



NEW YORK  
CITY BAR

Contact: Maria Cilenti - Director of Legislative Affairs - mcilenti@nycbar.org - (212) 382-6655

**REPORT BY THE SEX AND LAW COMMITTEE**

**EXTENDING TEMPORARY DISABILITY INSURANCE BENEFITS TO COVER FAMILY CARE LEAVE FROM THE WORKPLACE**

The Sex and Law Committee of the New York City Bar Association believes that New York's workers' compensation law and insurance law should be amended to provide partial wage replacement to workers who need time off to care for a seriously ill family member or to bond with a new child. This program could work in conjunction with New York's existing Temporary Disability Insurance ("TDI") program. At present, TDI covers leave related to a worker's own illness or injury, including pregnancy and childbirth, but does not cover any form of leave related to the care of others.<sup>1</sup> With a TDI structure already in place, New York is in position to expand the program to provide limited wage replacement for individuals who need to take a family leave from the workplace. As discussed below, such legislation is critical to the health, well-being, and economic security of New York's working families, and would have no deleterious impact on businesses. Legislation permitting wage replacement for family leave has passed in California, New Jersey and Washington.

**EMPLOYMENT POLICIES SHOULD BE RESPONSIVE TO CHANGING WORK-FAMILY DYNAMICS**

Family and work patterns have shifted dramatically over the past several decades, creating an urgent need for more robust family leave policies. The shifting dynamic is evidenced by the fact that, as of 2008, both parents work in 70% of families.<sup>2</sup> In addition, there continue to be a significant number of single-parent households, most often headed by women.<sup>3</sup> Thus, workers at all income levels have two jobs, family and work. Current employment policies, however, embrace the outmoded concept of a household being run by one parent who is a breadwinner and one who is the primary caregiver.

---

<sup>1</sup> New York law currently provides from 6 to 8 weeks of disability benefits to women in connection with pregnancy and the birth of a child. *See* discussion *infra* at n. 27.

<sup>2</sup> *See* Heather Boushey, Layla Moughari, Sarah Sattelmeyer, and Margy Walker, *Work-Life Policies for the Twenty-First Century Economy*, at 4 (May 2008), available at <http://www.mobilityagenda.org/home/file.axd?file=2008%2f9%2fWork-Life.pdf> (last visited on October 20, 2011).

<sup>3</sup> U.S. Census Bureau, *Single-Parent Households Showed Little Variation Since 1994*, *Census Bureau Reports* (March 27, 2007), available at [http://www.census.gov/newsroom/releases/archives/families\\_households/cb07-46.html](http://www.census.gov/newsroom/releases/archives/families_households/cb07-46.html) (last visited on October 20, 2011).

There have been important and encouraging steps taken over the past two decades to adapt employment policies to shifting family dynamics. In 1993, Congress passed the Family and Medical Leave Act (“FMLA”), which guarantees up to 12 weeks of unpaid, job protected leave for employees of covered entities.<sup>4</sup> Eligible employees are entitled to 12 workweeks of leave in a 12-month period for (a) the birth of a child and to care for the newborn child within one year of birth; (b) the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement; (c) to care for the employee’s spouse, child, or parent who has a serious health condition; (d) a serious health condition that makes the employee unable to perform the essential functions of his or her job; (e) any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty;” or (f) 26 workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee.

The FMLA was an important step in adapting policies to the current family-work dynamic, but it does not go far enough.<sup>5</sup> Because FMLA guarantees only unpaid leave, many eligible workers who need to take family leave are not able to do so. According to the U.S. Department of Labor, almost 78% of employees who needed and were eligible for family leave in 2000 stated that at least one reason they did not take it was because they could not afford to lose pay.<sup>6</sup> Current research shows that only one-fourth of U.S. employers offer fully paid maternity-related leave and that one-fifth offer no maternity-related leave at all, paid or unpaid.<sup>7</sup>

The lack of family leave benefits, as well as job protection for persons employed by uncovered entities, means that a significant percentage of the U.S. workforce cannot effectively balance work and family responsibilities. Research demonstrates clear benefits for families associated with parental time at home when it is needed. For example, children recover from illness more quickly when cared for by their parents.<sup>8</sup> One study of California’s experience with its family

---

<sup>4</sup> FMLA applies to all public agencies, all public and private elementary and secondary schools, and companies with 50 or more employees within a 75 mile radius of the covered employee’s worksite. Employees are eligible for leave if they have worked for at least 12 months or at least 1,250 hours over the past 12 months. See 29 U.S.C.A. § 2612(a)(1)(A-D) (2009).

<sup>5</sup> It is estimated that, as a result of FMLA’s exclusion of entities with fewer than 50 employees and short-tenure workers, approximately 40% of U.S. workers are not covered by FMLA. See Rebecca Ray, Janet C. Gornick, and John Schmitt, *Parental Leave Policies in 21 Countries, Assessing Generosity and Gender Equality*, at 9 (revised June 2009), available at [http://www.cepr.net/documents/publications/parental\\_2008\\_09.pdf](http://www.cepr.net/documents/publications/parental_2008_09.pdf) (last visited October 24, 2011). Some researchers posit that only 20% of new mothers are covered by and eligible for FMLA. See Sarah Fass, *Paid Leave in the States: A Critical Support for Low-Wage Workers and Their Families*, at 5 (March 2009), available at [http://www.nccp.org/publications/pdf/text\\_864.pdf](http://www.nccp.org/publications/pdf/text_864.pdf) (last visited October 24, 2011).

<sup>6</sup> David Cantor et al., *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys, 2000 Update*, table 2.17 (Rockville, MD, Westat, 2001).

<sup>7</sup> See Ray, Gornick, and Schmitt, *supra* n. 5, at 9.

<sup>8</sup> American Academy of Pediatrics, Committee on Hospital Care, *Family-Centered Care and the Pediatrician’s Role*, 112 PEDIATRICS 691–696, at 692 (September 2003), available at <http://aappolicy.aappublications.org/cgi/reprint/pediatrics;112/3/691.pdf> (last visited on October 20, 2011).

leave law demonstrated that working mothers who are able to stay home after the birth of a child are more likely to start breastfeeding and do so for a longer period of time than working mothers who do not or can not stay home.<sup>9</sup> The benefits of breastfeeding – to both the infant and the mother – are well-documented.<sup>10</sup> Moreover, without family leave benefits for parents, older children may have to miss school to care for their younger siblings.<sup>11</sup> These issues are even more confounding for low-income workers, who are less likely to have employer-provided family leave benefits.<sup>12</sup> Indeed, 73.8% of workers who took family leave in 2000 and who earned less than \$20,000 received no pay during the leave, whereas only 20.6% of workers who took leave in 2000 and who earned more than \$100,000 received no pay.<sup>13</sup> Thus, it is clear that if some portion of family leave can be covered by wage replacement, it would benefit the lowest income workers the most.

## **LACK OF FAMILY LEAVE BENEFITS PERPETUATES GENDER INEQUITIES**

Women are an integral part of the U.S. workforce: two-thirds of women work (over 55 million total), mostly in full-time positions.<sup>14</sup> Nearly one half of these women have children under 18 years old at home, and in general women continue to be the primary caregivers for sick, elderly, and disabled family members.<sup>15</sup> Due to the fact that 40% of women (22 million) in the workforce have no paid sick days, they are very likely to face difficulties balancing work and family responsibilities.<sup>16</sup> Poor women are hit even harder: two-thirds of low-income women (defined as below 200% of the poverty line) and 75% of very low-income women (less than 100% of poverty

---

<sup>9</sup> Appelbaum, E. & Milkman, R., *Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California* at 25-26 (January 2011) available at <http://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>. (last visited October 20, 2011).

<sup>10</sup> American Academy of Pediatrics, Breastfeeding and the Use of Human Milk Policy Statement, 100 Pediatrics 1035 (PEDIATRICS Vol. 115 No. 2 February 2005, pp. 496-506), available at <http://aappolicy.aappublications.org/cgi/content/full/pediatrics;115/2/496>; HHS Blueprint for Action on Breastfeeding, Department of Health and Human Services Office on Women's Health ("HHS Blue print"), available at <http://www.womenshealth.gov/archive/breastfeeding/programs/blueprints/bluprntbk2.pdf> (last visited October 20, 2011).

<sup>11</sup> John Bridgeland, John DiIulio, and Karen Burke Morrison, *The Silent Epidemic: Perspectives of High School Dropouts*, at 6 (2006), available at <http://www.civicerprises.net/pdfs/thesilentepidemic3-06.pdf> (noting that 22% of U.S. high school dropouts surveyed cited the need to care for a family member as a reason for leaving school) (last visited October 20, 2011).

<sup>12</sup> See Fass, *supra* n. 5, at 5.

<sup>13</sup> See Monthly Labor Review, Jane Waldfogel, *Family and Medical Leave: Evidence from the 2000 Surveys* at 22, Table 5 (Sept. 2001), available at <http://www.bls.gov/opub/mlr/2001/09/art2full.pdf> (last visited October 20, 2011).

<sup>14</sup> The Henry J. Kaiser Family Foundation, *Women, Work, and Family Health: A Balancing Act* (2003), available at <http://www.kff.org/womenshealth/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14293> (last visited October 20, 2011).

<sup>15</sup> Institute for Women's Policy Research, *Women and Paid Sick Days: Crucial for Family Well-being* (2007), available at <http://www.iwpr.org/publications/pubs/women-and-paid-sick-days-crucial-for-family-well-being> (last visited October 20, 2011).

<sup>16</sup> *Id.*

line) do not get paid when they miss work to care for a sick child.<sup>17</sup> Thus, countless parents are faced with a Hobson's choice: keep your paycheck, or care for your kids. It is, therefore, unsurprising that when family leave benefits are available to parents they are five times more likely to stay home to care for sick children.<sup>18</sup>

## **SALIENT FEATURES OF LEGISLATION EXTENDING TDI BENEFITS TO PROVIDE WAGE REPLACEMENT FOR FAMILY CARE LEAVE**

There have been several legislative proposals to provide benefits or wage replacement for family leave. The most recent one – sponsored by Assembly Member Nolan (A.6289) – was introduced in the Assembly on March 11, 2011 and is in the Labor Committee. It is substantially similar to S.5791/A.8742, which was introduced in the Senate and the Assembly on June 5, 2009. The earlier Families in the Workplace Act, S.1501/A.1301, which would have provided 7 days of family leave benefits, was passed in the Assembly in June 2005, but failed to pass the Senate. A.9245, which was substantially similar to S.5791/A.8742, passed the Assembly on June 22, 2007. The Senate held four hearings on the bill in 2008.

While the Committee does not take a position on any particular legislation we believe it is important for New York's workforce and families that a family leave benefits program be established. We discuss some of the salient features below.

*Cost of Family Leave Benefits.* As in California and New Jersey, family leave benefits could be funded through an increase in premiums paid within New York's existing TDI program. Currently, both employees and employers contribute to TDI. New York State law requires employers to provide disability benefits coverage to employees who work in New York State; in order to meet this requirement, a large number of employers pay into the New York State Insurance Fund, which provides disability benefits to employees. Employees also contribute to the existing TDI program. Employees' contributions to the program are currently capped at 60 cents per week.<sup>19</sup> Any legislation would need to establish an additional "family care cost" of, say, 40 – 50 cents per week to be paid by covered employees, which would have to be re-calculated each subsequent year.<sup>20</sup> Employers' contributions to the TDI program would not have to increase with the availability of family leave benefits.

Any proposed legislation should also consider increasing the amount of disability benefits available under the TDI program. Current WCL caps the benefit amount at \$170 per week.<sup>21</sup> This

---

<sup>17</sup> Kaiser Family Foundation, *supra* n. 28, at 2.

<sup>18</sup> *Id.*

<sup>19</sup> Under New York's existing TDI program, an employee's contribution is set at "one-half of one per centum of the employee's wages paid to him on and after July first, nineteen hundred fifty, but not in excess of [ ] sixty cents per week" and the employer's contribution is "the cost of providing disability benefits in excess of the contributions collected from his employees." N.Y. WORKERS' COMP. §§ 209(3); 210(1) (2008).

<sup>20</sup> See, e.g., A.6289, Section 5 (defining "family care cost"); Section 8 (2011).

<sup>21</sup> See N. Y. WORKERS' COMP. § 204(2).

cap of \$170 per week has been in effect since 1989 without any cost-of-living adjustment.<sup>22</sup> The Committee would support an increase to bring TDI benefits for all disabilities, especially those related to family care, in line with economic realities for New Yorkers. We recognize that this might increase employee contributions to the program and that the magnitude of this increase needs to be evaluated. However, we believe a reasonable increase in TDI benefits would not create an undue burden on workers generally.

*Job Protection for Employees who take Leave.* The legislation should provide job protection for employees who take leave and it should contain an anti-retaliation provision to prevent employers from penalizing employees because they choose to take family leave.<sup>23</sup> Specifically, consistent with the rights granted under the FMLA, the legislation should require employers to restore employees to the position of employment held when the leave commenced or provide a comparable position with comparable pay and benefits.<sup>24</sup> Under current New York law, while employers are prohibited from terminating or discriminating against employees who claim disability benefits, including those in connection with pregnancy and childbirth as described above, there is no statutory requirement that employers reinstate employees who take time off of work in connection with a disability.<sup>25</sup> The Committee would recommend these additional job protections and non-retaliation measures so that employees can meaningfully exercise their rights to family leave benefits.

*Duration of Coverage.* Other states that have enacted legislation to grant family leave benefits have offered coverage for 5 – 6 weeks per year. However, as discussed below, the amount of wage replacement is far higher in those states than in New York. As such, the Committee recommends that the Legislature consider a coverage period of between 6 – 12 weeks.

Moreover, any legislation to extend TDI benefits to cover family care leave should make clear that receipt of family care benefits would not affect the receipt of disability benefits for a worker's own illness or injury, which is separately capped at 26 weeks in a given year.<sup>26</sup> This

---

<sup>22</sup> See *id.*

<sup>23</sup> See, e.g., A.6289, Section 6 (2011).

<sup>24</sup> The FMLA applies only to employers with 50 or more employees which, as discussed earlier, excludes nearly 40% of the workforce. The Committee believes that, consistent with California and New Jersey, any legislation extending TDI benefits to provide wage replacement benefits for family care leave should apply to *all* employees since all employees would have paid the increased contribution. However, the Committee recognizes that job protection requirements may be burdensome for very small employers and would support legislation that requires only employers with more than 25 employees to provide job protection to employees who take family leave. See, e.g., A.6289, Section 7 (2011).

<sup>25</sup> See N. Y. WORKERS' COMP. § 120. It should be noted that some protection is available under the Pregnancy Discrimination Act of 1978, which prohibits discrimination against covered employees in connection with pregnancy, childbirth or related medical conditions. See Pregnancy Discrimination Act, Pub. L. No. 95-555, 92 Stat. 2076 (1978) (codified at 42 U.S.C. § 2000e(k)). Depending on the circumstances of the disability and accommodation requested, there may also be protections available to the employee under the Americans with Disabilities Act. See 42 U.S.C. § 1201 *et. seq.* (2008).

<sup>26</sup> See, e.g., A.6289, Section 10 (2011).

clarification is particularly relevant for employees seeking benefits related to pregnancy and childbirth.<sup>27</sup>

## **EXTENDING THE TDI PROGRAM TO COVER FAMILY LEAVE BENEFITS WILL NOT HARM BUSINESS**

Implementing family leave policies benefits employers as well as employees. Employers that provide family leave benefits “retain[] valued employees, reduc[e] turnover and absenteeism, and increase[] loyalty and morale.”<sup>28</sup> Family leave benefits help employers retain employees and reduce turnover costs by allowing employers to “give workers the time to attend to issues early on so that those issues don’t turn into a family catastrophe later,” requiring longer periods of absence from the workplace.<sup>29</sup> Indeed, a 2010 survey concerning the effects of California’s paid family leave law on business showed that for the vast majority of employers interviewed the law had a “positive effect” or “no noticeable effect” on productivity (88.5%), profitability/performance (91%), turnover (92.8%), and morale (98.6%).<sup>30</sup>

There is little evidence that providing family leave benefits to employees will harm businesses. In 2000, the United States Department of Labor commissioned Westat to update a 1995 survey of employers and employees to assess the impact of the Family and Medical Leave Act. The 2000 survey<sup>31</sup> revealed that:

---

<sup>27</sup> See New York State Insurance Fund description of benefits, available at <http://ww3.nysif.com/DisabilityBenefits/ClaimantServices/ClaimsFAQs.aspx#seventeen><http://ww3.nysif.com/DisabilityBenefits/ClaimantServices/ClaimsFAQs.aspx#seventeen>. (last visited October 20, 2011). See also N. Y. WORKERS’ COMP. § 201(9)(B) (“Disability” is defined to include “disability caused by or in connection with a pregnancy.”); § 204(1) (disability benefits commence on the “eighth consecutive day of disability”); § 205(1) (disability benefits are limited to twenty-six weeks in any fifty-two week period).

<sup>28</sup> Sloan Work and Family Research Network, *Policy Brief on Paid Family Leave* at 3 (2009, Issue 17) (citing Levin-Epstein, J., *Getting Punched: The job and family clock*. Washington, DC: Center for Law and Social Policy (July 2006)), available at <http://www.abetterbalance.org>. Employers may also gain a competitive advantage in offering family leave benefits since studies have shown that, for employees, the importance of leave policies ranks “at the same or greater level as compensation when deciding between two jobs.” Scott M. Stringer, Manhattan Borough President, and ABB Report, *A Working Balance: Supporting New York City’s Families Through Paid Leave* (January 2008) at 9, available at <http://www.abetterbalance.org> (last visited October 20, 2011).

<sup>29</sup> New York State Paid Family Leave Coalition, *Working New Yorkers Need Paid Family Leave* (undated), available at <http://www.timetocareny.org/Attachments/One%20Pager%20-%2020020709.pdf> (last visited October 21, 2011).

<sup>30</sup> Eileen Appelbaum and Ruth Milkman, *Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California*, at 7-8 (2011), available at [http://www.paidfamilyleave.org/pdf/leaves\\_that\\_pay.pdf](http://www.paidfamilyleave.org/pdf/leaves_that_pay.pdf). This is consistent with studies showing that the availability of workplace flexibility options reduces employee turnover and serves as a valuable recruitment and retention tool. Richman, Burrus, Buxbaum, Shannon & Yai, Corporate Voices for Working Families, *Innovative Workplace Flexibility Options for Hourly Workers* at 94-95 (May 2009) (“The expected turnover rate for employees who do not have the flexibility they need at their companies is almost twice the rate of those who do have the flexibility they need.”) available at <http://www.cvworkingfamilies.org/system/files/CVWFflexreport-FINAL.pdf> (last visited October 21, 2011).

<sup>31</sup> Available at <http://www.dol.gov/whd/fmla/toc.htm> (last visited October 20, 2011).

- the vast majority of covered establishments reported that the FMLA had no noticeable effect on their business as regards productivity, profitability, growth and employee performance (Chapter 6, Table 6.5);
- most employee leaves were short, with the median length of leave being 10 days (Chapter 2, Figure 2.2);
- more than 97% of employers said that the most common method of covering the work of leave takers was to assign it temporarily to other employees, rather than hiring replacement workers (Chapter 6, Table 6.3); and
- the majority of employers reported that their establishment costs had not changed since becoming covered by the FMLA; however, a minority reported increased administrative costs (43.4%), benefit continuation costs (28.1%, felt most keenly by the larger establishments) and hiring and training costs (22.5%). (Chapter 6, Section 6.2.4).

## FAMILY LEAVE LAWS IN OTHER STATES

Given the limitations of the FMLA described above, some states have passed legislation to fill the gap. In 2002, California enacted Senate Bill No. 1661 (“Senate Bill 1661”), becoming the first state to successfully implement a family leave benefits program. Senate Bill 1661 provides wage replacement for leave “to care for a seriously ill child, spouse, parent, domestic partner, or to bond with a new child.”<sup>32</sup> Under the law, eligible employees can receive up to 55% of their normal weekly wages, at a maximum of \$959 per week in 2009, for up to 6 weeks per year.<sup>33</sup> As would be the case in New York, California’s law builds upon the state’s existing TDI program and is funded by an employee payroll tax, at no additional cost to the employer. The family leave wage replacement law – which covers all employees who pay into the TDI program - supplements an employee’s existing rights under the FMLA and the California Family Rights Act (CFRA), which provides unpaid, job-protected family leave to care for a sick family member or newborn or newly adopted child.<sup>34</sup> Leave taken under the wage replacement law runs concurrently with leave taken under the FMLA or the CFRA (except with respect to pregnancy/childbirth leave).<sup>35</sup> Employers may require employees to use up to 2 weeks of paid time off as part of the family leave.<sup>36</sup> The family leave benefits law enjoys overwhelming public support.<sup>37</sup>

<sup>32</sup> CAL. UNEMP. INS. § 3301(a) (2009).

<sup>33</sup> See Fass, *supra* n. 5, at 7.

<sup>34</sup> As with the FMLA, the CFRA applies to employers who have more than 50 employees within a 75-mile radius of the covered employee’s worksite. CAL. GOVT. CODE § 12945.2.

<sup>35</sup> See “*Know Your Rights: Paid Family Leave Benefits*” available at [www.las-elc.org/factsheets/paid-leave.html](http://www.las-elc.org/factsheets/paid-leave.html) (last visited October 21, 2011).

<sup>36</sup> *Id.*

<sup>37</sup> A 2003 survey found that 84.9% of respondents favored paid leave when asked, “Do you favor or oppose the idea of a law that guarantees that eligible workers receive a certain portion of their pay when they take family or medical leave?” Jody Heymann, Alison Earle & Jeffrey Hayes, *The Work, Family, and Equity Index: How Does the United States Measure Up?*, at 1 (2007), available at <http://www.mcgill.ca/files/ihsp/WFEI2007.pdf> (last visited October 21, 2011).

In 2008, New Jersey also enacted a family leave benefits law, with benefits available to eligible New Jersey employees as of July 1, 2009.<sup>38</sup> The New Jersey law amends the state’s existing temporary disability benefits law to provide eligible employees up to 6 weeks of wage replacement to care for a sick family member or a newborn or newly adopted child.<sup>39</sup> Eligible employees are entitled to family leave benefits in the amount of two-thirds of their wages, with a maximum benefit of \$524 per week for 2008 that is adjusted annually.<sup>40</sup> The family leave wage replacement law – which covers all employees who pay into the TDI program - supplements an employee’s existing rights under the FMLA and the New Jersey Family Leave Act (“NJ FLA”)<sup>41</sup>, which provides for unpaid, job-protected family leave to care for a sick family member or newborn or newly adopted child.<sup>42</sup> Family leave runs concurrently with leave taken pursuant to the NJ FLA or the FMLA and employers may require employees to use up to 2 weeks of paid time off as part of the family leave.<sup>43</sup>

In 2007, Washington State created a family leave program; however, it is not funded through an existing TDI program and has not yet been implemented. Under the law, employees in Washington are entitled to up to 5 weeks of family leave benefits “because of the birth of a child of the employee and in order to care for the child,” or “because of the placement of a child with the employee for adoption.”<sup>44</sup> The wage replacement benefit is capped at \$250 per week.<sup>45</sup> The Washington State law requires family leave to be taken concurrently with any leave taken under FMLA.<sup>46</sup>

## **AVAILABILITY OF FAMILY LEAVE BENEFITS GLOBALLY**

Far from being at the forefront of progressive policies to support families’ work-life realities, the U.S. lags far behind most other nations when it comes to supporting working families through family leave. It joins Swaziland, Papua New Guinea and Liberia as the only countries in the world that do not require employers to provide some form of parental leave benefits in *any* employment sector.<sup>47</sup> As of March 2006, only 8% of all U.S. workers in the private sector had access to family

---

<sup>38</sup> N.J. STAT. ANN. §43:21-27(g)(2) (2009).

<sup>39</sup> *Id.* § 43:21-27(o).

<sup>40</sup> *Id.* § 43:21-40.

<sup>41</sup> The NJ FLA applies to employers with more than 50 employees nationwide. N.J. STAT. ANN. 34:11B-1, *et seq.* (2009).

<sup>42</sup> N.J. STAT. ANN. § 34:11B-1 *et. seq.* (2009).

<sup>43</sup> N.J. STAT. ANN. § 43:21-39.1(d).

<sup>44</sup> WASH. REV. CODE §§ 49.86.050; 49.86.010(8) (2007).

<sup>45</sup> *Id.* § 49.86.060.

<sup>46</sup> *Id.* § 49.86.140.

<sup>47</sup> Heymann, *supra* n. 37, at 1.



leave benefits.<sup>48</sup> In contrast, 169 countries offer guaranteed family leave benefits to women in connection with childbirth and 98 of those countries provide for 14 or more weeks of paid leave.<sup>49</sup> In addition, 66 countries guarantee fathers paid paternity or parental leave, and 31 of those countries provide for 14 or more weeks of such leave.<sup>50</sup> Laws like the one proposed in New York would go a long way toward starting to bring the U.S. in line with other nations in recognizing that workers' family responsibilities need not cost them their paychecks.

## CONCLUSION

It is time for New York to provide a meaningful way for employees to fulfill their work and family responsibilities. Providing family leave benefits will promote economic security and family well-being, without causing an undue burden on businesses. For these reasons, the Committee urges the Legislature to once again take up this issue and pass legislation extending TDI benefits to provide partial wage replacement to employees who need to take family care leave from the workplace.

October 2011

---

<sup>48</sup> National Compensation Survey, Dept. of Labor Bureau of Statistics (2007), *available at* <http://www.bls.gov/ncs/ebs/sp/ebsm0006.pdf> (last visited October 21, 2011).

<sup>49</sup> Heymann, *supra* n. 37, at 1.

<sup>50</sup> *Id.* at 2.