

The ERISA Industry Committee: Paid Family and Medical Leave Principles & Guidelines

The ERISA Industry Committee (ERIC) represents and advocates for the country's largest employers on healthcare, retirement, and compensation policies at the federal, state, and local level. Large employers like ERIC member companies already voluntarily offer generous paid leave programs and it is important that state and local policies be crafted to avoid penalizing companies currently providing paid leave benefits. To the extent that state and local lawmakers consider adopting paid family and medical leave (PFML) laws, ERIC encourages following the guidelines/principles set forth below to minimize unnecessary burdens, lessen the patchwork of conflicting laws, and allow the greatest amount of employer flexibility in designing private paid leave programs:

- ❖ **State Programs Only:** State paid family and medical leave (PFML) legislation should prohibit any local governing body from adopting, enforcing, or administering an ordinance, local policy, or local resolution establishing a paid family and medical leave program.
- ❖ **Social Insurance Program:** States that wish to adopt a PFML law should do so through a social insurance model rather than a direct mandate that employers provide PFML benefits to their employees.
- ❖ **Employee Funded:** Employees should be responsible for the funding of PFML benefits as they are the individuals receiving wage replacement while away from work. This will also ensure that employers can implement and operate uniform contribution processes for employees in different states.
- ❖ **Private Program Waiver:** Employers that offer paid family and medical leave benefits equal to or more generous than those provided by the state PFML program should be granted a waiver from mandatory participation in the state program.
- ❖ **Exemption from Administrative Burdens:** An employer that is granted a waiver should also be exempt from notice, recordkeeping, and other administrative or procedural requirements under the proposed state program.
- ❖ **FMLA Consistency:** We strongly encourage the use of the definitions and standards provided by the federal Family and Medical Leave Act (FMLA) to allow for the establishment of uniform programs for employees in different states, particularly:
 - Definition of Family Member
 - Duration of Leave
 - Benefit Eligibility
 - Job Protection and Assurances
- ❖ **Coordination of Benefits:** State PFML program benefits should run concurrently with benefits established by the FMLA, existing state paid leave laws, and benefits already provided by employers. Leave taken by an employee pursuant to a state PFML program should be credited against leave that the employee is eligible for under the FMLA. Similarly, leave taken by an employee pursuant to an employer-provided PFML benefit should be credited against leave that the employee is eligible for under both the FMLA and state paid family and medical leave laws.
- ❖ **Benefit Accrual:** State PFML programs should preclude benefit accrual while on leave to the extent permissible under federal law and to the extent consistent with the terms of any benefit plans offered by the employer.