation.

FMLA Coverage in Michigan

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	2,196,949	437,375	2,634,324
% Employees covered	62.5%	12.4%	74.9%
# Employers covered	11,552	14,359	25,911
% Employers covered	5.5%	6.9%	12.4%

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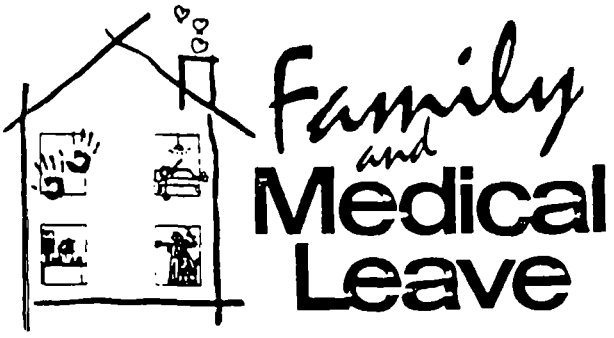


MINNESOTA
NORTH CENTRAL REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *MINNESOTA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN MINNESOTA?

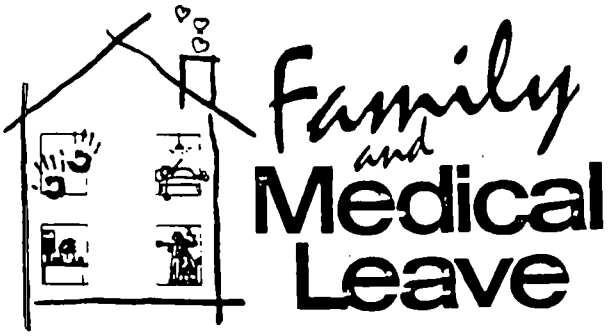
The chart below shows the numbers and rates of private-sector employees and employers in Minnesota: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 259,654 more Minnesotans (13.5% of the private workforce) would have the right to take FMLA leave.
- 72.2% of all Minnesota's private *employees* would be covered by the FMLA -- the highest rate in the North Central region.
- Only an additional 6.8% of Minnesota's private *employers* would be newly covered by the FMLA -- 0.4% above the national and North Central regional averages, both of 6.4%.

FMLA Coverage in Minnesota

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	1,131,532	259,654	1,391,186
% Employees covered	58.7%	13.5%	72.2%
# Employers covered	6,558	8,579	15,137
% Employers covered	5.2%	6.8%	12.0%

(over)



MISSISSIPPI
MIDDLE SOUTH REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *MISSISSIPPI*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN MISSISSIPPI?

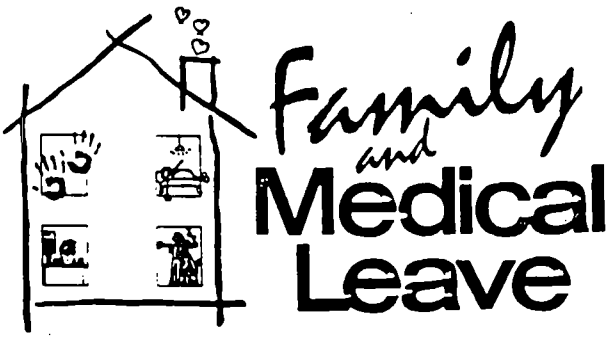
The chart below shows the numbers and rates of private-sector employees and employers in Mississippi: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 107,230 more Mississippians (12.8% of the private workforce) would have the right to take FMLA leave.
- 71.1% of all Mississippi's private *employees* would be covered by the FMLA -- almost equal to the national rate of 71.3%.
- Only an additional 6.3% of Mississippi's private *employers* would be newly covered by the FMLA -- the lowest increase in the Middle South region.
- The total percentage of Mississippi's private *employers* covered by the FMLA would be 11.3% -- the lowest rate in the Middle South.

FMLA Coverage in Mississippi

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	490,372	107,230	597,602
% Employees covered	58.3%	12.8%	71.1%
# Employers covered	2,793	3,561	6,354
% Employers covered	5.0%	6.3%	11.3%

(over)



MISSOURI
NORTH CENTRAL REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *MISSOURI*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN MISSOURI?

The chart below shows the numbers and rates of private-sector employees and employers in Missouri: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 295,517 more Missourians would have the right to take FMLA leave. Missouri would have the most people newly covered by the FMLA in the North Central region.
- An additional 14.4% of Missouri's private *employees* would be newly covered by the FMLA -- well above the national average of 13.8%.
- The total percentage of Missouri's private *employers* covered by the FMLA would be 12.0% -- tied with Minnesota for the highest rate in the North Central region.

FMLA Coverage in Missouri

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	1,160,093	295,517	1,455,610
% Employees covered	56.6%	14.4%	71.0%
# Employers covered	6,962	9,790	16,752
% Employers covered	5.0%	7.0%	12.0%

(over)

MONTANA
MOUNTAIN REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *MONTANA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN MONTANA?

The chart below shows the numbers and rates of private-sector employees and employers in Montana: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 46,419 more people in Montana would have the right to take FMLA leave.
- An additional 17.9% of Montana's private *employees* would be covered by the FMLA -- the 2nd highest increase in the nation.
- For the first time, over half -- 54.2% -- of all Montana's private *employees* would be covered by the FMLA -- but this is still the 2nd lowest rate in the nation.
- An additional 5.0% of Montana's private *employers* would be newly covered by the FMLA -- the lowest increase in the nation.

FMLA Coverage in Montana

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	94,343	46,419	140,762
% Employees covered	36.3%	17.9%	54.2%
# Employers covered	754	1,557	2,311
% Employers covered	2.4%	5.0%	7.4%

(over)

NEBRASKA
NORTH CENTRAL REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *NEBRASKA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 43% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN NEBRASKA?

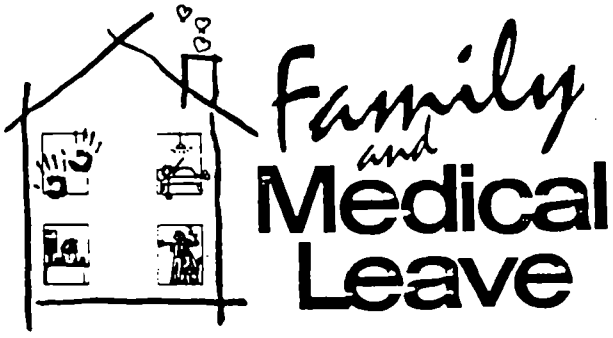
The chart below shows the numbers and rates of private-sector employees and employers in Nebraska: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 86,108 more Nebraskans (13.6% of the private workforce) would have the right to take FMLA leave.
- 69.2% of all Nebraska's private *employees* would be covered by the FMLA, above the North Central regional average of 67.1%.
- An additional 6.5% of Nebraska's private *employers* would be newly covered by the FMLA -- just 0.1% above the national and North Central regional averages, both of 6.4%.

FMLA Coverage in Nebraska

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	352,695	86,108	438,803
% Employees covered	55.6%	13.6%	69.2%
# Employers covered	2,005	2,884	4,889
% Employers covered	4.5%	6.5%	11.0%

(over)



NEVADA
MOUNTAIN REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *NEVADA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN NEVADA?

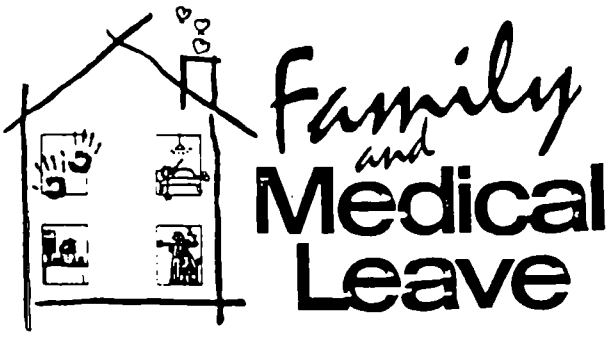
The chart below shows the numbers and rates of private-sector employees and employers in Nevada: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 80,243 more Nevadans (12.0% of the private workforce) would have the right to take FMLA leave.
- 74.7% of all Nevada's private *employees* would be covered by the FMLA -- the 5th highest rate in the nation and the highest in the Mountain region.
- An additional 6.9% of Nevada's private *employers* would be newly covered by the FMLA -- 0.5% higher than the national average of 6.4% and 0.6% higher than the Mountain region average of 6.3%.

FMLA Coverage in Nevada

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	420,708	80,243	500,951
% Employees covered	62.7%	12.0%	74.7%
# Employers covered	1,948	2,675	4,623
% Employers covered	5.1%	6.9%	12.0%

(over)



NEW HAMPSHIRE
NEW ENGLAND REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *NEW HAMPSHIRE*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN NEW HAMPSHIRE?

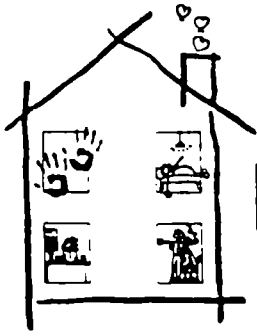
The chart below shows the numbers and rates of private-sector employees and employers in New Hampshire: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 65,703 more people in New Hampshire would have the right to take FMLA leave.
- An additional 14.9% of New Hampshire's private workforce would be covered by the FMLA -- well above both New England's regional average of 14.1% and the national average of 13.8%.
- The total percentage of New Hampshire's private *employers* covered by the FMLA would be 10.2% -- close to the New England regional average of 10.0% and below the national average of 11.2%.

FMLA Coverage in New Hampshire

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	226,007	65,703	291,710
% Employees covered	51.2%	14.9%	66.1%
# Employers covered	1,536	2,185	3,721
% Employers covered	4.2%	6.0%	10.2%

(over)



Family and Medical Leave

NEW JERSEY
MIDDLE ATLANTIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *NEW JERSEY*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN NEW JERSEY ?

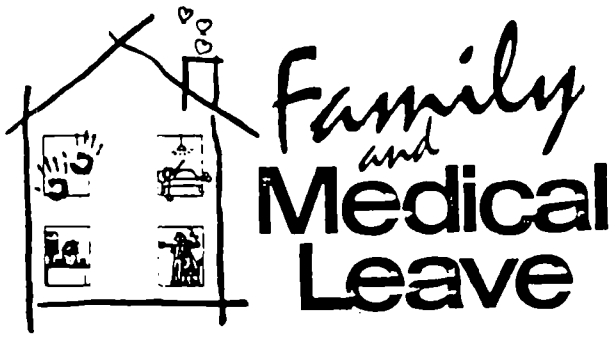
The chart below shows the numbers and rates of private-sector employees and employers in New Jersey: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 380,569 more people in New Jersey would have the right to take FMLA leave.
- 71.0% of all New Jersey's private workforce would be covered by the FMLA -- just below the national average of 71.3%.
- An additional 5.7% of New Jersey's private *employers* would be covered by the FMLA -- below the overall national increase of 6.4%.

FMLA Coverage in New Jersey

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	1,686,270	380,569	2,066,839
% Employees covered	57.9%	13.1%	71.0%
# Employers covered	9,874	12,543	22,417
% Employers covered	4.5%	5.7%	10.2%

(over)



NEW MEXICO
MOUNTAIN REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *NEW MEXICO*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN NEW MEXICO?

The chart below shows the numbers and rates of private-sector employees and employers in New Mexico: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 84,160 more people in New Mexico would have the right to take FMLA leave.
- An additional 16.7% of New Mexico's private *employees* would be covered by the FMLA -- the 4th highest increase in the nation.
- The total percentage of New Mexico's private *employers* covered by the FMLA would be 10.9% -- above the Mountain regional rate of 10.3% but below the overall U.S. rate of 11.2%.

FMLA Coverage in New Mexico

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	243,224	84,160	327,384
% Employees covered	48.3%	16.7%	65.0%
# Employers covered	1,745	2,786	4,531
% Employers covered	4.2%	6.7%	10.9%

(over)

NORTH CAROLINA
SOUTH ATLANTIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *NORTH CAROLINA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN NORTH CAROLINA?

The chart below shows the numbers and rates of private-sector employees and employers in North Carolina: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 385,048 more North Carolinians (13.5% of the private workforce) would have the right to take FMLA leave. North Carolina would rank 9th in the nation for the number of people newly covered by the FMLA.
- 73.1% of all North Carolina's private *employees* would be covered by the FMLA -- the 10th highest rate in the nation.
- An additional 7.4% of North Carolina's private *employers* would be newly covered by the FMLA -- only 1.0% above the national average of 6.4% but still making North Carolina (along with Texas) the state with the 2nd highest increase in the nation in rate of employer coverage.

FMLA Coverage in North Carolina

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	1,695,322	385,048	2,080,370
% Employees covered	59.6%	13.5%	73.1%
# Employers covered	9,653	12,630	22,283
% Employers covered	5.6%	7.4%	13.0%

(over)

Family and Medical Leave

NORTH DAKOTA
NORTH CENTRAL REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *NORTH DAKOTA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN NORTH DAKOTA?

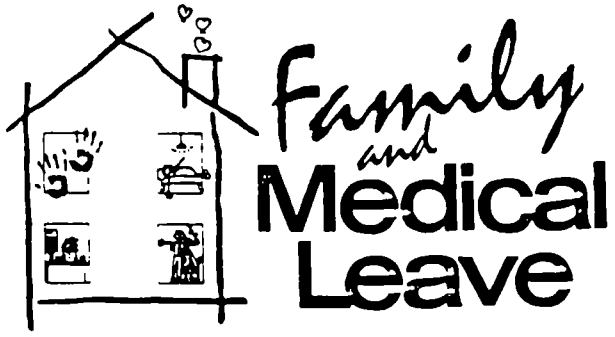
The chart below shows the numbers and rates of private-sector employees and employers in North Dakota: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 37,353 more North Dakotans would have the right to take FMLA leave.
- An additional 16.9% of North Dakota's private *employees* would be covered by the FMLA -- the 3rd highest increase in the nation and the highest in the North Central region.
- The total percentage of North Dakota's private *employers* covered by the FMLA would be only 9.8% -- below the overall U.S. rate of 11.2% and the rates of 39 other states.

FMLA Coverage in North Dakota

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	97,870	37,353	135,223
% Employees covered	44.2%	16.9%	61.1%
# Employers covered	759	1,243	2,002
% Employers covered	3.7%	6.1%	9.8%

(over)



OHIO
MIDWEST REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *OHIO*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN OHIO?

The chart below shows the numbers and rates of private-sector employees and employers in Ohio: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 558,893 more people in Ohio (13.0% of the private workforce) would have the right to take FMLA leave. Ohio would rank 6th in the nation for the number of people newly covered by the FMLA.
- 74.5% of Ohio's private *employees* would be covered by the FMLA -- the 6th highest rate in the nation.
- An addtional 7.3% of Ohio's private *employers* would be newly covered by the FMLA -- the 3rd highest increase in the nation (along with Louisiana and Kentucky).

FMLA Coverage in Ohio

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	2,651,361	558,893	3,210,254
% Employees covered	61.5%	13.0%	74.5%
# Employers covered	15,427	18,321	33,748
% Employers covered	6.2%	7.3%	13.5%

(over)

Family and Medical Leave

OKLAHOMA
SOUTH CENTRAL REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *OKLAHOMA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN OKLAHOMA?

The chart below shows the numbers and rates of private-sector employees and employers in Oklahoma: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 160,998 more Oklahomans would have the right to take FMLA leave.
- An additional 16.1% of Oklahoma's private *employees* would be covered by the FMLA -- among the 10 states in the nation with the highest increases in private employee coverage and the highest increase in the South Central region.
- The total percentage of Oklahoma's private *employers* covered by the FMLA would be 11.2% -- below the South Central regional average of 11.8% and the same as the national rate.

FMLA Coverage in Oklahoma

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	508,751	160,998	669,749
% Employees covered	50.9%	16.1%	67.0%
# Employers covered	3,349	5,352	8,701
% Employers covered	4.3%	6.9%	11.2%

(over)

OREGON
PACIFIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *OREGON*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN OREGON?[3]

The chart below shows the numbers and rates of private-sector employees and employers in Oregon: who are currently covered by the FMLA (Size of Employer is 50+); who work for companies of 25-49 employees (Size of Employer is 25-49); and who work for companies of 25 or more employees (Size of Employer is 25+).

- 188,804 Oregonians work for companies with 25-49 employees. If it were not for the Oregon FMLA, they would not now have the right to take FMLA leave.
- 16.4% of Oregon's private *employees* work for companies with 25-49 employees -- the 5th highest rate in the nation and the highest in the Pacific region.
- 10.7% of all Oregon's private *employers* have 25 or more employees -- above the Pacific regional average of 10.0% but below the national rate of 11.2%.

FMLA Coverage in Oregon

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	554,883	188,804	743,687
% Employees covered	48.3%	16.4%	64.7%
# Employers covered	3,892	6,277	10,169
% Employers covered	4.1%	6.6%	10.7%

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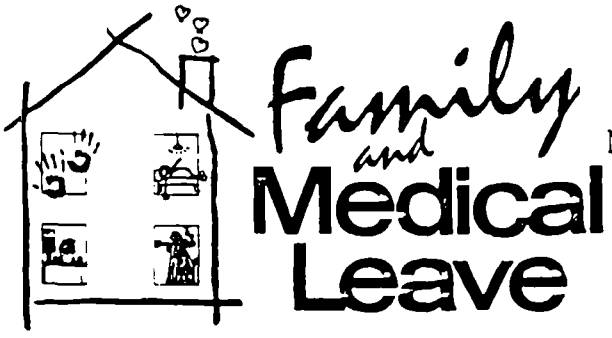


PENNSYLVANIA
MIDDLE ATLANTIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *PENNSYLVANIA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN PENNSYLVANIA?

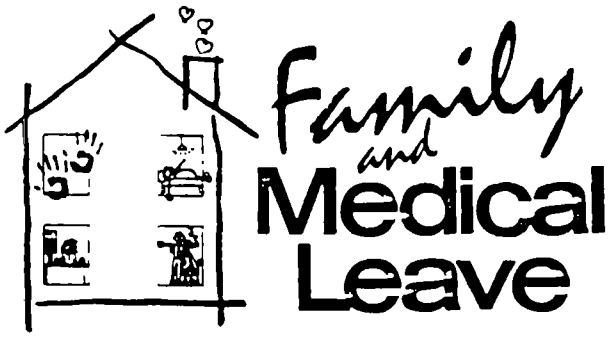
The chart below shows the numbers and rates of private-sector employees and employers in Pennsylvania: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 550,309 more Pennsylvanians (12.7% of the private workforce) would have the right to take FMLA leave. Pennsylvania would rank 7th in the nation for the number of people newly covered by the FMLA.
- 73.9% of all Pennsylvania's private *employees* would be covered by the FMLA -- the 8th highest rate in the nation and the highest in the Middle Atlantic region.
- An additional 6.8% of Pennsylvania's private *employers* would be covered by the FMLA -- the 7th highest increase in the country (along with Minnesota, Hawaii, and Illinois), but only 0.4% higher than the national average of 6.4%.

FMLA Coverage in Pennsylvania

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	2,661,379	550,309	3,211,688
% Employees covered	61.2%	12.7%	73.9%
# Employers covered	14,901	18,097	32,998
% Employers covered	5.6%	6.8%	12.4%

(over)



RHODE ISLAND
NEW ENGLAND REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *RHODE ISLAND*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN RHODE ISLAND?

The chart below shows the numbers and rates of private-sector employees and employers in Rhode Island: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 51,603 more people in Rhode Island (14.1% of the private workforce) would have the right to take FMLA leave.
- 69.7% of all Rhode Island's private *employees* would be covered by the FMLA -- below the national rate of 71.3%, but above the New England regional average rate of 67.6%.
- The total percentage of Rhode Island's private *employers* covered by the FMLA would be 9.7% -- the 2nd lowest rate in the New England region.

FMLA Coverage in Rhode Island

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	202,889	51,603	254,492
% Employees covered	55.6%	14.1%	69.7%
# Employers covered	1,247	1,718	2,965
% Employers covered	4.1%	5.6%	9.7%

(over)

SOUTH CAROLINA
SOUTH ATLANTIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *SOUTH CAROLINA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN SOUTH CAROLINA?

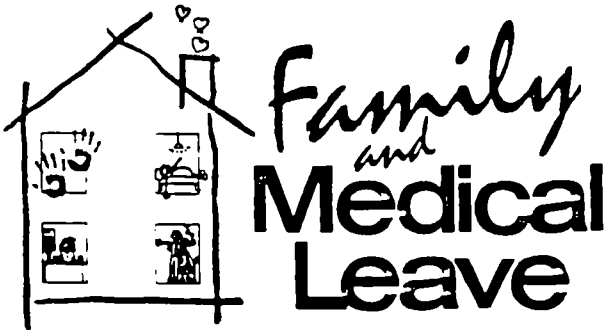
The chart below shows the numbers and rates of private-sector employees and employers in South Carolina: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 178,297 more South Carolinians (13.5% of the private workforce) would have the right to take FMLA leave.
- 72.2% of all South Carolina's private *employees* would be covered by the FMLA -- the 14th highest rate in the nation (tied with Minnesota).
- An additional 6.7% of South Carolina's private *employers* would be newly covered by the FMLA-- close to the national increase of 6.4%.

FMLA Coverage in South Carolina

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	775,161	178,297	953,458
% Employees covered	58.7%	13.5%	72.2%
# Employers covered	4,533	5,841	10,374
% Employers covered	5.2%	6.7%	11.9%

(over)



SOUTH DAKOTA
NORTH CENTRAL REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *SOUTH DAKOTA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN SOUTH DAKOTA?

The chart below shows the numbers and rates of private-sector employees and employers in South Dakota: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 38,638 more South Dakotans would have the right to take FMLA leave.
- An additional 14.8% of South Dakota's private workforce would be newly covered by the FMLA -- above both the North Central regional average of 14.7% and the national average of 13.8%.
- An additional 5.6% of South Dakota's private *employers* would be covered by the FMLA -- among the 10 states in the nation with the lowest increases in covered *employers* and the lowest increase in the North Central region.

FMLA Coverage in South Dakota

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	124,236	38,638	162,874
% Employees covered	47.7%	14.8%	62.5%
# Employers covered	876	1,293	2,169
% Employers covered	3.8%	5.6%	9.4%

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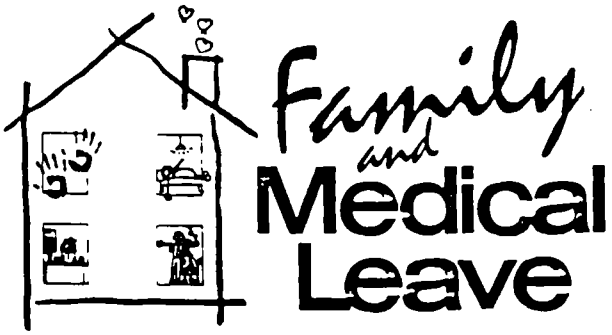

TENNESSEE
MIDDLE SOUTH REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *TENNESSEE*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN TENNESSEE?

The chart below shows the numbers and rates of private-sector employees and employers in Tennessee: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 243,512 more people in Tennessee would have the right to take FMLA leave -- the most people newly covered in the Middle South region.
- 76.2% of all Tennessee's private *employees* would be covered by the FMLA -- the highest rate in the nation.
- An additional 7.1% of Tennessee's private *employers* would be covered by the FMLA, placing Tennessee among the 10 states in the nation with the highest increases in the percentage of *employers* covered.

FMLA Coverage in Tennessee

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	1,317,737	243,512	1,561,249
% Employees covered	64.3%	11.9%	76.2%
# Employers covered	6,850	8,011	14,861
% Employers covered	6.1%	7.1%	13.2%

(over)

TEXAS
SOUTH CENTRAL REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *TEXAS*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN TEXAS?

The chart below shows the numbers and rates of private-sector employees and employers in Texas: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 918,792 more Texans (14.4% of the private workforce) would have the right to take FMLA leave. After California, Texas would rank 2nd in the nation for the number of people newly covered by the FMLA.
- 71.5% of all Texas' private *employees* would be covered by the FMLA -- the highest rate in the South Central region and just over the national rate of 71.3%.

FMLA Coverage in Texas

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	3,634,746	918,792	4,553,538
% Employees covered	57.1%	14.4%	71.5%
# Employers covered	21,965	30,465	52,430
% Employers covered	5.4%	7.4%	12.8%

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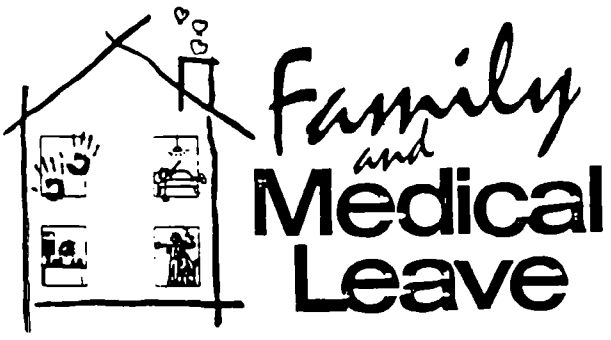

UTAH
MOUNTAIN REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *UTAH*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN UTAH?

The chart below shows the numbers and rates of private-sector employees and employers in Utah: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 107,411 more people in Utah would have the right to take FMLA leave.
- 15.3% of Utah's private *employees* would be newly covered by the FMLA -- only 11 states would have higher increases in the percentage of covered *employees*.
- An additional 7.5% of Utah's private *employers* would be covered by the FMLA -- the highest increase in the nation (along with Indiana and Wisconsin) and the highest in the Mountain region, but only 1.1% higher than the national average of 6.4%.

FMLA Coverage in Utah

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	369,664	107,411	477,075
% Employees covered	52.8%	15.3%	68.1%
# Employers covered	2,351	3,591	5,942
% Employers covered	4.9%	7.5%	12.4%

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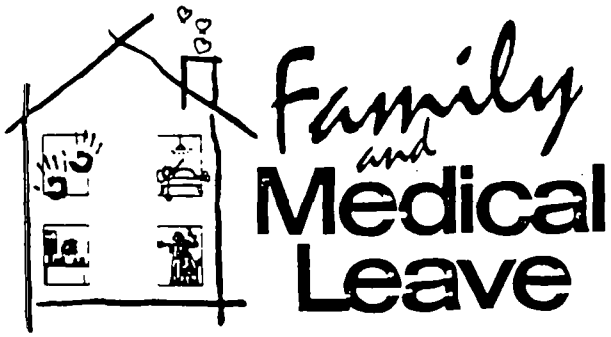

VERMONT
NEW ENGLAND REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *VERMONT*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN VERMONT?[3]

The chart below shows the numbers and rates of private-sector employees and employers in Vermont: who are currently covered by the federal FMLA (Size of Employer is 50+); who work for companies of 25-49 employees (Size of Employer is 25-49); and who work for companies of 25 or more employees (Size of Employer is 25+).

- 34,114 people in Vermont work for companies of 25-49 employees. If it were not for the Vermont FMLA, they would not have the right to take FMLA.
- 15.7% of Vermont's private *employees* work for companies with 25-49 employees -- the 9th highest rate in the nation and the highest in the New England region.
- 8.9% of all Vermont's private *employers* have 25 or more employees -- the 3rd lowest rate in the nation (along with Idaho) and the lowest in the New England region.

FMLA Coverage in Vermont

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	98,531	34,114	132,645
% Employees covered	45.2%	15.7%	60.9%
# Employers covered	669	1,154	1,823
% Employers covered	3.3%	5.6%	8.9%

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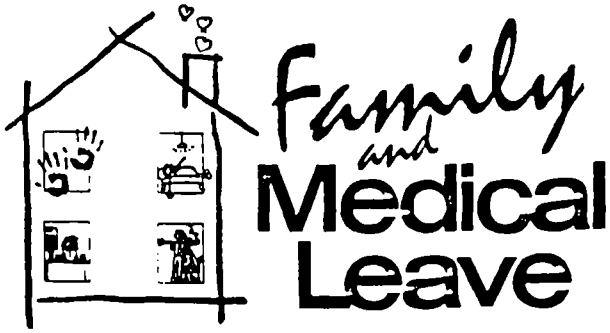

VIRGINIA
SOUTH ATLANTIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *VIRGINIA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN VIRGINIA?

The chart below shows the numbers and rates of private-sector employees and employers in Virginia: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 353,421 Virginians would have the right to take FMLA leave. Only 11 other states in the nation would have more people newly covered by the FMLA.
- 14.8% of Virginia's private *employees* would be newly covered by the FMLA -- the 2nd highest increase in the percentage of covered *employees* in the South Atlantic region.
- 11.9% of all Virginia's private *employers* would be covered by the FMLA -- only 0.5% above the South Atlantic regional average of 11.4%.

FMLA Coverage in Virginia

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	1,320,926	353,421	1,674,347
% Employees covered	55.3%	14.8%	70.1%
# Employers covered	8,189	11,670	19,859
% Employers covered	4.9%	7.0%	11.9%

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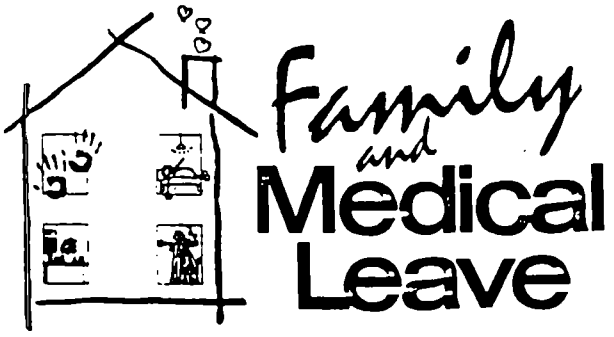

WASHINGTON
PACIFIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *WASHINGTON*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN WASHINGTON?

The chart below shows the numbers and rates of private-sector employees and employers in Washington: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 275,292 more Washingtonians would have the right to take FMLA leave.
- An additional 14.7% of Washington's private workforce would be newly covered by the FMLA -- well above the national average of 13.8%.
- An additional 5.4% of Washington's private *employers* would be covered by the FMLA -- the 2nd lowest increase in the nation (along with Maine) and the lowest in the Pacific region.
- The total percentage of Washington's private *employers* covered by the FMLA would be 9.1%-- among the 10 lowest rates in the nation.

FMLA Coverage in Washington

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	988,149	275,292	1,263,441
% Employees covered	52.9%	14.7%	67.6%
# Employers covered	6,303	9,081	15,384
% Employers covered	3.7%	5.4%	9.1%

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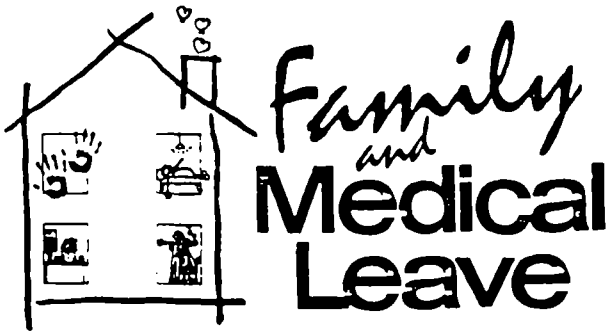

WEST VIRGINIA
SOUTH ATLANTIC REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *WEST VIRGINIA*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN WEST VIRGINIA?

The chart below shows the numbers and rates of private-sector employees and employers in West Virginia: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 81,063 West Virginians would have the right to take FMLA leave.
- An additional 15.8% of West Virginia's private *employees* would be covered by the FMLA -- the 8th highest increase in the nation (along with Louisiana) and the highest in the South Atlantic region.
- 64.2% of all West Virginia's private *employees* would be covered by the FMLA -- the lowest rate in the South Atlantic region and among the lowest 10 in the country.

FMLA Coverage in West Virginia

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	248,571	81,063	329,634
% Employees covered	48.4%	15.8%	64.2%
# Employers covered	1,712	2,687	4,399
% Employers covered	4.1%	6.4%	10.5%

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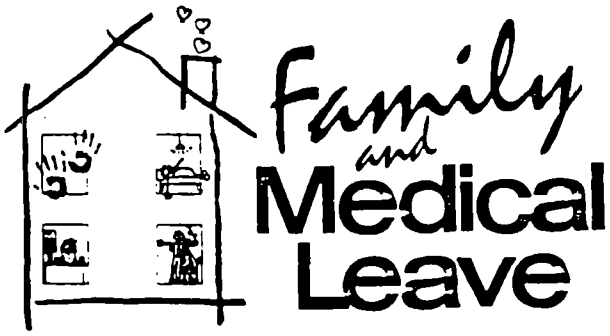

WISCONSIN
MIDWEST REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *WISCONSIN*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN WISCONSIN?

The chart below shows the numbers and rates of private-sector employees and employers in Wisconsin: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 288,330 more people in Wisconsin (13.8% of the private workforce) would have the right to take FMLA leave.
- 73.4% of all Wisconsin's private *employees* would be covered by the FMLA -- the 8th highest rate in the country (along with Indiana).
- An additional 7.5% of Wisconsin's private *employers* would be covered by the FMLA -- the highest increase in the nation (along with Indiana and Utah), but only 0.3% higher than the Midwest regional average of 7.2%.

FMLA Coverage in Wisconsin

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	1,244,222	288,330	1,532,552
% Employees covered	59.6%	13.8%	73.4%
# Employers covered	7,285	9,504	16,789
% Employers covered	5.8%	7.5%	13.3%

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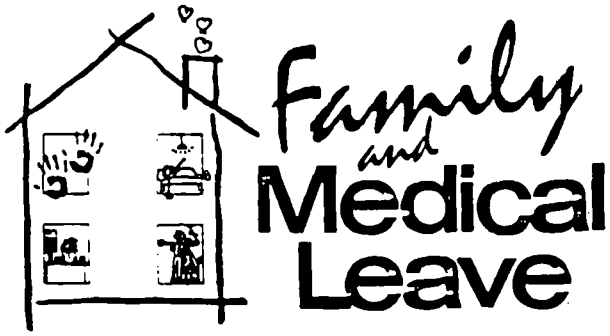

WYOMING
MOUNTAIN REGION[1]

EXPANDING THE FMLA TO COVER BUSINESSES WITH 25-49 EMPLOYEES IN *WYOMING*

The Family and Medical Leave Act (FMLA) now gives millions of Americans the right to take up to 12 weeks per year of unpaid, job-protected leave to care for new babies, or seriously ill family members, or to recover from their own serious illnesses. But nationwide 42.5% of private-sector employees are not covered by the FMLA, because they work for businesses with fewer than 50 employees -- the coverage threshold set by the 1993 law.

Expanding the law to cover businesses with 25-49 employees would give 13 million more Americans the right to take FMLA leave. The Women's Legal Defense Fund (WLDF) has analyzed the most recent available employment data[2] to show what this expansion would mean for all 50 states and the District of Columbia.

WHAT DIFFERENCE WOULD THIS EXPANSION MAKE IN WYOMING?

The chart below shows the numbers and rates of private-sector employees and employers in Wyoming: who are currently covered by the FMLA (Size of Employer is 50+); who would be *newly* covered by an expanded FMLA (Size of Employer is 25-49); and who would be covered after FMLA expansion (Size of Employer is 25+). If the expansion were adopted:

- 27,848 more people in Wyoming would have the right to take FMLA leave.
- An additional 18.6% of Wyoming's private *employees* would be covered by the FMLA -- the highest increase the nation and the highest in the Mountain region.
- 51.4% of all Wyoming's private *employees* would be covered by the FMLA -- the lowest rate in the nation.
- After Alaska, Wyoming would have the 2nd fewest *employers* newly covered by the FMLA in the nation (949).

FMLA Coverage in Wyoming

	Size of Employer (# of employees)		
Private Sector	50+	25-49	Total (25+)
# Employees covered	48,991	27,848	76,839
% Employees covered	32.8%	18.6%	51.4%
# Employers covered	428	949	1,377
% Employers covered	2.5%	5.6%	8.1%

(over)

cc Jen, Nicole
POTUS
file

BARBARA DAFOE WHITEHEAD

15 FOREST EDGE ROAD • AMHERST, MA • 01002
PHONE: (413)549-6112• FAX: (413)549-1835

Memo To: Sidney Blumenthal

From: Barbara Whitehead

Re: A strategy for using family and medical leave to win the childcare debate

Date: January 12, 1998

This memo is inspired by a brief parting exchange I had with the President. I told him that a recent study in the medical journal *Pediatrics* supports his hugely popular family and medical leave program and also bears upon the new childcare proposal. Its bottom line finding: for infants, breast milk acts as brain food, boosting IQ and school performance. (More on this later.)

I'm also attaching a piece that ran in the *Wall Street Journal* on the day after the dinner. An attack on institutional child care in general, it rests heavily on research evidence of the risks of institutional care for children in the first six to twelve months of life.

As it happens, the evidence for the risks to infants is quite robust. And now pediatric evidence on the benefits of maternal care for infants is appearing. For the President's childcare initiative, this poses both peril and opportunity.

The peril is this: The opposition will try to use the recent research on breastfeeding and infant brain development to discredit the proposal. It will argue that the President's proposal is at odds with what the White House itself was telling us last April about early brain development. It will say that the proposal is not designed with the best interests of infants in mind. It will say that the proposal rewards women who work during the early months of a child's life, but neglects those who choose to remain at home literally to pour their mother's milk into their child's cognitive capacity. And as the recent NBC/WSJ poll shows – granted, your polls may tell a different story

– the public's view of child care (and especially infant care, I suspect) is ambivalent.

The opportunity is this: The President can preempt the opposition by adding a feature to his State of the Union exposition of his child care plan. The purpose of the addition: affirming the principle that working mothers of newborns deserve the opportunity to nurture their infants before they return to their place of employment.

The policy vehicle for providing this opportunity already exists: The Family and Medical Leave Act. It now offers up to 12 weeks of unpaid leave for varied family purposes. What if parents of newborns were provided with more than 12 weeks of unpaid leave? Ideally the number of weeks might rise incrementally to 36 weeks, but you know better than I how many weeks might be appropriate for the first incremental expansion.

This puts the President on the offense and keeps him there. He can say:

I have long recognized the importance of giving parents the option of caring for newborn babies at home. This is one reason why I faced down Republican opposition and signed the Family and Medical Leave Act. The latest research on infant well-being only confirms the importance of providing new parents with this opportunity.

Thus, he can use a wildly popular achievement not only as the policy vehicle but also for rhetorical and political leverage. This puts the opposition in a corner: You'll get the option of at-home maternal care for infants in the early months of life, but the price you pay for it is an expansion of a signature achievement of the Clinton administration (and one you fought against.)

This also enables the President to present his childcare initiative in a way that is sensitive to the developmental needs of the child: expanded family leave for working parents of infants, followed by quality day care for children beyond infancy, followed by afterschool care for school-age kids. Again the emotional and cognitive needs of children – rather than what some might disparage as the convenience desires of parents and employers – are the linchpin rationale.

Of course, some parents, especially single mothers who are leaving welfare for work, will have to rely on childcare for their infants and toddlers. (Some states require new mothers to return to school or work as early as twelve weeks after the birth of a baby, I believe.) But the point remains that the President has already fought, against Republican opposition, for the right of working parents to stay at home with a newborn. Now he can call for an expansion of that right.

A brief summary of the attached article:

This well-designed longitudinal study by New Zealand researchers indicates that children who are breast fed for up to eight months have higher IQs and better school performance than those who are fed infant formula. The researchers hypothesize that a fatty acid present in breast milk but not in formula may be responsible for the advantage. Another hypothesis is that eight months of breastfeeding makes for stronger attachment between infant and mother, and stronger attachment enhances cognitive and emotional functioning. Importantly, the positive effects of breastfeeding persist over time. Partly in response to the research and partly in response to clinical experience, the American Academy of Pediatrics recently revised its advisory on breastfeeding and called for a full year of maternal breastfeeding wherever possible.

THE WALL STREET JOURNAL THURSDAY, JANUARY 8, 1998

A Dangerous Experiment in Child-Rear

By Andrew Peyton Thomas

A harmful social phenomenon is fast gaining popular acceptance—a vice so common that the problem is rarely even discussed, and almost never forthrightly. A new Census Bureau study makes clear the magnitude of the problem. Examining nearly 57,000 households across the U.S., the bureau found that 55% of new mothers return to the work force *within one year* of giving birth. In 1976, by contrast, the figure was only 31%. Ours is now a day-care culture. And the Clinton administration *appears determined to keep it that way.* Yesterday the president proposed a $21.7 billion program of new spending and tax breaks to subsidize day care.

It is one thing for both parents to work outside the home when their kids are older. But for both parents in a majority of families to be employed before their children can even walk is startling. We are witnessing a momentous experiment in the raising of children. Yet there are few stirrings in the culture suggesting anything but a complacent acceptance of this revolution in child rearing. Few political, cultural or religious leaders have spoken out against the growing practice of abandoning infants to paid strangers. Yet recent research, not to mention common sense, tells us that this quiet overhaul of American families is a profound tragedy whose bitter fruit will be reaped for decades to come.

'Psychological Thalidomide'

Social science confirms that babies raised in day-care centers and similar institutions are often emotionally maladjusted. Child development expert Edward Zigler of Yale has gone so far as to call day care "psychological thalidomide." Research beginning in the early 1970s has found that such children are more likely to be violent, antisocial and resistant to basic discipline. A 1974 study in the journal Developmental Psychology reported that children who entered day care before their first birthday were "significantly more aggressive" and more physically and verbally abusive of adults than other children.

A 1986 study by Ron Haskins in Child Development, another scholarly journal, compared two groups of day-care children and found that those who had spent more time in day care suffered from proportionately greater ill effects, regardless of the quality of care. Teachers were more likely to rate these early-care children as "having aggressiveness as a serious deficit of social behavior." Similarly, Jay Belsky of Pennsylvania State University warns, based on his research, that full-time day-care babies are at risk of "heightened aggressiveness, non-compliance and withdrawal in the preschool and early school years."

Other studies have concluded that lengthy stays in day-care centers impair children's mental ability. In 1995, the National Institute of Mental Health published a joint U.S.-Israeli study that found children raised in Israeli communes known as *kibbutzim*, who received 24-hour day care, were at significantly greater risk of developing schizophrenia and other serious mental disorders. Last April the National Institute of Child Health and Human Development released a long-term study of 1,364 children from 10 states. The study, which examined children from diverse ethnic and socioeconomic backgrounds, reported that a child's placement in day care provided a "significant prediction" of poorer mother-child interaction and reduced cognitive and linguistic development.

They don't belong in day care.

These are remarkable findings, especially given that social scientists, in the main, hold no brief for traditional family values. But if you are a parent skeptical of this social science, ask yourself this straightforward question: Do you truly believe that a stranger can care for your child as well as you can?

Defenders of day care often say it is essential for women's equality in the work force. This simplistic notion, however, ignores the experiences of real men and women. Often it is fathers who are the biggest fans of day care: They like the extra income their wives can bring in by depositing children in institutions during the day. It is mothers who usually feel the sting of guilt, that despised but just gadfly of conscience.

Social science confirms that children raised in day-care centers and similar institutions are often emotionally maladjusted and mentally impaired.

Americans today are sophisticated at rationalizing vice, but the justifications offered for day care are surprisingly thin. The most common excuse is that young couples need the extra money. But U.S. News & World Report found that the median income for two-earner families is $56,000, compared with $32,000 for male-breadwinner homes. At neither salary is a four-member family lacking for necessities. Per capita disposable income, adjusting for inflation, is more than twice as high today as it was in 1950, and three times as high as in 1930. Families are spending much of this money on luxuries like bigger homes (new homes are 38% larger now than in 1970)—not on their kids.

The notorious au pair trial presented this reality in stark relief: Two physicians imported a teenage indentured servant, paid her slave wages, entrusted her with raising their two children and then were outraged when many Americans did not entirely sympathize with them after one of the children died in the young woman's care.

Childhood was never perfect. Small children were once forced to sweep chimneys and pick grapes, and often children lost parents entirely to disease and war. But that is precisely why the destruction of the 1950s nuclear family is so tragic. The 1950s set a standard for family life that probably has never been equaled anywhere. Children were raised by two parents in a safe, comfortable home, and Mom was almost always there to look after them when they were young. The self-centered popular culture unleashed in the 1960s mocked and ultimately shattered this paradigm. Now we are institutionalizing

the worst aspects of this cultural revolution by warehousing infants merely so that we might accumulate ever-nicer possessions.

If these dire trends are to be reversed, our leaders must assert themselves. To begin with, religious leaders should decry the selfishness and materialism that lead parents to put their careers ahead of their children.

Politicians always do well to leave moral condemnations to the pulpit, and such a sermon would not win them many votes today. Yet they would likely become heroes to many working mothers if, instead of simply ignoring this issue, they handled it with sincerity and skill. A Roper poll this year reported that 75% of Americans think that mothers who work outside the home and have children under age three threaten family values. A survey of American women this year by the Pew Center found that 81% thought the job of mothering is more difficult today than it was 20 or 30 years ago, and 56% thought they did a less capable job than their own mothers. Even among women who work full time, only 41% were confident that their situation was good for their children.

Can't Have It All

There are several policy changes that elected officials should consider. The federal child care tax credit, which subsidizes day care at the expense of stay-at-home parents, should be reassessed. In a growing number of jurisdictions, judges are pressuring divorced mothers, even those with small children, to go to work, by reducing child-support payments based on their potential income. This practice should be ended legislatively. Lawmakers should also consider offering tax credits for businesses that accommodate mothers or fathers who leave the work force during their child's critical first five years. And, of course, Congress should reject Mr. Clinton's ill-considered plan to subsidize day care.

Above all, we must see through the canard that tells us that when it comes to the ancient clash between career and family, we are now clever enough to be able to "have it all." For when we knowingly sacrifice our children's well-being for the sake of money or careers, are we even truly worthy of our children's love?

Mr. Thomas is an attorney in Phoenix and the author of "Crime and the Sacking of America: The Roots of Chaos" (Brassey's, 1994).

Nation's Headstart

PEDIATRICS Vol. 101 No. 1 January 1998, p. e9

ELECTRONIC ARTICLE:

Breastfeeding and Later Cognitive and Academic Outcomes

L. John Horwood and David M. Fergusson

From the Christchurch Health and Development Study, Christchurch School of Medicine, Christchurch, New Zealand.

ABSTRACT

Objective. This study examines the associations between duration of breastfeeding and childhood cognitive ability and academic achievement over the period from 8 to 18 years using data collected during the course of an 18-year longitudinal study of a birth cohort of >1000 New Zealand children.

Method. During the period from birth to age 1 year, information was collected on maternal breastfeeding practices. Over the period from 8 to 18 years, sample members were assessed on a range of measures of cognitive and academic outcomes including measures of child intelligence quotient; teacher ratings of school performance; standardized tests of reading comprehension, mathematics, and scholastic ability; pass rates in school leaving examinations; and leaving school without qualifications.

Results. Increasing duration of breastfeeding was associated with consistent and statistically significant increases in 1) intelligence quotient assessed at ages 8 and 9 years; 2) reading comprehension, mathematical ability, and scholastic ability assessed during the period from 10 to 13 years; 3) teacher ratings of reading and mathematics assessed at 8 and 12 years; and 4) higher levels of attainment in school leaving examinations. Children who were breastfed for ≥8 months had mean test scores that were between 0.35 and 0.59 SD units higher than children who were bottle-fed.

Mothers who elected to breastfeed tended to be older; better educated; from upper socioeconomic status families; were in a two-parent family; did not smoke during pregnancy; and experienced above average income and living standards. Additionally, rates of breastfeeding increased with increasing birth weight, and first-born children were more likely to be breastfed.

Regression adjustment for maternal and other factors associated with breastfeeding reduced the associations between breastfeeding and cognitive or educational outcomes. Nonetheless, in 10 of the 12 models, fitted duration of breastfeeding remained a significant predictor of later cognitive or educational outcomes. After adjustment for confounding factors, children who were breastfed for ≥8 months had mean test scores that were between 0.11 and 0.30 SD units higher than those not breastfed.

Conclusions. It is concluded that breastfeeding is associated with small but detectable increases in child cognitive ability and educational achievement. These effects are 1) pervasive, being reflected in a range of measures including standardized tests, teacher ratings, and academic outcomes in high school; and 2) relatively long-lived, extending throughout childhood into young adulthood.

Key words: breastfeeding, cognitive ability, academic achievement, longitudinal study.

INTRODUCTION

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Over the last 2 decades, there has been an accumulation of evidence suggesting that breastfeeding may lead to small but detectable improvements in childhood cognitive ability or educational achievement. Three lines of evidence support this conclusion.

First, evidence from longitudinal studies of general child samples[1] has shown repeatedly that children who are breastfed show small increases over bottle-fed children in mean test scores on measures of intelligence and academic achievement, with these differences persisting after control for confounding factors. Typically, these studies suggest that in comparison with bottle-fed children, children who are breastfed for a minimum of 3 to 5 months have an advantage of between 0.15 and 0.25 SD units in mean test performance, even after control for confounders.[1]

Second, data from an experimental study of feeding practices among preterm infants showed that children whose mothers chose to express their own milk to feed their infant had higher developmental scores at 18 months and higher intelligence quotient (IQ) assessed at 7.5 to 8.0 years than those whose mothers chose not to do so.[7,8] These differences persisted after control for confounding factors, and there was evidence of dose-response relationships between the amount of breast milk supplied and developmental or cognitive gains. These children had taken part in a randomized trial of nutrition in neonatal diet. Among the children whose mothers had chosen not to express their breast milk, those randomized to donor breast milk, with low nutrient content, performed as well as those fed with nutrient supplemented preterm formula and significantly better than those fed a standard term formula.[9] These data raise the possibility that some components of breast milk ameliorate the effect of poor nutrition.[8]

Finally, neurodevelopmental research has suggested that the factors in breast milk that may be responsible for the improved cognitive abilities of breastfed children may involve long chain polyunsaturated fatty acids and, particularly, docosahexaenoic acid (DHA),[10] with some clinical studies in which infant formula was supplemented with DHA suggesting possible improvements in visual acuity and cognitive ability in preterm infants given the DHA-supplemented formula.[13]

Collectively, the evidence from longitudinal research, clinical trials, and neurodevelopmental research is beginning to provide a compelling case for the view that breastfeeding may have longer-term effects on individual cognitive ability and educational achievement. There are, nonetheless, a number of issues about the associations between breastfeeding and cognitive outcomes that require clarification.

One important issue concerns the extent to which the benefits of breastfeeding on cognitive development persist beyond middle childhood. To date, most studies have examined these benefits in preschool children[1,4,2,16] or in children studied in the early school years.[1,6,8,17,18] Less is known about the extent to which the benefits of breastfeeding on cognitive ability extend into adolescence and young adulthood. This issue is clearly important because it is possible that the benefits of breastfeeding on cognitive development may wash out over time, with these benefits being confined to only a relatively short period of the individual's life.

A second issue concerns the assessment of educational achievement. To date, only a few studies appear to have assessed measures of academic achievement, as opposed to measures of cognitive ability,[1,2,6] and of these, the majority have used methods of standardized testing to assess educational achievement. Although such measures have obvious psychometric advantages reflected by their standardization, reliability, and validity data, the extent to which performance on standardized tests reflects real life academic achievement remains to be assessed. For these reasons, it would be desirable for cognitive benefits of breastfeeding to be assessed using a range of indices that could include performance on standardized tests, teacher-based evaluations of academic achievement, and levels of achievement in school examinations or in tertiary education.

To address the issues above, this paper reports on the results of an 18-year longitudinal study of the relationships between infant feeding practices and later cognitive ability and academic achievement in a birth cohort of >1000 New Zealand children studied from birth to age 18 years. The design of this study made it possible to examine 1) the extent to which benefits of breastfeeding on cognitive ability and achievement were evident throughout middle childhood, adolescence, and into young adulthood; and 2) the extent to which breastfeeding was related to a range of indices of academic achievement that included performance on standardized tests, teacher ratings of academic achievement, and levels of success in examinations on leaving school.

METHODS

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The data were gathered during the course of the Christchurch Health and Development Study. The Christchurch Health and Development Study is a longitudinal study of a birth cohort of 1265 Christchurch, New Zealand, children born in 1977. The cohort was an unselected population sample comprising all children born in all hospitals in the Christchurch urban region during the period from April 15, 1977 to August 5, 1977. These children have been studied at birth, at 4 months, at 1 year, at annual intervals to age 16 years, and again at age 18, using information gathered from a combination of sources including parental interview, teacher report, standardized testing and interviews with the children, and medical records.[19]

Measures Used in the Study

Breastfeeding When children surveyed were 4 months and 1 year of age, mothers were questioned in detail concerning breastfeeding practices, use of milk formulas, and other aspects of infant diet. Maternal reports were supplemented by evidence on breastfeeding practices recorded in the developmental records completed by community health nurses. In addition, information was available from medical records of the mother's breastfeeding practices in the maternity unit at the time of the child's birth. Using this information, the following measures of breastfeeding were constructed. The first measure was duration in months for which the child was breastfed. For the purposes of data display, this measure has been classified into four groups: child was not breastfed; child was breastfed for <4 months; child was breastfed for 4 to 7 months; child was breastfed for ≥8. The second measure was duration in months of exclusive breastfeeding. This was defined as the number of months, to age 4 months, that the child was reported to have been breastfed without receiving any additional cow's milk, milk formula preparation, or solid food.

Although the two measures of breastfeeding were derived independently and used different criteria, they proved to be highly correlated ($r = 0.84$; $P < .001$).

Measures of Cognitive Ability and Academic Achievement

To describe the child's cognitive ability and academic achievement during the period from 8 to 18 years of age, the following measures were selected.

Measures of Cognitive Ability At ages 8 and 9 years, children were administered the Revised Wechsler Intelligence Scale for Children (WISC-R).[20] For the purposes of the present analysis, the child's total IQ scores were used. The reliabilities of these scores, assessed using split-half methods, were .93 at age 8 years and .95 at age 9 years.

Teacher Ratings of School Performance When children were 8 and 12 years of age, teacher ratings of the child's performance in reading and mathematics were obtained. Teachers were asked to rate the child's performance in each area relative to other children of the same age, and ratings were made on a five-point scale ranging from 1 = very poor to 5 = very good.

Standardized Tests of Achievement During the period from 10 to 13 years of age, children were administered a series of standardized tests of achievement including 1) tests of reading comprehension based on the Progressive Achievement Test of Reading Comprehension,[21] administered at ages 10 and 12 years; 2) tests of mathematical reasoning based on the Progressive Achievement Test of Mathematics,[22] administered at age 11 years; and 3) tests of Scholastic Abilities,[23] administered at age 13 years. The Test of Scholastic Abilities is a broad-based measure designed to assess those verbal and numerical reasoning abilities deemed to be requisite for success in academic aspects of the school curriculum.[23] The reliabilities of these measures, assessed using coefficient α, ranged from .83 for the measures of reading comprehension to .87 for the measure of mathematical reasoning and .95 for the measure of scholastic ability.

High School Outcomes At 18 years of age, study participants were assessed on the following two measures of high school success. The first was the number of passing grades achieved in School Certificate examinations. School Certificate is a national series of examinations that New Zealand children may attempt at the end of their third year of high school. School Certificate examinations are the first of a series of public examinations that provide young people with the eligibility requirements to enter universities. Students typically undergo School Certificate at 15 or 16 years of age and attempt examinations in between four and six subjects. The results of School Certificate examinations are graded from A to E, with grades A, B, and C considered passing grades. The second measure was leaving school without qualifications. Students who had left school by age 18 without at least one passing grade in School Certificate were classified as having left school without qualifications.

Confounding Factors

To control for potentially confounding and selection factors associated with breastfeeding, a range of measures of social, family, and other factors was selected from the database of the study. These measures were chosen on the basis of being known to be associated with the mother's breastfeeding history and/or with the cognitive and academic outcomes.

Measures of Social and Family History Maternal age at the time of the survey child's birth and maternal education at the time of the child's birth were the first two measures of social and family circumstances. Education was coded on a three-point scale reflecting the highest level of qualification obtained, with 1 = no formal qualifications, 2 = high school qualifications, and 3 = tertiary level qualifications. The third measure was family socioeconomic status at the time of the child's birth. This was assessed using the Elley/Irving scale of socioeconomic status for New Zealand.[24] This scale categorizes families into six classes on the basis of paternal occupation. The fourth measure was the

child's family placement at birth. This was a binary measure reflecting whether the child entered a single-parent family or a two-parent family at birth. The fifth measure was maternal smoking during pregnancy. This was a binary measure reflecting whether the mother smoked during pregnancy.

The sixth measure was family living standards (0 to 5 years). Each year until survey children were 5 years of age, survey interviewers were asked to rate the family's living standards on a five-point scale ranging from 1 = very good to 5 = very poor. These ratings were summed and then averaged over the 5-year period to provide a global measure of the general quality of living standards experienced by each family during this period. The seventh measure was averaged family income (0 to 5 years). Each year, estimates of the family's gross annual income were obtained from parental report. To provide a measure of the average level of income available to each family for the period from the child's birth to age 5 years, the income estimates for each year were first recoded into decile categories and the resulting measures then averaged over the 5-year period to produce a measure of the family's averaged income decile rank.

Measures of Perinatal Outcome These were measures of gender, the child's birth weight in grams, the child's estimated gestation in weeks, and the child's birth order in the family.

Sample Sizes

Although this study is based on a birth cohort of 1265 children, the sample sizes studied in this paper are smaller, ranging from 772 to 1064. There were three reasons for these variations in sample size. First, during the study period, there was attrition in the sample attributable to the combined effects of subject refusal, outmigration from New Zealand, and death. The result of this attrition was that by age 18, the number of cohort subjects had been reduced to 1025 subjects, with these subjects representing 81.0% of the original sample and 92.3% of the sample still in New Zealand. Second, for standardized testing, sample size was reduced further because of logistic reasons that made it necessary to confine standardized tests to the sample of children resident in the Canterbury region. Canterbury residents represented ~80% of the cohort in any year. Finally, there were small amounts of missing data for some measures. The sample sizes studied for each outcome measure are shown in Table 1.

View this table: [in this window] [in a new window]	TABLE 1 Associations Between Duration of Breastfeeding and Measures of Cognitive Ability, Teacher Ratings of School Performance, Standardized Tests of Achievement, and High School Success

The variations in sample size raise the possibility that the results reported here could have been influenced by the effects of nonrandom sample attrition. However, whereas previous analyses of educational outcomes for this cohort suggest a slight bias in the samples available for analysis toward underrepresentation of children from more disadvantaged family backgrounds, analyses that incorporate statistical corrections for such bias produce conclusions essentially identical to those that do not incorporate such correction.[25,26] These findings suggest that sample loss processes are unlikely to influence the conclusions drawn from the analyses reported here.

RESULTS

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Associations Between Duration of Breastfeeding and Measures of Cognitive Ability and School Achievement

Table 1 presents the relationships between the duration of breastfeeding classified into four groups (not breastfed, breastfed <4 months, breastfed 4 to 7 months, breastfed ≥8 months) and mean scores on a series of measures of cognitive ability and school achievement including the WISC-R IQ test; teacher ratings of performance in reading and mathematics; standardized tests of reading comprehension, mathematics, and scholastic ability; and success in School Certificate examinations. Table 1 also shows the percentage of children in each group who left school without qualifications. For ease of comparison, all standardized tests have been scaled to a mean of 100 and an SD unit of 10, and teacher ratings have been scaled to a mean of 3 and an SD unit of 1. Each comparison is tested for statistical significance, with continuously distributed measures being tested by one-way analysis of variance and the dichotomous measure by the χ^2 test of independence. The strength of association between duration of breastfeeding and each outcome is described by the product moment correlation.

Table 1 shows clear and highly significant ($P < .0001$) tendencies for increasing duration of breastfeeding to be associated with higher scores on measures of cognitive ability, teacher ratings of performance, standardized tests of achievement, better grades in School Certificate examinations, and lower percentages of children leaving school without qualifications. On average, children who were breastfed for ≥8 months 1) scored between 0.35 and 0.59 SD units higher on standardized tests of ability or achievement and teacher ratings of school performance than children who were not breastfed, and 2) were considerably less likely than nonbreastfed children to leave school without qualifications (relative risk = 0.38; 95% CI: 0.25, 0.59).

Tests of linearity applied to the associations in Table 1 suggested that in all cases, the association between duration of breastfeeding and the outcome measure was well approximated by a linear model. The product moment correlations between duration of breastfeeding and the outcome measures were generally similar across all outcomes, ranging from 0.14 to 0.24, with a median value of 0.20, suggesting that from middle childhood to the point of leaving school, there were moderate but consistent tendencies for increasing duration of breastfeeding to be associated with increasing levels of cognitive ability and academic success.

The pervasive associations found between breastfeeding and measures of cognitive ability and academic achievement were, in part, explained by the fact that the outcomes described in Table 1 were all significantly correlated. Correlations between different measures ranged from as high as 0.88 to as low as 0.32, with the median intercorrelation between measures being 0.61. Given the correlations between cognitive ability and academic achievement throughout childhood and into young adulthood, it is evident that if breastfeeding is associated with one of these outcomes, it is likely to be associated with others.

Associations Between Duration of Breastfeeding and Social, Family, and Perinatal Factors

Table 2 shows the relationships between duration of breastfeeding and the potentially confounding social, family, and perinatal factors described in the "Methods." For ease of data display, measures of family factors and social background have been expressed as dichotomous variables. The rules for constructing these dichotomies are reported in Table 2. The significance of the associations between the duration of breastfeeding and the variables in Table 2 was tested using the χ^2 test of independence for dichotomous measures and one-way analysis of variance for continuously distributed variables (ie, birth weight, gestation).

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TABLE 2
Associations Between Duration of Breastfeeding and Social, Family, and Perinatal Factors

Table 2 shows clear tendencies for increasing duration of breastfeeding to be associated with decreasing levels of social and family disadvantage and improved child perinatal outcomes. In particular, there were detectable tendencies for women who did not breastfeed to be younger ($P < .001$), to have poorer educational qualifications ($P < .001$), to have smoked during pregnancy ($P < .001$), to be more likely to come from families of lower socioeconomic status ($P < .001$), families with below-average living standards ($P < .001$), or families with low income ($P < .001$); and to have been a single parent at the time of the survey child's birth ($P < .001$). In addition, women who did not breastfeed were more likely to have had infants of lower birth weight ($P < .001$) and to be primiparous ($P < .001$). However, the duration of breastfeeding appeared to be unrelated to the child's gender ($P > .30$) or gestation ($P > .20$).

Associations Between Duration of Breastfeeding and Cognitive Outcomes After Adjustment for Confounding

To examine the associations between duration of breastfeeding and cognitive and educational outcomes after adjustment for the social, family, and perinatal factors presented in Table 2, the data were reanalyzed by fitting multiple regression models in which each outcome measure was modelled as a function of the duration of breastfeeding and the potentially confounding or selection factors. For continuously scored outcomes, multiple linear regression models were fitted, whereas for the dichotomous outcome, multiple logistic regression methods were used. In fitting these models, the social and family factors were not scaled as dichotomies as shown in Table 2, but rather were scored as described in "Methods."

From the parameters of the fitted regression models, estimates of the dose-response functions between the duration of breastfeeding and the outcome measures adjusted for confounding factors were obtained. These adjusted associations are given in Table 3, which shows for each outcome 1) the covariate adjusted mean scores or percentages for each level of the breastfeeding factor; 2) the test of significance of the breastfeeding factor based on the ratio of the regression coefficient for the breastfeeding measure to its SE; and 3) the confounding covariates that were found to be significant in each equation. The adjusted mean scores and percentages were obtained using the methods described by Lee (1981).[22] The adjusted means and percentages give estimates of the mean test scores and percentages that would have been observed had all subjects been exposed to comparable levels of the confounding covariates in shown for each equation.

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TABLE 3
Associations Between Duration of Breastfeeding and Measures of Cognitive Ability, Teacher Ratings of School Performance, Standardized Tests of Achievement, and High School Success After Adjustment for Covariates

Examination of Table 3 leads to the following conclusions:

1. In all cases, control for confounding factors reduced the strength of association between the duration of breastfeeding and later outcomes. This result suggests, in part, that the apparently

superior performance of children exposed to lengthy duration of breastfeeding reflected the presence of confounding factors and/or selection processes that were associated with both breastfeeding and later cognitive achievement. Inspection of the significant covariate factors suggests that these confounding factors included both measures of social/family advantage (maternal age, education, family socioeconomic status, family income, and living standards) and measures of perinatal outcome (birth weight, birth order, gender).

2. Of the 12 comparisons made, however, 10 show statistically significant ($P < .05$) associations between duration of breastfeeding and later outcomes, one comparison is marginally significant ($P < .10$), and one clearly nonsignificant ($P > .15$). Of particular note is the fact that both the individual's levels of success in School Certificate examinations and his/her risk of leaving school without qualifications were significantly related to duration of breastfeeding even when allowance was made for confounding factors.
3. In general, the results suggest that after adjustment for confounding, there were small but consistent tendencies for increasing duration of breastfeeding to be associated with increased IQ, increased performance on standardized tests, higher teacher ratings of classroom performance, and better high school achievement. The size of this influence can be seen by comparing the adjusted mean test scores of children who were not breastfed with those of children who were breastfed for ≥8 months. These comparisons show that children who were breastfed for ≥8 months had mean scores that were between 0.11 and 0.30 SD units higher than the scores for those who were not breastfed. Similarly, children breastfed for ≥8 months were only two thirds as likely as nonbreastfed children to have left school without qualifications.

Supplementary Analyses

To examine the robustness of study conclusions to changes in analytic approaches, the following supplementary analyses were conducted.

1. The data were reanalyzed using a classification of breastfeeding based on the number of months for which the child was exclusively breastfed. This analysis produced conclusions that were consistent with those drawn above: increasing duration of exclusive breastfeeding was associated with increasing levels of cognitive ability and academic achievement, and adjustment for confounding tended to reduce the size of these associations but, even after adjustment, significant ($P < .05$) associations remained between the duration of exclusive breastfeeding and 9 of the 12 outcomes studied. In particular, there were significant adjusted associations between duration of exclusive breastfeeding and high school outcomes measured at age 18.
2. To examine whether the effects of breastfeeding varied for boys and girls, the analyses were extended to include tests of interactions between gender and measures of breastfeeding in their effects on cognitive and educational outcomes. However, in no instance was there any detectable evidence to suggest that the association of breastfeeding with the outcome measures varied with the child's gender.
3. Exploration of additional possible confounding factors was conducted by examining the extent to which such factors as maternal work force participation patterns explained the associations. There was no evidence to suggest that the associations between breastfeeding and academic achievement or cognitive ability could be explained further by the inclusion of such confounding factors into the models.

DISCUSSION

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This study has examined the statistical linkages between duration of breastfeeding and later cognitive outcomes in a birth cohort of New Zealand-born children studied to 18 years of age. The findings of this study may be summarized as follows.

Increasing duration of breastfeeding was associated with small, detectable, and generally consistent increases in childhood cognitive outcomes from the age of 8 to the age of 18. Breastfed children had higher mean scores on tests of cognitive ability; performed better on standardized tests of reading, mathematics, and scholastic ability; were rated as performing better in reading and mathematics by their class teachers; had higher levels of achievement in school-leaving examinations; and less often left school without educational qualifications. There seems to be little doubt on the basis of this evidence that patterns of infant feeding were consistently related to levels of educational attainment from middle childhood to the point of young adulthood.

Subsequent analysis revealed that, in part, the cognitive and academic superiority of breastfed children was explained by the fact that they tended to be born into socially advantaged families characterized by having older, better educated mothers, who did not smoke during pregnancy, higher socioeconomic status, better living standards, and higher family income. However, even after control for confounding and selection factors associated with infant feeding practices, increasing duration of breastfeeding was associated with small but significant increases in scores on standardized tests of ability and achievement, teacher ratings of classroom performance, and greater success at high school. The size of this effect may be illustrated by comparing the mean test scores of those who were breastfed for ≥8 months with those who were not breastfed. This comparison showed that even after statistical adjustment, children exposed to ≥8 months of breastfeeding had mean test scores that were between 0.11 to 0.30 SD units higher than those not breastfed. These effect sizes appear to be very similar to the effects found in other studies of general child samples.[1] Similarly, after adjustment for confounding factors, children who were breastfed for ≥8 months had only an approximate two-thirds risk of leaving school without qualifications compared with children who were not breastfed. These results were found to be resilient to a change to an alternative measure of the duration of breastfeeding based on the number of months of exclusive breastfeeding.

Although the results above suggest that associations between duration of breastfeeding and later outcomes persisted when allowance was made for a range of confounders, the possibility remains that the association between breastfeeding and longer-term outcomes found in this study is noncausal and arises from the effects of confounding factors that have not been controlled adequately in the analysis. Nonetheless, when taken in conjunction with the existing literature on this topic,[1,16] the weight of the evidence clearly favors the view that exposure to breastfeeding is associated with small but detectable increases in childhood cognitive ability and educational achievement, with it being likely that these increases reflect the effects of long chain polyunsaturated fatty acid levels and, particularly, DHA levels on early neurodevelopment.[10] The present study extends these conclusions by showing that the effects of breastfeeding are 1)pervasive and reflected in a range of measures including standardized tests, teacher ratings, and success in high school examinations; and 2) relatively long-lived, extending throughout childhood into young adulthood.

Clinical Implications

These findings add to a growing body of evidence that has suggested breastfeeding may have multiple health and other benefits for children.[12,28] The particular significance of the present findings is that they show the cognitive benefits that are associated with breastfeeding are unlikely to be short-lived and appear to persist until at least young adulthood. These findings underwrite the need to encourage

breastfeeding and/or to continue to develop improved infant formulas with properties more similar to those of human breast milk that may lead to improved developmental outcomes in children.[11]

FOOTNOTES

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ABBREVIATIONS

DHA, docosahexaenoic acid. WISC-R, Revised Wechsler Intelligence Scale for Children. IQ, intelligence quotient.

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1. Fergusson DM, Beautrais AL, Silva PA **Breast-feeding** and cognitive development in the first seven years of life. *Soc Sci Med* 1982; 16:1705-1708
2. Rodgers B Feeding in infancy and later ability and attainment: a longitudinal study. *Dev Med Child Neurol.* 1978; 20:421-426[Medline]
3. Taylor B, Wadsworth J Breast feeding and child development at five years. *Dev Med Child Neurol.* 1984; 26:73-80[Medline]
4. Niemelä A, Järvenpää AL Is breast feeding beneficial and maternal smoking harmful to the cognitive development of children. *Acta Paediatr.* 1996; 85:1202-1206[Medline]
5. Florey C du V, Leech AM, Blackhall A. Infant feeding and mental and motor development at 18 months of age in first born singletons. *Int J Epidemiol.* 24(3 suppl 1):S21-S26.
6. Rogan WJ, Gladen BC **Breast-feeding** and cognitive development. *Early Hum Dev.* 1993; 31:181-193[Medline]
7. Morley R, Cole TJ, Powell R, Lucas A Mother's choice to provide breast milk and developmental outcome. *Arch Dis Child.* 1988; 63:1382-1385[Medline]
8. Lucas A, Morley R, Cole TJ, Lister G, Leeson-Payne C Breast milk and subsequent intelligence quotient in children born preterm. *Lancet.* 1992; 339:261-264[Medline]
9. Lucas A, Morley R, Cole TJ, Gore SM A randomised multicentre study of human milk versus formula and later development in preterm infants. *Arch Dis Child.* 1994; 70:F141-F146
10. Morley R Diet in infancy and developmental outcome. *Semin Neonatol.* 1996; 1:27-34
11. Lanting CI, Boersma ER Lipids in infant nutrition and their impact on later development. *Curr Opin Lipidol.* 1996; 7:43-47[Medline]
12. Cockburn F. Breast feeding and the infant human brain. In: Davies DP, ed. *Nutrition in Human Health*. London, UK: Royal College of Physicians; 1995:3-12
13. Carlson SE, Werkman SH, Peeples JM, Wilson WM. Long-chain fatty acids and early visual and

cognitive development of preterm infants. *Eur J Clin Nutr.* 1994;48(suppl 2):S27-S30
14. Carlson SE, Werkman SH, Peeples JM, Wilson WM. Growth and development of premature infants in relation to ω-3 and ω-6 fatty acid status. In: Gali C, Simoupoulos AP, Tremoli E, eds. *World Review of Nutrition and Dietetics, Volume 75.* Basel, Switzerland: Karger; 1994:63-69
15. Uauy-Dagach R, Birch EE, Birch DG, Hoffman DR. Significance of ω-3 fatty acids for retinal and brain development of preterm and term infants. In: Gali C, Simoupoulos AP, Tremoli E, eds. *World Review of Nutrition and Dietetics, Volume 75.* Basel, Switzerland: Karger; 1994:52-62
16. Morrow-Tlucak M, Haude RH, Ernhart CB Breast feeding and cognitive development in the first 2 years of life. *Soc Sci Med.* 1988; 26:635-639
17. Lanting CI, Fidler V, Huisman M, Touwen BCL, Boersma ER Neurological differences between 9-year-old children fed breast-milk or formula-milk as babies. *Lancet.* 1994; 334:1319-1322
18. Hoefer C, Hardy MC Later development of breast fed and artificially fed infants. *JAMA.* 1929; 92:615-619
19. Fergusson DM, Horwood LJ, Shannon FT, Lawton JM The Christchurch Child Development Study: a review of epidemiological findings. *Paediatr Perinatal Epidemiol.* 1989; 3:278-301
20. Wechsler D. *Wechsler Intelligence Scale for Children, Revised.* New York, NY: The Psychological Corporation; 1974
21. Elley WB, Reid NA. *Progressive Achievement Tests: Teacher Manual. Reading Comprehenston, Reading Vocabulary.* Wellington, NZ: New Zealand Council for Educational Research; 1969
22. Reid NA, Hughes DC. *Progressive Achievement Tests: Teacher Manual. Mathematics.* Wellington, NZ: New Zealand Council for Educational Research; 1974
23. Reid NA, Jackson PF, Gilmore A, Croft C. *Test of Scholastic Abilities.* Wellington, NZ: New Zealand Council for Educational Research; 1981
24. Elley WB, Irving JC Revised socio-economic index for New Zealand. *N Z J Ed Studies.* 1976; 11:25-36
25. Fergusson DM, Lloyd M Smoking during pregnancy and effects on child cognitive ability from the ages of 8 to 12 years. *Paediatr Perinat Epidemiol.* 1991; 5:189-200[Medline]
26. Fergusson DM, Horwood LJ, Lynskey MT Early dentine lead levels and educational outcomes at 18 years. *J Child Psychol Psychiatry.* 1997; 38:471-478[Medline]
27. Lee J Covariance adjustment of rates based on the multiple logistic regression model. *J Chronic Dis* 1981; 34:415-426[Medline]
28. Forsyth JS The relationship between **breast-feeding** and infant health and development. *Proc Nutr Soc.* 1995; 54:407-418[Medline]

[Reprint (PDF) Version of this article]

DEPARTMENT OF THE TREASURY
WASHINGTON

January 20, 1997

Memo To: Anne Lewis

From: Jon Gruber

Re: Treasury Position on FMLA

This memo lays out the Treasury position on FMLA extension to 6 months of leave. Please feel free to directly incorporate this into the memo to the President, or to summarize it as you wish. We would like to remain neutral on the issue of lowering the firm size threshold to 25 - if that is a problem, please let me know.

I believe that CEA agrees with much of this position, but perhaps not all of it. You should check with Amy Finkelstein or Becky to be sure.

Also, I wanted to discuss with you how to dress up the witholding option. As you noted, the primary problem with what I presented is the difficultly in explaining the dichotomy between the $100 and $350 figures, as well as the problems with the small figure in the former case. It seems to me that it would not be inappropriate to simply take the average of the two figures that I gave you, and say that for the typical family this would provide roughly $225 of tax savings over three months. This is actually the amount that families would receive for their 3rd+ child, and it is the average of what they get for their first two. This makes the case easy to understand and it is a reasonably large figure which makes the policy look interesting.

I'm happy to discuss any of this further with you if you like. Please feel free to call at 622-0563.

EXTENDING FMLA FROM 3 TO 6 MONTHS

Treasury is opposed to the extension of FMLA duration for two reasons. First, there is no data on the potential costliness of this extension to employers, and there is reason to be concerned that such an extension could increase costs by more than the cost increase associated with the initial FMLA introduction. For longer periods of leave, employers may find hiring temporary workers or adjusting other employees' work loads unsatisfactory solutions; the need to hire replacement workers could substantially increase the cost to employers of FMLA. Second, while there is once again a paucity of data, it seems likely that this extension will benefit high income workers much more than their lower income counterparts. Low-income families are likely to have insufficient savings to finance long periods of unpaid leave; indeed, it is unclear whether such workers currently take advantage of even the three months available. It is therefore likely that those who choose to take more than 3 months of leave will be disproportionately higher-income workers. Since empirical evidence suggests that workers will pay for this new entitlement through lower wages, this policy amounts to a tax on all potential leave takers to finance longer leaves for higher income families.

If we decide to extend FMLA leave to six months, we would want to qualify that extension in two ways to minimize the unpredictability of costs to employers, while having minimal impact on the benefits to leave takers:

- **Increasing the tenure requirement on eligibility if length of covered leave is extended.** Currently, covered employees are eligible for 3 months of job protected leave within any 12-month period, if they have worked for the employer for at least 12 months. If covered leave is extended to 6 months, it seems reasonable to *extend the tenure requirement for eligibility to 24 months*. That is, workers would have to have been on the job for at least two years to take more than 12 weeks of leave. Otherwise, employers could be faced with a situation where an employee is entitled to six months of job-guaranteed leave after having been on the job for only one year. This type of uncertainty might deter employers from hiring employees who they suspect will take leave in the near future, such as women of child-bearing age.

- **Allow new parents no more than 24 weeks of leave in a two year period.** An additional concern for employers with the FMLA extension would be that employees could take leave for almost half the year, every year, and retain his or her job. This could create huge scheduling difficulties and once again deter hiring of certain populations. This concern could be allayed by restricting workers to take *at most 24 weeks of leave over any two year period*. That is, a parent could spend six consecutive months at home with his or her child, but would be ineligible for leave for the next 18 months. This policy would still add considerable flexibility, relative to current law, for newborn leave; while current law allows the same amount of leave over a two year period, it restricts parents to at most three months in any given year. So this new policy would improve upon current law by allowing parents of newborns to stay at home with their child for the first six months of life, while minimizing the risk to employers of excessive leave time.

Small change for a big employer

FOR IMMEDIATE RELEASE
Tuesday, January 19, 1999

CONTACT: Lisa Lederer
202/371-1999 ext.1

STATE OF THE UNION REFLECTS PRESIDENT CLINTON'S POWERFUL COMMITMENT TO WORKING FAMILIES

Statement by Judith L. Lichtman, President
National Partnership for Women & Families

The State of the Union address President Clinton will deliver tonight includes measures that will improve life dramatically for this nation's women and families. President Clinton's proposal to expand the Family & Medical Leave Act to cover more workers at mid-sized companies is urgently needed and long overdue. The Family & Medical Leave Act was the first measure Bill Clinton signed into law when he became president, but too many Americans must still make an impossible choice between the job they need and the family they love when a baby is born or adopted, or a medical crisis strikes. President Clinton is right that we need to lower the threshold so that the law covers more working Americans.

We also applaud a range of other initiatives the President is recommending that will make a difference for women and families: raising the minimum wage; narrowing the wage gap; enforcing civil rights more aggressively; prohibiting job discrimination against working parents; helping people get from welfare to work; and helping families provide care for their children and elderly and disabled relatives. And the President is right that federal lawmakers have no higher priority this year than passing the *Patients' Bill of Rights Act.* Americans deserve real patient protections, not more laws that protect the insurance industry.

President Clinton is spelling out an impressive agenda for working women and their families tonight. Americans will be watching closely to see which elected officials support that agenda, and which stand in its way. Congress should stop playing politics and start making policy.

####

The National Partnership for Women & Families (formerly the Women's Legal Defense Fund) is a nonprofit, nonpartisan organization that promotes fairness in the workplace, quality health care, and policies that help women and men meet the dual demands of work and family.

July 8, 1999 - DRAFT

file FMLA

STATEMENT OF JOHN R. FRASER
DEPUTY ADMINISTRATOR
WAGE AND HOUR DIVISION
EMPLOYMENT STANDARDS ADMINISTRATION
U.S. DEPARTMENT OF LABOR
BEFORE THE
SUBCOMMITTEE ON CHILDREN AND FAMILIES
OF THE SENATE HEALTH, EDUCATION, LABOR AND PENSIONS COMMITTEE

JULY 14, 1999

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to highlight the tremendous success of the Family and Medical Leave Act (FMLA), and to discuss the President's proposals to extend the Act's benefits and fund needed research to provide better information on the Act's impact on American families.

Mr. Chairman, August 5 will mark the sixth anniversary of the day the FMLA took effect. The Act's purpose is practical and its benefits evident. Since its enactment, the FMLA has become indispensable, supporting family stability by helping Americans balance the demands of work and family. The Administration believes, in fact, that based on the experience with the law to date, it is time to broaden its coverage to protect more workers and to allow workers to take time off, without placing their jobs in jeopardy, to deal with important family matters that they face daily.

I would like to begin by discussing why we believe the FMLA has been such a big success, as demonstrated by our positive experience administering and enforcing the Act, the findings of the bipartisan Commission on Family and Medical Leave (Commission), and how the Act has benefited America's workers and employers. Then I will outline the Administration's FMLA research and legislative proposals.

FMLA HAS BEEN A GREAT SUCCESS

FMLA Purpose and Benefits

The FMLA allows eligible employees of covered employers up to 12 weeks unpaid leave a year to care for seriously ill family members, the birth or placement for adoption or foster care of a child, or their own serious health problems. Public agencies and schools, and private employers with 50 or more workers must offer eligible employees family and medical leave. Employees are eligible if they have worked for their employer for at least one year and for 1,250 hours over the previous 12 months, and work at a location where there are at least 50 or more workers employed within 75 miles. For the period of FMLA leave -- which the Commission

found to average about 10 days -- the employer must maintain the employee's health coverage if provided under its group health plan. Upon return from FMLA leave, employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. In addition, the use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave. The law covers worksites which employ over 70 percent of all workers -- about 91 million people.

FMLA was intended to allow employees to better meet the challenge of balancing the sometimes competing demands of the workplace and their families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity. It was intended that the Act accomplish these purposes in a manner that accommodates the legitimate interests of employers, and in a manner consistent with the Equal Protection Clause of the Fourteenth Amendment in minimizing the potential for employment discrimination on the basis of sex, while promoting equal employment opportunity for men and women.

Enactment of FMLA was predicated on two fundamental concerns – the evolving needs of the American workforce, and the development of high performance organizations. America's children and elderly commonly depend upon family members who must spend long hours at work. When a family emergency arises, requiring workers to attend to seriously-ill children or parents, or to newly-born or adopted infants, or even to their own serious illness, workers need greater assurance that they will not be forced to choose between continuing their employment or tending to vital needs at home.

The Department of Labor's experience in implementing and enforcing the Act, along with the findings of the bipartisan Commission, demonstrate that the FMLA has worked well, accomplishing its purpose effectively and efficiently, with distinct benefits to employers and employees. It has allowed millions of workers to take FMLA-protected time-off from work to meet family and medical needs without risking their jobs or health insurance.

And, we think the FMLA is a win-win proposition for both employers and employees. Employees who are treated fairly and whose family commitments are honored at work are more loyal and productive workers. Employers benefit from reduced turnover, increased productivity, greater uniformity and consistency in their family and medical leave policies, and greater labor-management stability. By promoting job security and encouraging greater productivity, the FMLA enables American businesses to compete effectively in a global economy.

Enforcement

In the five years since FMLA became effective on August 5, 1993 (through the end of fiscal year 1998), the Department, through the Employment Standards Administration's Wage and Hour Division, has completed action on some 13,600 complaints—an extremely small number given the millions of workers who have taken time off under FMLA. Fifty-nine percent

of the complaints presented valid issues. Nearly 90 percent of the complaints of an apparent FMLA violation were successfully resolved, many with a simple phone call to the employer explaining FMLA's provisions and the steps needed to remedy the situation.

A review of the FMLA compliance actions completed through September 30, 1998, shows that by far the largest number of valid complaints -- 44 percent -- involved their employer's refusal to reinstate employees to the same or equivalent positions after they returned from FMLA leave. In the rest of the cases, complaints alleged that the employer:

* refused to grant them FMLA leave – 22 percent;
* interfered with or discriminated against them for using FMLA leave – 15 percent; or
* refused to maintain their group health benefits during leave – 3 percent.

Eight percent of the complaints involved a combination of these issues, while most of the remaining complaints involved other issues, primarily administrative in nature.

Because emergency medical situations are often involved in FMLA leave cases, the Department has sought to resolve complaints quickly through a conciliation process. If necessary, a full investigation is conducted. Over 60 percent of the completed compliance actions have been resolved through conciliation.

Since FMLA's enactment, the Department has initiated legal action in 32 cases, most of which involve issues of job restoration and leave denial. Of these, four are pending. The Department has also filed friend-of-the-court briefs in six cases addressing FMLA issues, of which two are pending.

Reasons for FMLA Leave

According to the Commission's report to Congress in April 1996, entitled "*A Workable Balance,*" during an 18-month period in 1994-1995, about 60 percent of the FMLA-protected leave was taken for the employee's own health problems. Seventeen percent of FMLA-protected leave was taken for maternity reasons and the birth or adoption of a child, and approximately 20 percent was to care for an ill child, spouse, or parent.

The Commission also found that about 58 percent of FMLA-protected leave was used by women, about 42 percent by men.

Employees most likely to take leave were between the ages of 25 and 34, those with children, employees paid by the hour, and workers with family incomes between $20,000 and $30,000 a year.

Employer Compliance

Employers generally have not reported serious problems complying with the law. According to the Commission's report to Congress, nearly 90 percent of all employers surveyed

reported that complying with the FMLA entailed "no" or only "small" administrative costs, and roughly nine of ten employers reported no noticeable effect on productivity, profitability or growth. Over 90 percent of the covered employers said it was "very easy" or "somewhat easy" to determine worksite coverage or to determine employee eligibility.

User-Friendly Law

An important component of the Department's compliance efforts – and something that we think contributed to broad acceptance of and compliance with the law – has been our focus on educational outreach. From the outset, the Department initiated and has maintained an aggressive outreach program which includes: (1) distributing public service announcements; (2) delivering nearly 2,800 speeches, seminars, and media events; and (3) responding to over 625,000 telephone inquiries to our offices and establishing a special toll-free number (1-800-959-FMLA).

In a continuing effort to provide easy-to-understand information on the FMLA, the Department has also developed an on-line FMLA information service as part of the Employment Laws Assistance for Workers and Small Business (*elaws*) on the Internet. The FMLA *elaws* Advisor is an interactive program designed to help employees and employers learn more about the FMLA, and determine their rights and responsibilities under the law. This system can be accessed from the Department's web site homepage. Since its inception in November 1997, more than 91,000 individuals have accessed the FMLA *elaws* Advisor.

From the outset, the Department has also provided user-friendly informational materials such as compliance guides and fact sheets written in non-technical language, and a prototype employee notification form for employers.

No Widespread Problems or Abuse

We believe that this concentrated outreach has paid off. Most of the evidence from the Commission's report and the Department's experience suggests there have not been widespread problems or abuses under the FMLA. This is also a result, we believe, of the concerted effort the Department made in developing the FMLA regulations, to obtain and consider valuable public input, and the user-friendly structure of the regulations.

In developing the FMLA implementing regulations, numerous complex issues had to be resolved, with the definition of serious health condition and the qualifying illnesses it encompasses, and use of intermittent FMLA leave among the most significant. As you know, concerns about these issues continue to be expressed, but we believe that many of these concerns arose primarily when employers first tried to blend pre-existing leave and attendance policies with new requirements under FMLA. In addressing these and the many other issues, we carefully weighed the comments received within the context of the FMLA statutory requirements and legislative history. In promulgating the regulations, we sought to ensure the benefits and

file: FMLA - mental health

National Partnership for Women & Families

CHALLENGE 2·0·0·0

FAX TRANSMISSION

To: Ann O'Leary

Company:

Fax #: 456-2878

From: Sandhya Subramanian

Date: 5/30/00 **Program Charged:** 20111

Subject: Hardisheck **No. of Pages:** 11 Including this cover page

COMMENTS: Per my e-mail message, here's a copy of the Ninth Circuit opinion.

IF YOU HAVE PROBLEMS RECEIVING THIS FAX, PLEASE CALL 202 986-2600

1875 Connecticut Avenue, NW / Suite 710 / Washington, DC 20009 / 202.986.2600 / Fax: 202.986.2539 / Web Site: http://www.nationalpartnership.org

199 F.3d 1068
77 Empl. Prac. Dec. P 46,209, 140 Lab.Cas. P 34,000, 5 Wage & Hour Cas.2d (BNA) 1345,
1999 Daily Journal D.A.R. 12,631
(Cite as: 199 F.3d 1068)

Fe Castro MARCHISHECK, Plaintiff-Appellant,
v.
SAN MATEO COUNTY and Does 1 through 10, Defendants-Appellees.

No. 98-16141.

United States Court of Appeals,
Ninth Circuit.

Argued and Submitted Nov. 5, 1999.

Decided Dec. 16, 1999.

Terminated employee sued county, alleging that it violated Family and Medical Leave Act (FMLA) and California Family Rights Act by terminating her after she took unauthorized leave to relocate her teenage son to the Philippines. The United States District Court for the Northern District of California, Saundra Brown Armstrong, J., entered summary judgment in favor of county. Employee appealed. The Court of Appeals, Graber, Circuit Judge, held that: (1) injuries sustained by employee's son in beating did not constitute "serious health condition" within meaning of FMLA; (2) son's psychological condition did not constitute "serious health condition"; (3) combination of son's physical injuries and psychological condition did not constitute "serious health condition"; (4) employee did not care for son within meaning of FMLA when she accompanied him to the Philippines; and (5) employer was not estopped from denying that employee's son had serious health condition.

Affirmed.

[1] CIVIL RIGHTS ⚖173.1
78k173.1
Broadly speaking, and with exceptions, Department of Labor (DOL) regulations require that, for a serious health condition to exist entitling an employee to FMLA leave, there must be either: (1) a period of incapacity of at least three consecutive days, and (2) treatment two or more times by a health care provider; or (1) a chronic serious health condition (2) that results in a period of incapacity. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(i, iii).

[2] CIVIL RIGHTS ⚖173.1
78k173.1
Injuries sustained by employee's 14-year-old son in beating did not constitute "serious health condition" entitling employee to FMLA leave, even if he was incapacitated for three or more consecutive days, where he was treated only once for his injuries. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(i, iii).
See publication Words and Phrases for other judicial constructions and definitions.

[3] CIVIL RIGHTS ⚖173.1
78k173.1
Pre-arranged drug counseling session at which counseling assistant asked employee's 14-year-old son about his black eye did not constitute "treatment" for injuries son had sustained in beating, for purposes of requirement that member of employee's family must be treated two or more times in order to have serious medical condition entitling employee to FMLA leave. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(i)(A), (b).
See publication Words and Phrases for other judicial constructions and definitions.

[4] CIVIL RIGHTS ⚖173.1
78k173.1
Psychiatrist's actions of talking to employee on telephone, and writing letter on her behalf saying that it was necessary for her son's continued treatment that employee relocate son to the Philippines, did not constitute "treatment" for injuries son had sustained in beating, for purposes of requirement that member of employee's family must be treated two or more times in order to have serious medical condition entitling employee to FMLA leave; psychiatrist never met son and was concerned about behavioral problems, not physical injuries. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(i)(A),

(b).
See publication Words and Phrases for other judicial constructions and definitions.

[5] CIVIL RIGHTS ⚖173.1
78k173.1
Psychological condition of employee's 14-year-old son did not constitute "chronic serious health condition" entitling employee to FMLA leave, absent evidence that son suffered period of incapacity, that is, inability to perform regular daily activities. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(iii).
See publication Words and Phrases for other judicial constructions and definitions.

[6] CIVIL RIGHTS ⚖173.1
78k173.1
Combination of psychological condition of employee's son, and physical injuries he suffered as result of assault, did not constitute "serious health condition" entitling employee to FMLA leave, absent evidence suggesting that son was ever treated for combination of physical and psychological symptoms or that he was incapacitated by a combined condition. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(i, iii).
See publication Words and Phrases for other judicial constructions and definitions.

[7] CIVIL RIGHTS ⚖173.1
78k173.1
Employee did not "care for" her 14-year-old son, as required for employee to be entitled to FMLA leave, when she accompanied him to the Philippines so that he could live with relatives, where her asserted purpose in relocating him was to keep him safe from further beatings by acquaintances, and she had no specific plans to seek medical attention for him in the Philippines. Family and Medical Leave Act of 1993, § 102(a)(1)(C), 29 U.S.C.A. § 2612(a)(1)(C); 29 C.F.R. § 825.116.
See publication Words and Phrases for other judicial constructions and definitions.

[8] ESTOPPEL ⚖63
156k63
Employer was not estopped from denying that employee's son had serious health condition within meaning of FMLA, by employer's failure to request a second medical certification regarding son's condition after employee presented employer with psychiatrist's letter stating that it was necessary for employee to relocate her son to the Philippines, inasmuch as letter did not satisfy FMLA's requirements for medical certification and did not even claim that son had serious medical condition. Family and Medical Leave Act of 1993, § 103(a- d), 29 U.S.C.A. § 2613(a-d).

[9] ESTOPPEL ⚖99
156k99
Even if employer failed to provide employee with written notice of her FMLA rights and obligations when she requested leave, employer was not estopped from denying that employee's son had serious health condition; rather, employer would be prevented only from arguing that employee had failed to provide 30 days' notice of her need for FMLA leave. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.

[10] CIVIL RIGHTS ⚖173.1
78k173.1
Employer did not fail to post notices of employee's rights under FMLA and California Family Rights Act, and thus did not waive its right to dispute whether employee's son had serious health condition within meaning of those statutes; although employee and coemployee stated that they did not see such notices, person responsible for posting notices said that they were posted on office bulletin board, and other coemployees said they saw notices. Family and Medical Leave Act of 1993, § 102(a)(1)(C), 29 U.S.C.A. § 2612(a)(1)(C); West's Ann.Cal.Gov.Code § 12945.2(c)(3)(B).

[11] FEDERAL COURTS ⚖612.1
170Bk612.1
Court of Appeals would not consider sex discrimination claim that FMLA plaintiff had failed to raise before district court, absent compelling reason why normal preservation requirements should not apply, and absent showing that claim was based on newly discovered evidence. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.
*1070 Crisostomo G. Ibarra, Law Offices of

199 F.3d 1068
(Cite as: 199 F.3d 1068, *1070)

Crisostomo G. Ibarra, San Francisco, California, for the plaintiff-appellant.

A. Robert Singer and Craig P. Tanner, Hassard Bonnington, San Francisco, California, for the defendants-appellees.

Appeal from the United States District Court for the Northern District of California; Saundra B. Armstrong, District Judge, Presiding. D.C. No. CV-96-04254-SBA.

Before: CANBY, HALL, and GRABER, Circuit Judges.

GRABER, Circuit Judge:

This appeal arises under the Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. §§ 2601-2654, and the California Family Rights Act (CFRA), Cal. Gov't Code §§ 12945.1 to .2, 19702.3. Plaintiff Fe Castro Marchisheck contends that defendant San Mateo County violated those statutes when it terminated her employment after she took a one-month unauthorized leave from work to move her teenage son to the Philippines. The district court granted Defendant's motion for summary judgment. On de novo review, see Margolis v. Ryan, 140 F.3d 850, 852 (9th Cir.1998), we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

We view the facts in the light most favorable to Plaintiff, the nonmoving party. See id. Plaintiff was employed as a senior medical technologist in the San Mateo County General Hospital. She has a son, Shaun. At the time of the key events in this case, Shaun was 14 years old. Plaintiff was raising him alone.

Shaun had received counseling beginning in 1991. Following a 1991 arrest for shoplifting, Shaun was counseled by Dr. Rath at Project Focys. Dr. Rath concluded that Shaun, then 10, was mildly depressed and had poor peer relations. Shaun received counseling at Kaiser in 1994. He had 10 counseling sessions in 1995 with Mariana Pavolotsky, an intern at Project Focys. Plaintiff, who was concerned about Shaun's grades and choice of friends, initiated those sessions. After the final session, on June 1, 1995, Pavolotsky did not refer Shaun for continued therapy. Her records from their sessions do not contain any diagnosis of a mental disorder, though they do reflect her concern with Shaun's behavioral problems. Dr. Rath, who was Pavolotsky's supervisor, stated in *1071 a deposition that he did not recollect "having a big serious concern at that point" about Shaun's behavior and also stated that, if Pavolotsky "felt like there was something gravely needing attention, then there would have been probably significant attempts to try to get him to continue in therapy."

Shaun also attended six counseling sessions with Jerry Lawler at Kaiser between June 2 and August 9, 1995. Lawler was a "psychological assistant" in the drug and alcohol abuse program at Kaiser. Plaintiff brought Shaun to Kaiser because she was concerned that he was abusing alcohol and drugs. Lawler came to a "provisional" conclusion during counseling that Plaintiff's concerns were unfounded. He diagnosed Shaun with a "parent-child relationship problem" but "ruled out" diagnoses of attention deficit disorder and post-traumatic stress disorder.

On the night of August 5, 1995, Shaun was assaulted by several acquaintances. Plaintiff took Shaun to the emergency room when she arrived home from work on August 6. The emergency room report states that Shaun lost consciousness during the attack and suffered a nasal contusion, two puncture burns on his back, abrasions, erythema on the right side of his neck, and a left lateral subconjunctival hemorrhage. The report also states that Shaun was "alert and oriented" and "feel[ing] remarkably well." He was sent home with instructions to apply ice to his nose, clean his wounds with soap and water, and return to the emergency room if his wounds became more red, swollen, or tender or if he developed a fever. The report does not recommend any restriction of Shaun's activities.

Concerned for Shaun's safety, Plaintiff took him to stay with his sister. Shaun stayed with his sister from August 7 to 17. According to his sister, Shaun was "lethargic," "jittery," and "in an obvious state of fear," and he "mostly laid on the couch" and did not shower or bathe.

On August 9, Shaun attended a previously scheduled counseling session with Lawler at Kaiser.

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(Cite as: 199 F.3d 1068, *1071)

Lawler noticed that Shaun had a black eye and asked him what happened. According to Lawler, Shaun "said 'I got into a ruckus' or something like that with somebody, but clearly he wanted it to be no big deal." Lawler stated that Shaun did not tell him of any physical problems from the assault, other than the black eye, that Lawler observed no such problems, and that Shaun expressed no fear for his safety but, "on the contrary," "minimized it."

Immediately after Shaun was assaulted, Plaintiff conceived a plan to move Shaun to the Philippines to live with her brother. Plaintiff was born in the Philippines; Shaun was not, although he had visited there. On August 10, Plaintiff made a written request for approximately five weeks of vacation leave, to begin on August 18. A supervisor, George Ford, denied the request, because he could not cover the shifts that Plaintiff would miss without authorizing overtime. Plaintiff's written request does not specify the reason for the vacation, but Plaintiff asserts that, when Ford denied her request, she told him that she had to go to the Philippines because of an "emergency" involving Shaun. That "emergency" was her fear for Shaun's safety; Plaintiff feared that if she left Shaun alone, he would be beaten or killed, and she believed that he would be safe from "getting beaten up again" if he moved to her brother's house in the Philippines.

Plaintiff had further discussions about her travel plans over the next week. Apparently Plaintiff already had bought airplane tickets, or was in the process of buying tickets, when she requested vacation leave on August 10. She spoke with another supervisor, Elaine Phelps, on August 11. Phelps, who had heard that Plaintiff already had tickets, warned Plaintiff not to leave without approval. On August 16, Ford left a message on Plaintiff's ***1072** answering machine, reminding her that her request had been denied.

On August 17, the day on which she was scheduled to leave for the Philippines, Plaintiff met with Ford, Phelps, and Lola Thompson, the Assistant Administrator of the hospital, to discuss her vacation request. That morning, before the meeting, she called Kaiser in the hope of obtaining a letter from a doctor supporting her request for leave. Plaintiff spoke to a psychiatrist, Dr. Solomon. Plaintiff had not met Solomon, and Solomon had not been involved in any way in Shaun's counseling. Plaintiff approached him as follows: "I said [to] Dr. Solomon, I said, 'I have a son, Shaun Marchisheck, that Dr. Lawler had seen, and I would like to take my son to the Philippines, to look for a school and, you know, look for a school and housing facilities.' So I said 'If you could kind of help me out because I am having a hard time getting time off.' "

Solomon, whose practice focused on adult patients and who had limited experience treating adolescents, consulted Shaun's chart and agreed to write a letter. In his deposition, Solomon displayed almost no recollection of his contact with Plaintiff. He apparently spoke briefly with two doctors who had been involved with Shaun, but stated that he had little "participation" in their conversation about Shaun. He believed at the time that Plaintiff intended to stay in the Philippines with Shaun. In any event, he dictated the following letter for Plaintiff:

> Fe Marchisheck's son Shawn [sic] is under treatment here in our department, and at this point it is necessary for his continued treatment for him to move back to the Philippines for a time. It is also necessary for his mother to accompany him to arrange housing, schooling, etc. I would therefore greatly appreciate it if you could help in excusing her from work during this time for this family medical crisis.

Although the letter mentions "continued treatment," Solomon had "no information" about any treatment that Shaun would receive in the Philippines; nor could he have, as Plaintiff admitted in her deposition that she had no plans for Shaun to see any kind of doctor after he moved overseas. Solomon also stated that he was not sure what he was referring to when he described a "family medical crisis" and that he did not recall whether he actually had drafted the letter himself.

Plaintiff presented Solomon's letter at her August 17 meeting with Ford, Phelps, and Thompson. Despite the letter, Plaintiff's request for leave was denied. However, Plaintiff was given two other options: Taking five weeks off at the end of September, or taking two weeks off after Labor Day. Plaintiff rejected those options, in part because she already had purchased airplane tickets and could not afford to purchase new tickets. Plaintiff took Shaun to the Philippines that night.

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(Cite as: 199 F.3d 1068, *1072)

On September 7, Ford sent Plaintiff a letter expressing Defendant's intent to terminate Plaintiff on September 20, for insubordination and absence without leave. In that letter, Plaintiff was given the opportunity to respond to the statements in the letter, either orally or in writing. She did so in a September 21 meeting before Paz Beegle, Director of Psychiatric Emergency Services. At that meeting, Plaintiff was represented by union representative Nadia Bledsoe. After the meeting, Beegle issued a document stating that the disciplinary action against Plaintiff was proper.

Defendant fired Plaintiff by letter on September 22. In that letter, Defendant noted that Plaintiff had 14 days to appeal her termination.

Plaintiff's union filed a grievance on her behalf on October 3, 1995. On November 14, Plaintiff met with her union representative, Bledsoe, and an AFSCME union lawyer, Joseph Colton, to discuss her case. Colton concluded that Plaintiff did not have grounds for a grievance, but suggested that she speak to someone at the United States Department of Labor about ***1073** whether there were grounds to charge Defendant with violating the FMLA. On December 11, Plaintiff and Bledsoe met with Dante De Tablan, an investigator with the Department of Labor's Wage and Hour Division. After reviewing Plaintiff's case, De Tablan concluded that there were not sufficient grounds to charge Defendant with violating the FMLA. At that point, Bledsoe concluded that there was an insufficient basis for Plaintiff's grievance and informed Plaintiff that the union no longer would represent her.

On February 6, 1996, Plaintiff, who by then was represented by counsel, requested an appeal before the Civil Service Commission. That request was denied because it was untimely.

Plaintiff then filed an FMLA/CFRA claim with the San Mateo County Board of Supervisors on March 6, 1996. County counsel requested a Medical Certification regarding Shaun's alleged "serious health condition" and provided Plaintiff's counsel with a copy of the California Medical Certification form. Plaintiff did not reply and never returned the form. On May 24, 1996, the Board of Commissioners rejected Plaintiff's claim.

Plaintiff filed a complaint in district court on November 26, 1996, alleging five claims for relief. Two of those claims were under the FMLA, two were under the CFRA, and one alleged "Termination in violation of Public Policy." All turned on Plaintiff's underlying assertion that she was entitled to take leave under the FMLA and CFRA to "care for" Shaun, who was suffering from a "serious health condition."

The parties filed cross-motions for summary judgment. The district court granted Defendant's motion on the ground that "the undisputed evidence establishes that, during the time period at issue in this case, Plaintiff's son, Shaun, did not have a serious medical condition which would allow Plaintiff to claim the protections of the FMLA and the CFRA." Plaintiff brought this timely appeal.

DISCUSSION

A. General Statutory and Regulatory Requirements

Plaintiff contends that she was discharged in violation of the FMLA and the CFRA, because she was entitled to take leave to "care for" Shaun, who was suffering from a "serious health condition." [FN1] The FMLA entitles employees to take 12 weeks off from work, without pay, "[i]n order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition." 29 U.S.C. § 2612(a)(1)(C) (emphasis added). The CFRA contains a parallel provision. See Cal. Gov't Code § 12945.2(c)(3)(B). [FN2]

FN1. The issue in this case pertains to Shaun's condition at the time Plaintiff requested leave. Plaintiff provides us with a number of doctors' reports that, she argues, support her view of this case. Some of those reports were presented to the district court in a timely manner; others, however, were untimely and are not part of the summary judgment record. Some discuss Shaun's condition in August 1995; some discuss his condition at other times. We decline to consider reports that are not part of the summary judgment record and reports that do not purport to discuss Shaun's condition during the relevant period.

FN2. Plaintiff's CFRA claims turn on the FMLA's definitions of "serious health condition" and "care for." The CFRA incorporates those definitions by

reference, see Cal.Code Regs., tit. 2, § 7297.0, and Plaintiff makes no separate argument under the CFRA. Accordingly, we address Plaintiff's FMLA and CFRA claims together.

The FMLA defines a "serious health condition" as
an illness, injury, impairment, or physical or mental condition that involves--
(A) inpatient care in a hospital, hospice, or residential medical care facility; or
(B) continuing treatment by a health care provider.
*1074 29 U.S.C. § 2611(11). Shaun did not receive inpatient care; if he had a "serious health condition," it was because he had a condition that involved "continuing treatment by a health care provider" under 29 U.S.C. § 2611(11)(B).

[1] The requirements for a condition that involves "continuing treatment by a health care provider" are set out in the Department of Labor's rules implementing the FMLA. [FN3] Broadly speaking, and with exceptions that do not apply here, those rules require either (1) a period of incapacity of at least three consecutive days and (2) treatment two or more times by a health care provider, see 29 C.F.R. § 825.114(a)(2)(i); or (1) a "chronic serious health condition " (2) that results in a period of incapacity. 29 C.F.R. § 825.114(a)(2)(iii) (emphasis added). The rules define "incapacity" as "inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom." 29 C.F.R. § 825.114(a)(2)(i) (emphasis added).

FN3. The relevant rule, 29 C.F.R. § 825.114, provides in part:
(a) For purposes of FMLA, "serious health condition" entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:
....
(2) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
(i) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
(ii) Any period of incapacity due to pregnancy, or for prenatal care.
(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
(C) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
(Italicization omitted.)

B. "Serious Health Condition"

Plaintiff does not identify clearly what "serious health condition" she contends was the one that prompted her to take Shaun to the Philippines. She appears to suggest three such conditions: The injuries from the August 5 beating, Shaun's chronic behavioral problems, and Shaun's "combined psychological and physical condition." On this record, none qualifies as a "serious health condition" under the FMLA and the relevant administrative rules.

[2] First, the injuries from the beating did not constitute a "serious health condition." The parties disagree as to whether those injuries "incapacitated" Shaun for more than three consecutive days, as required by 29 C.F.R. § 825.114(a)(2)(i). However, Shaun's March 1998 declaration states: "I just did not and could not do anything for four or five days after August 5 [,1995]." Notwithstanding the stronger evidence to the contrary, his declaration creates a disputed issue of fact and precludes summary judgment on the issue of "incapacity."

However, Shaun's injuries from the beating still do not qualify as a "serious health condition," because he did not receive "[t]reatment two or more times" for those injuries. 29 C.F.R. *1075 § 825.114(a)(2)(i)(A). Shaun was treated only once at the emergency room, on August 6.

[3] Plaintiff argues that Shaun was treated for his injuries from the assault on two more occasions, on August 9 by Lawler and on August 17 by Solomon. Neither of those episodes reasonably can be characterized as "treatment" of Shaun's injuries from the assault. "Treatment" is loosely defined in the Department of Labor's rules implementing the FMLA; under the relevant rules, "[t]reatment ... includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition" but does not include "routine physical examinations." 29 C.F.R. § 825.114(b). Lawler, a counseling assistant, met with Shaun for a pre- arranged drug counseling session. He happened to ask Shaun about his black eye, but Shaun told him that he was fine and minimized the incident. There is no indication in the record that he and Shaun mentioned the incident again during the drug counseling session. Lawler's question does not amount to "examination" or "evaluation" of Shaun's injuries from the assault but, rather, was plainly a passing expression of curiosity and concern.

[4] Solomon never met Shaun; he merely spoke to Shaun's mother on the phone, once, and wrote a letter on her behalf. There is no indication that Solomon had any specific information about Shaun's physical injuries. To the extent that Solomon remembers his conversation with Plaintiff or his motivation for writing the letter, it appears that he was concerned about treatment for Shaun's behavioral problems, not for his physical injuries.

There is no factual dispute about what Lawler and Solomon did. The question is whether, under the FMLA, their actions constituted "treatment" of Shaun's physical injuries from the assault. We conclude that they did not: Neither Lawler nor Solomon "examined" or "evaluated" Shaun's injuries or treated those injuries in any other manner. Accordingly, Shaun's injuries from the assault were not a "serious health condition" entitling Plaintiff to FMLA leave.

[5] Next, we conclude that Shaun's psychological condition did not constitute a "serious health condition." Plaintiff asserts that Shaun's psychological problems amounted to a "chronic serious health condition" within the meaning of 29 C.F.R. § 825.114(a)(2)(iii). That argument fails, because "chronic serious health conditions" must be accompanied by periods of incapacity. Id. Plaintiff asserts, without citation to the record, that Shaun's psychological condition caused episodic incapacity. However, there is no evidence whatsoever in the record that Shaun suffered any period of incapacity--inability to perform regular daily activities--as a result of his behavioral problems.

[6] Finally, Plaintiff argues that "the combination of Shaun's physical and psychological condition rises to the level of a serious health condition." The point of that argument is to link the alleged period of incapacity from the assault with the continued course of treatment for Shaun's behavioral problems, thereby creating a "combined condition" that satisfies the requirements of the FMLA and the relevant administrative rules.

As authority for her "combined condition" argument, Plaintiff cites Price v. City of Fort Wayne, 117 F.3d 1022 (7th Cir.1997). In Price, the plaintiff simultaneously suffered from "an assemblage of [conditions] including elevated blood pressure, hyperthyroidism, back pain, severe headaches, sinusitis, infected cyst, sore throat, swelling throat, coughing and feelings of stress and depression." Id. at 1023. There was no dispute that the plaintiff was incapacitated by that combination of conditions or that she underwent continuing treatment: She saw her doctor eight times over the relevant two-month *1076 period and underwent a thyroid ultrasound, a needle biopsy, an excision of a mass, and a CT scan. See id. at 1024. Rather, the question was whether the plaintiff's conditions could be considered together for purposes of the FMLA, or whether each of the conditions had to be considered separately to determine whether one, by itself, was a "serious health condition." Id. The court concluded that the conditions could be considered together and that a group of seemingly unrelated conditions that combine to incapacitate a person and to require continuing treatment can, together, constitute a "serious health condition." Id.

199 F.3d 1068
(Cite as: 199 F.3d 1068, *1076)

at 1025.

The difficulty with applying the reasoning of Price here is that there is no competent evidence in the record to suggest that Shaun suffered from combined conditions that incapacitated him. Shaun received sporadic counseling beginning in 1991 and was assaulted in 1995, but there is nothing to suggest that Shaun ever was treated for a combination of physical and psychological symptoms, or that he was incapacitated by a combined condition. There simply is no basis in this record to conclude that Shaun's various behavioral and emotional problems ever "combined" with the passing physical effects of the assault to create a "serious health condition."

C. Leave to "Care For" a Child

[7] Further, even if Plaintiff had created a factual dispute on the question whether Shaun had a combined physical and mental condition, or some other "serious health condition," she still would not be entitled to FMLA leave. As noted, the FMLA provides for leave to "care for" a child who has a serious health condition. The Department of Labor's rules provide some explanation about what it means to "care for" a person with a serious health condition. Those rules state, at 29 C.F.R. § 825.116(a), that the FMLA "encompasses both physical and psychological care." The rule gives two examples of "caring for" a family member: (1) "[W]here ... the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor"; and (2) "providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care." Id.

Plaintiff's asserted purpose in moving Shaun to the Philippines was to keep him safe from further beatings. She was not moving Shaun so that he could receive superior--or any--medical or psychological treatment. Indeed, Plaintiff had no specific plans to seek medical attention for Shaun when she reached the Philippines, and he did not see a doctor of any kind for more than five months after he moved overseas. Further, it is undisputed that there were no psychological services available within a three-hour drive of the rural area of the Philippines to which Plaintiff took Shaun.

Plaintiff's act of taking Shaun to a foreign country and leaving him with relatives--although motivated by an understandable concern for Shaun's safety--did not amount to "caring for" Shaun for purposes of the FMLA. The relevant administrative rule, 29 C.F.R. § 825.116, suggests that "caring for" a child with a "serious health condition" involves some level of participation in ongoing treatment of that condition. If, as Plaintiff suggests, Shaun was suffering from a serious mental and physical condition, then Plaintiff could not "care for" him under the FMLA by removing him to a place where he would receive no treatment for either condition and leaving him there.

D. Estoppel and Waiver

[8] Plaintiff also argues that Defendant is estopped from denying that Shaun had a "serious health condition." First, she argues that Defendant is estopped because it did not request a second medical certification regarding Shaun's condition after she provided it with Dr. Solomon's letter. *1077 When an employee requests FMLA leave to care for a relative, the employer "may require" that the request be accompanied by a certification from a health care provider. 29 U.S.C. § 2613(a). That certification must state (1) the date on which the serious health condition began, (2) the probable duration of that condition, (3) the medical facts regarding the condition, (4) a statement that the employee is needed to care for the relative, and (5) an estimate of the amount of time during which the employee will need to care for the relative. See 29 U.S.C. § 2613(b). If the employer is dissatisfied with the certification, it may require, at its own expense, second and third certifications. See 29 U.S.C. § 2613(c), (d).

In Sims v. Alameda-Contra Costa Transit District, 2 F.Supp.2d 1253, 1263 (N.D.Cal.1998), the district court concluded that, if an employer chooses to require a first certification, but does not choose to require a second certification, it is not entitled to challenge the "findings" in the first certification--specifically, the finding of a "serious health condition"--if the case ends up in court. Rather, the employer is bound by those findings. See id.

The parties debate the merits of Sims at length, but it is readily distinguishable. Sims involved a medical certification requested by the employer and provided by the employee. Here we have no proper certification. Dr. Solomon's letter did not satisfy the requirements for medical certification specified by 29 U.S.C. § 2163(a, b). In fact, it did not even establish or claim that Shaun had a serious medical condition. See Sims, 2 F.Supp.2d at 1263 ("AC Transit waived its right to litigate whether Sims had a serious medical condition only if Sims' initial certification was sufficient to establish that he had such a condition."). Plaintiff points to no provision of the FMLA itself, or of the relevant administrative rules, that even arguably estops Defendant from disputing the contents of the letter in such circumstances.

Second, Plaintiff argues that Defendant is estopped from denying that Shaun had a "serious health condition" because it did not provide her with written notice of her FMLA rights and obligations. However, as soon as Plaintiff made an FMLA claim, in March 1996, Defendant requested FMLA certification and mailed her the appropriate form. [FN4]

> FN4. As noted, Plaintiff never provided a certification to Defendant. Nevertheless, an incomplete copy of the form is in the record. Dr. Rath filled it out in part, on June 24, 1996, and apparently returned it to Plaintiff's counsel. Rath had not treated Shaun since 1991 and based many of his conclusions in the form on what Plaintiff told him. In the form, Rath states that Shaun had a "serious health condition" during three periods: Beginning August 20, 1991, beginning February 16, 1995, and beginning January 25, 1996. Rath also states that the "probable duration of condition or need for medical treatment" was, in each case, six months. Accordingly, even Rath's partially completed medical certification form does not support Plaintiff's allegation that Shaun had a serious medical condition under the FMLA when she took him to the Philippines on August 17, 1995. The closest period during which Shaun suffered from such a condition, according to Rath, was the six-month period beginning February 16, 1995. That period ended on August 16, 1995, the day before Plaintiff and Shaun left for the Philippines.

[9] Plaintiff contends that Defendant should have known that her initial vacation request actually was a request for FMLA leave and provided her with written notice at that time. However, even if that were true, nothing in the statute or rules suggests that Defendant is estopped from arguing about Shaun's health. Rather, the result merely would be that Defendant could not argue that Plaintiff had failed to provide 30 days' notice of her need for FMLA leave, as required by the statute. Because Defendant is not arguing about Plaintiff's failure to provide notice, and the district court did not mention the 30 days' notice requirement in its order, Plaintiff's argument is beside the point.

[10] Plaintiff next argues waiver. In her third and fourth claims for relief, *1078 Plaintiff alleged that Defendant failed to post notices of FMLA and CFRA rights in a conspicuous place. Plaintiff does not assign error to the district court's grant of summary judgment on those claims. However, on appeal she repeats her contention that notices were not posted and asserts that, as a result, Defendant "has waived its right to dispute" the question of Shaun's health.

The evidence in the summary judgment record does not support Plaintiff's factual contention. Her only evidence is her own declaration and the declaration of a co-worker, each of which states that the declarant did not see FMLA or CFRA notices. However, the record also contains an affidavit from the person who is responsible for posting FMLA and CFRA notices, stating that the required notices were posted on an office bulletin board, as well as statements from other employees who saw the notices. Plaintiff's evidence does not directly contradict the affidavit from the person who posted the notice and, thus, creates no issue of fact. Even if Plaintiff and her co-worker did not read the notices, the undisputed evidence in the record is that they were posted.

E. Wrongful Termination Claim

Finally, Plaintiff contends that she was wrongfully terminated in violation of California laws forbidding discrimination on the basis of sex. The basis for that contention is Plaintiff's assertion that Elaine Phelps discriminated against her because Plaintiff is a woman. As evidence of Phelps' sex-based discrimination, Plaintiff cites the following statement

from a 1998 declaration by Plaintiff's co-worker Solane Louie: "Hermie Baron heard comments from Elaine Phelps, to the extent that 'The first thing I should do when I become lab manager is to fire Fe Marchisheck.' " In her declaration, Louie also reports that she heard Phelps say that Plaintiff was lazy, left work early, slept on the job, and came to work late.

[11] Plaintiff acknowledges that she did not raise the issue of sex discrimination before the district court. However, she urges us to consider her claim anyway. We decline to do so. Plaintiff has not presented any compelling reason why the normal preservation requirements should not apply in this case. She was in possession of substantially similar statements by Louie as early as 1995, which defeats her assertion that this is newly discovered evidence.

CONCLUSION

Plaintiff's desire to move her son to a more wholesome environment is laudable, and her further desire to do so promptly and at a reasonable cost is understandable. Nevertheless her predicament is not one that Congress protected through the FMLA nor one that the California legislature protected through the CFRA. Those statutes are designed to permit employees to take leaves for certain medical purposes only, and Plaintiff's leave was not for such a purpose.

The district court's grant of summary judgment to Defendant is

AFFIRMED.

END OF DOCUMENT

To: Deveaux Adler

For: Chris Jennings

6-5557

Re: FMLA for counseling

Case

This case, Marchisheck v. San Mateo Co., is far from perfect, but it is an example of a woman denied leave under FMLA for trying to help her son receive post-traumatic therapy.

Sandhya Subramanian <sandhya@nationalpartnership.org>
05/30/2000 04:56:20 PM

Record Type: Record

To: Ann O'Leary/OPD/EOP

cc:
Subject: Re: Leave for counseling -Reply

Ann --

The case is Marchisheck v. San Mateo County; a cert petition to the Supreme Court from the Ninth Circuit, which affirmed the district court's grant of summary judgment against the plaintiff, is currently pending. For your reference, I'm sending you a copy of the Ninth Circuit opinion. Unfortunately, as I mentioned in my previous message and as you'll see from the opinion, the facts aren't too great -- although the plaintiff submitted to her employer a letter from a psychiatrist saying that she needed to take her son to the Phillippines for continued treatment, she later admitted that she didn't actually have plans for her son to see any doctors overseas. If you have any questions or would like to talk about the case a bit more, please let me know!

Best regards,
Sandhya

>>> <Ann_O'Leary@opd.eop.gov> 05/30/00 11:34am >>>
Do either of you have a name for this case or any press surrounding the case?

(Embedded
image moved Sandhya Subramanian
to file: <sandhya@nationalpartnership.org>
PIC12339.PCX) 03/28/2000 04:02:38 PM

Record Type: Record

To: Ann O'Leary/OPD/EOP

cc:

Subject: Leave for counseling

Ann --
I just wanted to follow up on Donna's e-mail message with more information about the court case she mentioned to you. As she explained, the case involved a woman who wanted to take leave to care for her teenage son. He had been seeing a therapist and was suffering from the aftermath of a gang-related assault, and she felt she needed to take leave to ensure his safety and access to treatment. She was denied the right to take this leave under FMLA because her son wasn't suffering from a serious medical condition. (Unfortunately, the kicker is that she decided she needed the leave to take him to the Phillippines (her native country) to remove him completely from harm's way.)
If you're interested in this story, you may want to contact the plaintiff's attorney, Chris Ibarra, at (415) 398-5329. (For your reference, we were originally asked to submit an amicus brief in this case, but declined because there wasn't enough time to put one together, among other reasons; we just received another request to participate in the briefing of the Supreme Court cert petition.)
In addition, our 1998 Balancing Acts survey, which Donna mentioned to you, is accessible from our web site at http://www.nationalpartnership.org/publications/contentanalysis.htm.
The press release for our newest survey on TV's depiction of work-family conflicts, Prime Time @ Work, can be found at http://www.nationalpartnership.org/news/pressreleases/2000/020900.htm; this press release serves basically as an Executive Summary of the survey, and highlights its most interesting findings.
Finally, Lauren Asher asked that we send you some names and contact information for your media and adolescents panel. Katharine Heintz-Knowles (425/868-5261) does a lot of work with TV content analysis and would have the most up-to-date information (or know where to get it). Laurie Slass from the Annenburg Public Policy Center (202/879-6700) can also point you toward additional experts and/or reports.
Please let me know if you have any questions or would like more information!
Best regards,
Sandhya

199 F.3d 1068
77 Empl. Prac. Dec. P 46,209, 140 Lab.Cas. P 34,000, 5 Wage & Hour Cas.2d (BNA) 1345,
1999 Daily Journal D.A.R. 12,631
(Cite as: 199 F.3d 1068)

Fe Castro MARCHISHECK, Plaintiff-Appellant,
v.
SAN MATEO COUNTY and Does 1 through 10, Defendants-Appellees.

No. 98-16141.

United States Court of Appeals,
Ninth Circuit.

Argued and Submitted Nov. 5, 1999.

Decided Dec. 16, 1999.

Terminated employee sued county, alleging that it violated Family and Medical Leave Act (FMLA) and California Family Rights Act by terminating her after she took unauthorized leave to relocate her teenage son to the Philippines. The United States District Court for the Northern District of California, Saundra Brown Armstrong, J., entered summary judgment in favor of county. Employee appealed. The Court of Appeals, Graber, Circuit Judge, held that: (1) injuries sustained by employee's son in beating did not constitute "serious health condition" within meaning of FMLA; (2) son's psychological condition did not constitute "serious health condition"; (3) combination of son's physical injuries and psychological condition did not constitute "serious health condition"; (4) employee did not care for son within meaning of FMLA when she accompanied him to the Philippines; and (5) employer was not estopped from denying that employee's son had serious health condition.

Affirmed.

[1] CIVIL RIGHTS ⇐173.1
78k173.1
Broadly speaking, and with exceptions, Department of Labor (DOL) regulations require that, for a serious health condition to exist entitling an employee to FMLA leave, there must be either: (1) a period of incapacity of at least three consecutive days, and (2) treatment two or more times by a health care provider; or (1) a chronic serious health condition (2) that results in a period of incapacity. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(i, iii).

[2] CIVIL RIGHTS ⇐173.1
78k173.1
Injuries sustained by employee's 14-year-old son in beating did not constitute "serious health condition" entitling employee to FMLA leave, even if he was incapacitated for three or more consecutive days, where he was treated only once for his injuries. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(i, iii).
See publication Words and Phrases for other judicial constructions and definitions.

[3] CIVIL RIGHTS ⇐173.1
78k173.1
Pre-arranged drug counseling session at which counseling assistant asked employee's 14-year-old son about his black eye did not constitute "treatment" for injuries son had sustained in beating, for purposes of requirement that member of employee's family must be treated two or more times in order to have serious medical condition entitling employee to FMLA leave. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(i)(A), (b).
See publication Words and Phrases for other judicial constructions and definitions.

[4] CIVIL RIGHTS ⇐173.1
78k173.1
Psychiatrist's actions of talking to employee on telephone, and writing letter on her behalf saying that it was necessary for her son's continued treatment that employee relocate son to the Philippines, did not constitute "treatment" for injuries son had sustained in beating, for purposes of requirement that member of employee's family must be treated two or more times in order to have serious medical condition entitling employee to FMLA leave; psychiatrist never met son and was concerned about behavioral problems, not physical injuries. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(i)(A),

(b).
See publication Words and Phrases for other judicial constructions and definitions.

[5] CIVIL RIGHTS ⚖173.1
78k173.1
Psychological condition of employee's 14-year-old son did not constitute "chronic serious health condition" entitling employee to FMLA leave, absent evidence that son suffered period of incapacity, that is, inability to perform regular daily activities. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(iii).
See publication Words and Phrases for other judicial constructions and definitions.

[6] CIVIL RIGHTS ⚖173.1
78k173.1
Combination of psychological condition of employee's son, and physical injuries he suffered as result of assault, did not constitute "serious health condition" entitling employee to FMLA leave, absent evidence suggesting that son was ever treated for combination of physical and psychological symptoms or that he was incapacitated by a combined condition. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(C), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(C); 29 C.F.R. § 825.114(a)(2)(i, iii).
See publication Words and Phrases for other judicial constructions and definitions.

[7] CIVIL RIGHTS ⚖173.1
78k173.1
Employee did not "care for" her 14-year-old son, as required for employee to be entitled to FMLA leave, when she accompanied him to the Philippines so that he could live with relatives, where her asserted purpose in relocating him was to keep him safe from further beatings by acquaintances, and she had no specific plans to seek medical attention for him in the Philippines. Family and Medical Leave Act of 1993, § 102(a)(1)(C), 29 U.S.C.A. § 2612(a)(1)(C); 29 C.F.R. § 825.116.
See publication Words and Phrases for other judicial constructions and definitions.

[8] ESTOPPEL ⚖63
156k63
Employer was not estopped from denying that employee's son had serious health condition within meaning of FMLA, by employer's failure to request a second medical certification regarding son's condition after employee presented employer with psychiatrist's letter stating that it was necessary for employee to relocate her son to the Philippines, inasmuch as letter did not satisfy FMLA's requirements for medical certification and did not even claim that son had serious medical condition. Family and Medical Leave Act of 1993, § 103(a- d), 29 U.S.C.A. § 2613(a-d).

[9] ESTOPPEL ⚖99
156k99
Even if employer failed to provide employee with written notice of her FMLA rights and obligations when she requested leave, employer was not estopped from denying that employee's son had serious health condition; rather, employer would be prevented only from arguing that employee had failed to provide 30 days' notice of her need for FMLA leave. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.

[10] CIVIL RIGHTS ⚖173.1
78k173.1
Employer did not fail to post notices of employee's rights under FMLA and California Family Rights Act, and thus did not waive its right to dispute whether employee's son had serious health condition within meaning of those statutes; although employee and coemployee stated that they did not see such notices, person responsible for posting notices said that they were posted on office bulletin board, and other coemployees said they saw notices. Family and Medical Leave Act of 1993, § 102(a)(1)(C), 29 U.S.C.A. § 2612(a)(1)(C); West's Ann.Cal.Gov.Code § 12945.2(c)(3)(B).

[11] FEDERAL COURTS ⚖612.1
170Bk612.1
Court of Appeals would not consider sex discrimination claim that FMLA plaintiff had failed to raise before district court, absent compelling reason why normal preservation requirements should not apply, and absent showing that claim was based on newly discovered evidence. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.
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A. Robert Singer and Craig P. Tanner, Hassard Bonnington, San Francisco, California, for the defendants-appellees.

Appeal from the United States District Court for the Northern District of California; Saundra B. Armstrong, District Judge, Presiding. D.C. No. CV-96- 04254-SBA.

Before: CANBY, HALL, and GRABER, Circuit Judges.

GRABER, Circuit Judge:

This appeal arises under the Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. §§ 2601-2654, and the California Family Rights Act (CFRA), Cal. Gov't Code §§ 12945.1 to .2, 19702.3. Plaintiff Fe Castro Marchisheck contends that defendant San Mateo County violated those statutes when it terminated her employment after she took a one-month unauthorized leave from work to move her teenage son to the Philippines. The district court granted Defendant's motion for summary judgment. On de novo review, see Margolis v. Ryan, 140 F.3d 850, 852 (9th Cir.1998), we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

We view the facts in the light most favorable to Plaintiff, the nonmoving party. See id. Plaintiff was employed as a senior medical technologist in the San Mateo County General Hospital. She has a son, Shaun. At the time of the key events in this case, Shaun was 14 years old. Plaintiff was raising him alone.

Shaun had received counseling beginning in 1991. Following a 1991 arrest for shoplifting, Shaun was counseled by Dr. Rath at Project Focys. Dr. Rath concluded that Shaun, then 10, was mildly depressed and had poor peer relations. Shaun received counseling at Kaiser in 1994. He had 10 counseling sessions in 1995 with Mariana Pavolotsky, an intern at Project Focys. Plaintiff, who was concerned about Shaun's grades and choice of friends, initiated those sessions. After the final session, on June 1, 1995, Pavolotsky did not refer Shaun for continued therapy. Her records from their sessions do not contain any diagnosis of a mental disorder, though they do reflect her concern with Shaun's behavioral problems. Dr. Rath, who was Pavolotsky's supervisor, stated in *1071 a deposition that he did not recollect "having a big serious concern at that point" about Shaun's behavior and also stated that, if Pavolotsky "felt like there was something gravely needing attention, then there would have been probably significant attempts to try to get him to continue in therapy."

Shaun also attended six counseling sessions with Jerry Lawler at Kaiser between June 2 and August 9, 1995. Lawler was a "psychological assistant" in the drug and alcohol abuse program at Kaiser. Plaintiff brought Shaun to Kaiser because she was concerned that he was abusing alcohol and drugs. Lawler came to a "provisional" conclusion during counseling that Plaintiff's concerns were unfounded. He diagnosed Shaun with a "parent-child relationship problem" but "ruled out" diagnoses of attention deficit disorder and post-traumatic stress disorder.

On the night of August 5, 1995, Shaun was assaulted by several acquaintances. Plaintiff took Shaun to the emergency room when she arrived home from work on August 6. The emergency room report states that Shaun lost consciousness during the attack and suffered a nasal contusion, two puncture burns on his back, abrasions, erythema on the right side of his neck, and a left lateral subconjunctival hemorrhage. The report also states that Shaun was "alert and oriented" and "feel[ing] remarkably well." He was sent home with instructions to apply ice to his nose, clean his wounds with soap and water, and return to the emergency room if his wounds became more red, swollen, or tender or if he developed a fever. The report does not recommend any restriction of Shaun's activities.

Concerned for Shaun's safety, Plaintiff took him to stay with his sister. Shaun stayed with his sister from August 7 to 17. According to his sister, Shaun was "lethargic," "jittery," and "in an obvious state of fear," and he "mostly laid on the couch" and did not shower or bathe.

On August 9, Shaun attended a previously scheduled counseling session with Lawler at Kaiser.

Lawler noticed that Shaun had a black eye and asked him what happened. According to Lawler, Shaun "said 'I got into a ruckus' or something like that with somebody, but clearly he wanted it to be no big deal." Lawler stated that Shaun did not tell him of any physical problems from the assault, other than the black eye, that Lawler observed no such problems, and that Shaun expressed no fear for his safety but, "on the contrary," "minimized it."

Immediately after Shaun was assaulted, Plaintiff conceived a plan to move Shaun to the Philippines to live with her brother. Plaintiff was born in the Philippines; Shaun was not, although he had visited there. On August 10, Plaintiff made a written request for approximately five weeks of vacation leave, to begin on August 18. A supervisor, George Ford, denied the request, because he could not cover the shifts that Plaintiff would miss without authorizing overtime. Plaintiff's written request does not specify the reason for the vacation, but Plaintiff asserts that, when Ford denied her request, she told him that she had to go to the Philippines because of an "emergency" involving Shaun. That "emergency" was her fear for Shaun's safety; Plaintiff feared that if she left Shaun alone, he would be beaten or killed, and she believed that he would be safe from "getting beaten up again" if he moved to her brother's house in the Philippines.

Plaintiff had further discussions about her travel plans over the next week. Apparently Plaintiff already had bought airplane tickets, or was in the process of buying tickets, when she requested vacation leave on August 10. She spoke with another supervisor, Elaine Phelps, on August 11. Phelps, who had heard that Plaintiff already had tickets, warned Plaintiff not to leave without approval. On August 16, Ford left a message on Plaintiff's *1072 answering machine, reminding her that her request had been denied.

On August 17, the day on which she was scheduled to leave for the Philippines, Plaintiff met with Ford, Phelps, and Lola Thompson, the Assistant Administrator of the hospital, to discuss her vacation request. That morning, before the meeting, she called Kaiser in the hope of obtaining a letter from a doctor supporting her request for leave. Plaintiff spoke to a psychiatrist, Dr. Solomon. Plaintiff had not met Solomon, and Solomon had not been involved in any way in Shaun's counseling. Plaintiff approached him as follows: "I said [to] Dr. Solomon, I said, 'I have a son, Shaun Marchisheck, that Dr. Lawler had seen, and I would like to take my son to the Philippines, to look for a school and, you know, look for a school and housing facilities.' So I said 'If you could kind of help me out because I am having a hard time getting time off.' "

Solomon, whose practice focused on adult patients and who had limited experience treating adolescents, consulted Shaun's chart and agreed to write a letter. In his deposition, Solomon displayed almost no recollection of his contact with Plaintiff. He apparently spoke briefly with two doctors who had been involved with Shaun, but stated that he had little "participation" in their conversation about Shaun. He believed at the time that Plaintiff intended to stay in the Philippines with Shaun. In any event, he dictated the following letter for Plaintiff:

> Fe Marchisheck's son Shawn [sic] is under treatment here in our department, and at this point it is necessary for his continued treatment for him to move back to the Philippines for a time. It is also necessary for his mother to accompany him to arrange housing, schooling, etc. I would therefore greatly appreciate it if you could help in excusing her from work during this time for this family medical crisis.

Although the letter mentions "continued treatment," Solomon had "no information" about any treatment that Shaun would receive in the Philippines; nor could he have, as Plaintiff admitted in her deposition that she had no plans for Shaun to see any kind of doctor after he moved overseas. Solomon also stated that he was not sure what he was referring to when he described a "family medical crisis" and that he did not recall whether he actually had drafted the letter himself.

Plaintiff presented Solomon's letter at her August 17 meeting with Ford, Phelps, and Thompson. Despite the letter, Plaintiff's request for leave was denied. However, Plaintiff was given two other options: Taking five weeks off at the end of September, or taking two weeks off after Labor Day. Plaintiff rejected those options, in part because she already had purchased airplane tickets and could not afford to purchase new tickets. Plaintiff took Shaun to the Philippines that night.

On September 7, Ford sent Plaintiff a letter expressing Defendant's intent to terminate Plaintiff on September 20, for insubordination and absence without leave. In that letter, Plaintiff was given the opportunity to respond to the statements in the letter, either orally or in writing. She did so in a September 21 meeting before Paz Beegle, Director of Psychiatric Emergency Services. At that meeting, Plaintiff was represented by union representative Nadia Bledsoe. After the meeting, Beegle issued a document stating that the disciplinary action against Plaintiff was proper.

Defendant fired Plaintiff by letter on September 22. In that letter, Defendant noted that Plaintiff had 14 days to appeal her termination.

Plaintiff's union filed a grievance on her behalf on October 3, 1995. On November 14, Plaintiff met with her union representative, Bledsoe, and an AFSCME union lawyer, Joseph Colton, to discuss her case. Colton concluded that Plaintiff did not have grounds for a grievance, but suggested that she speak to someone at the United States Department of Labor about *1073 whether there were grounds to charge Defendant with violating the FMLA. On December 11, Plaintiff and Bledsoe met with Dante De Tablan, an investigator with the Department of Labor's Wage and Hour Division. After reviewing Plaintiff's case, De Tablan concluded that there were not sufficient grounds to charge Defendant with violating the FMLA. At that point, Bledsoe concluded that there was an insufficient basis for Plaintiff's grievance and informed Plaintiff that the union no longer would represent her.

On February 6, 1996, Plaintiff, who by then was represented by counsel, requested an appeal before the Civil Service Commission. That request was denied because it was untimely.

Plaintiff then filed an FMLA/CFRA claim with the San Mateo County Board of Supervisors on March 6, 1996. County counsel requested a Medical Certification regarding Shaun's alleged "serious health condition" and provided Plaintiff's counsel with a copy of the California Medical Certification form. Plaintiff did not reply and never returned the form. On May 24, 1996, the Board of Commissioners rejected Plaintiff's claim.

Plaintiff filed a complaint in district court on November 26, 1996, alleging five claims for relief. Two of those claims were under the FMLA, two were under the CFRA, and one alleged "Termination in violation of Public Policy." All turned on Plaintiff's underlying assertion that she was entitled to take leave under the FMLA and CFRA to "care for" Shaun, who was suffering from a "serious health condition."

The parties filed cross-motions for summary judgment. The district court granted Defendant's motion on the ground that "the undisputed evidence establishes that, during the time period at issue in this case, Plaintiff's son, Shaun, did not have a serious medical condition which would allow Plaintiff to claim the protections of the FMLA and the CFRA." Plaintiff brought this timely appeal.

DISCUSSION

A. General Statutory and Regulatory Requirements

Plaintiff contends that she was discharged in violation of the FMLA and the CFRA, because she was entitled to take leave to "care for" Shaun, who was suffering from a "serious health condition." [FN1] The FMLA entitles employees to take 12 weeks off from work, without pay, "[i]n order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition." 29 U.S.C. § 2612(a)(1)(C) (emphasis added). The CFRA contains a parallel provision. See Cal. Gov't Code § 12945.2(c)(3)(B). [FN2]

FN1. The issue in this case pertains to Shaun's condition at the time Plaintiff requested leave. Plaintiff provides us with a number of doctors' reports that, she argues, support her view of this case. Some of those reports were presented to the district court in a timely manner; others, however, were untimely and are not part of the summary judgment record. Some discuss Shaun's condition in August 1995; some discuss his condition at other times. We decline to consider reports that are not part of the summary judgment record and reports that do not purport to discuss Shaun's condition during the relevant period.

FN2. Plaintiff's CFRA claims turn on the FMLA's definitions of "serious health condition" and "care for." The CFRA incorporates those definitions by

reference, see Cal.Code Regs., tit. 2, § 7297.0, and Plaintiff makes no separate argument under the CFRA. Accordingly, we address Plaintiff's FMLA and CFRA claims together.

The FMLA defines a "serious health condition" as
an illness, injury, impairment, or physical or mental condition that involves--
(A) inpatient care in a hospital, hospice, or residential medical care facility; or
(B) continuing treatment by a health care provider.
*1074 29 U.S.C. § 2611(11). Shaun did not receive inpatient care; if he had a "serious health condition," it was because he had a condition that involved "continuing treatment by a health care provider" under 29 U.S.C. § 2611(11)(B).

[1] The requirements for a condition that involves "continuing treatment by a health care provider" are set out in the Department of Labor's rules implementing the FMLA. [FN3] Broadly speaking, and with exceptions that do not apply here, those rules require either (1) a period of incapacity of at least three consecutive days and (2) treatment two or more times by a health care provider, see 29 C.F.R. § 825.114(a)(2)(i); or (1) a "chronic serious health condition " (2) that results in a period of incapacity. 29 C.F.R. § 825.114(a)(2)(iii) (emphasis added). The rules define "incapacity" as "inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom." 29 C.F.R. § 825.114(a)(2)(i) (emphasis added).

FN3. The relevant rule, 29 C.F.R. § 825.114, provides in part:
(a) For purposes of FMLA, "serious health condition" entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:
....
(2) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
(i) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
(ii) Any period of incapacity due to pregnancy, or for prenatal care.
(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
(C) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
(Italicization omitted.)

B. "Serious Health Condition"

Plaintiff does not identify clearly what "serious health condition" she contends was the one that prompted her to take Shaun to the Philippines. She appears to suggest three such conditions: The injuries from the August 5 beating, Shaun's chronic behavioral problems, and Shaun's "combined psychological and physical condition." On this record, none qualifies as a "serious health condition" under the FMLA and the relevant administrative rules.

[2] First, the injuries from the beating did not constitute a "serious health condition." The parties disagree as to whether those injuries "incapacitated" Shaun for more than three consecutive days, as required by 29 C.F.R. § 825.114(a)(2)(i). However, Shaun's March 1998 declaration states: "I just did not and could not do anything for four or five days after August 5 [,1995]." Notwithstanding the stronger evidence to the contrary, his declaration creates a disputed issue of fact and precludes summary judgment on the issue of "incapacity."

However, Shaun's injuries from the beating still do not qualify as a "serious health condition," because he did not receive "[t]reatment two or more times" for those injuries. 29 C.F.R. *1075 § 825.114(a)(2)(i)(A). Shaun was treated only once at the emergency room, on August 6.

[3] Plaintiff argues that Shaun was treated for his injuries from the assault on two more occasions, on August 9 by Lawler and on August 17 by Solomon. Neither of those episodes reasonably can be characterized as "treatment" of Shaun's injuries from the assault. "Treatment" is loosely defined in the Department of Labor's rules implementing the FMLA; under the relevant rules, "[t]reatment ... includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition" but does not include "routine physical examinations." 29 C.F.R. § 825.114(b). Lawler, a counseling assistant, met with Shaun for a pre- arranged drug counseling session. He happened to ask Shaun about his black eye, but Shaun told him that he was fine and minimized the incident. There is no indication in the record that he and Shaun mentioned the incident again during the drug counseling session. Lawler's question does not amount to "examination" or "evaluation" of Shaun's injuries from the assault but, rather, was plainly a passing expression of curiosity and concern.

[4] Solomon never met Shaun; he merely spoke to Shaun's mother on the phone, once, and wrote a letter on her behalf. There is no indication that Solomon had any specific information about Shaun's physical injuries. To the extent that Solomon remembers his conversation with Plaintiff or his motivation for writing the letter, it appears that he was concerned about treatment for Shaun's behavioral problems, not for his physical injuries.

There is no factual dispute about what Lawler and Solomon did. The question is whether, under the FMLA, their actions constituted "treatment" of Shaun's physical injuries from the assault. We conclude that they did not: Neither Lawler nor Solomon "examined" or "evaluated" Shaun's injuries or treated those injuries in any other manner. Accordingly, Shaun's injuries from the assault were not a "serious health condition" entitling Plaintiff to FMLA leave.

[5] Next, we conclude that Shaun's psychological condition did not constitute a "serious health condition." Plaintiff asserts that Shaun's psychological problems amounted to a "chronic serious health condition" within the meaning of 29 C.F.R. § 825.114(a)(2)(iii). That argument fails, because "chronic serious health conditions" must be accompanied by periods of incapacity. Id. Plaintiff asserts, without citation to the record, that Shaun's psychological condition caused episodic incapacity. However, there is no evidence whatsoever in the record that Shaun suffered any period of incapacity--inability to perform regular daily activities--as a result of his behavioral problems.

[6] Finally, Plaintiff argues that "the combination of Shaun's physical and psychological condition rises to the level of a serious health condition." The point of that argument is to link the alleged period of incapacity from the assault with the continued course of treatment for Shaun's behavioral problems, thereby creating a "combined condition" that satisfies the requirements of the FMLA and the relevant administrative rules.

As authority for her "combined condition" argument, Plaintiff cites Price v. City of Fort Wayne, 117 F.3d 1022 (7th Cir.1997). In Price, the plaintiff simultaneously suffered from "an assemblage of [conditions] including elevated blood pressure, hyperthyroidism, back pain, severe headaches, sinusitis, infected cyst, sore throat, swelling throat, coughing and feelings of stress and depression." Id. at 1023. There was no dispute that the plaintiff was incapacitated by that combination of conditions or that she underwent continuing treatment: She saw her doctor eight times over the relevant two-month *1076 period and underwent a thyroid ultrasound, a needle biopsy, an excision of a mass, and a CT scan. See id. at 1024. Rather, the question was whether the plaintiff's conditions could be considered together for purposes of the FMLA, or whether each of the conditions had to be considered separately to determine whether one, by itself, was a "serious health condition." Id. The court concluded that the conditions could be considered together and that a group of seemingly unrelated conditions that combine to incapacitate a person and to require continuing treatment can, together, constitute a "serious health condition." Id.

at 1025.

The difficulty with applying the reasoning of Price here is that there is no competent evidence in the record to suggest that Shaun suffered from combined conditions that incapacitated him. Shaun received sporadic counseling beginning in 1991 and was assaulted in 1995, but there is nothing to suggest that Shaun ever was treated for a combination of physical and psychological symptoms, or that he was incapacitated by a combined condition. There simply is no basis in this record to conclude that Shaun's various behavioral and emotional problems ever "combined" with the passing physical effects of the assault to create a "serious health condition."

C. Leave to "Care For" a Child

[7] Further, even if Plaintiff had created a factual dispute on the question whether Shaun had a combined physical and mental condition, or some other "serious health condition," she still would not be entitled to FMLA leave. As noted, the FMLA provides for leave to "care for" a child who has a serious health condition. The Department of Labor's rules provide some explanation about what it means to "care for" a person with a serious health condition. Those rules state, at 29 C.F.R. § 825.116(a), that the FMLA "encompasses both physical and psychological care." The rule gives two examples of "caring for" a family member: (1) "[W]here ... the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor"; and (2) "providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care." Id.

Plaintiff's asserted purpose in moving Shaun to the Philippines was to keep him safe from further beatings. She was not moving Shaun so that he could receive superior--or any--medical or psychological treatment. Indeed, Plaintiff had no specific plans to seek medical attention for Shaun when she reached the Philippines, and he did not see a doctor of any kind for more than five months after he moved overseas. Further, it is undisputed that there were no psychological services available within a three-hour drive of the rural area of the Philippines to which Plaintiff took Shaun.

Plaintiff's act of taking Shaun to a foreign country and leaving him with relatives--although motivated by an understandable concern for Shaun's safety--did not amount to "caring for" Shaun for purposes of the FMLA. The relevant administrative rule, 29 C.F.R. § 825.116, suggests that "caring for" a child with a "serious health condition" involves some level of participation in ongoing treatment of that condition. If, as Plaintiff suggests, Shaun was suffering from a serious mental and physical condition, then Plaintiff could not "care for" him under the FMLA by removing him to a place where he would receive no treatment for either condition and leaving him there.

D. Estoppel and Waiver

[8] Plaintiff also argues that Defendant is estopped from denying that Shaun had a "serious health condition." First, she argues that Defendant is estopped because it did not request a second medical certification regarding Shaun's condition after she provided it with Dr. Solomon's letter. *1077 When an employee requests FMLA leave to care for a relative, the employer "may require" that the request be accompanied by a certification from a health care provider. 29 U.S.C. § 2613(a). That certification must state (1) the date on which the serious health condition began, (2) the probable duration of that condition, (3) the medical facts regarding the condition, (4) a statement that the employee is needed to care for the relative, and (5) an estimate of the amount of time during which the employee will need to care for the relative. See 29 U.S.C. § 2613(b). If the employer is dissatisfied with the certification, it may require, at its own expense, second and third certifications. See 29 U.S.C. § 2613(c), (d).

In Sims v. Alameda-Contra Costa Transit District, 2 F.Supp.2d 1253, 1263 (N.D.Cal.1998), the district court concluded that, if an employer chooses to require a first certification, but does not choose to require a second certification, it is not entitled to challenge the "findings" in the first certification--specifically, the finding of a "serious health condition"--if the case ends up in court. Rather, the employer is bound by those findings. See id.

from a 1998 declaration by Plaintiff's co-worker Solane Louie: "Hermie Baron heard comments from Elaine Phelps, to the extent that 'The first thing I should do when I become lab manager is to fire Fe Marchisheck.' " In her declaration, Louie also reports that she heard Phelps say that Plaintiff was lazy, left work early, slept on the job, and came to work late.

[11] Plaintiff acknowledges that she did not raise the issue of sex discrimination before the district court. However, she urges us to consider her claim anyway. We decline to do so. Plaintiff has not presented any compelling reason why the normal preservation requirements should not apply in this case. She was in possession of substantially similar statements by Louie as early as 1995, which defeats her assertion that this is newly discovered evidence.

CONCLUSION

Plaintiff's desire to move her son to a more wholesome environment is laudable, and her further desire to do so promptly and at a reasonable cost is understandable. Nevertheless her predicament is not one that Congress protected through the FMLA nor one that the California legislature protected through the CFRA. Those statutes are designed to permit employees to take leaves for certain medical purposes only, and Plaintiff's leave was not for such a purpose.

The district court's grant of summary judgment to Defendant is

AFFIRMED.

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