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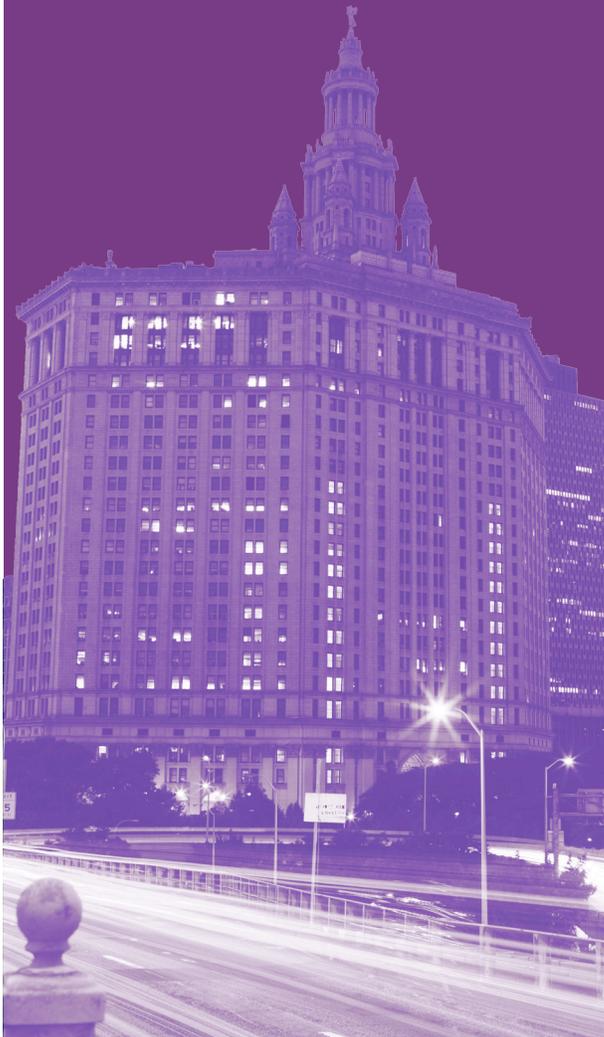
**Letitia
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PAID FAMILY LEAVE:

The Long Overdue Benefit



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EXECUTIVE SUMMARY

Taking care of a family member, whether it is a newborn child or an ailing parent can be a full time job. For working New Yorkers without adequate benefits and job protections, taking any time off can be financially costly and impact career advancement. Providing paid family leave in the State of New York would eliminate having to choose between caring for a family member and ensuring one has enough money to cover the rising cost of rent, transportation and food. Paid family leave also serves as a protection against reductions in employment benefits. Research focused on women taking time off from work to care for a newborn found that “such changes in workplace attachment can have significant, negative effects on women’s salaries, career advancement, and long-term retirement savings through the Social Security program.”¹

The Community Service Society’s “Unheard Third” survey highlighted the harsh realities and struggles of low income New Yorkers trying to balance work and family from 2012. In addition to limited incomes, these New Yorkers also have little to no savings. The survey revealed that over 40 percent of two-working parent families have less than \$500 for an emergency and over half of low-income working women have less than \$500 in savings, hardly enough to take six weeks off from work to care for a newborn or ailing parent.²

From a global perspective, the United States is severely lagging behind the 185 other countries that offer paid family leave.³ In turn, New York is lagging behind other states. While the federal Family and Medical Leave Act provides 12 weeks of leave, that time is unpaid and has extensive eligibility restrictions. For New York, the solution is the expansion of the Temporary Disability Insurance (TDI) program, an insurance system already in place that can be used to provide paid family leave as it has in California, New Jersey and Rhode Island. TDI is currently funded through small employer and employee premium contributions, which provides partial wage replacement when workers experience an off-the-job short-term disability, including those related to pregnancy and recovery from childbirth. New York has the ability to modernize their existing TDI program to include paid family leave.

This brief analyzes the current models of paid family leave that have been brought to other municipalities and states, legislation introduced into the New York State Legislature, and options the City of New York has to implement coverage, which were developed with the New York City Independent Budget Office at the request of the New York City Public Advocate.

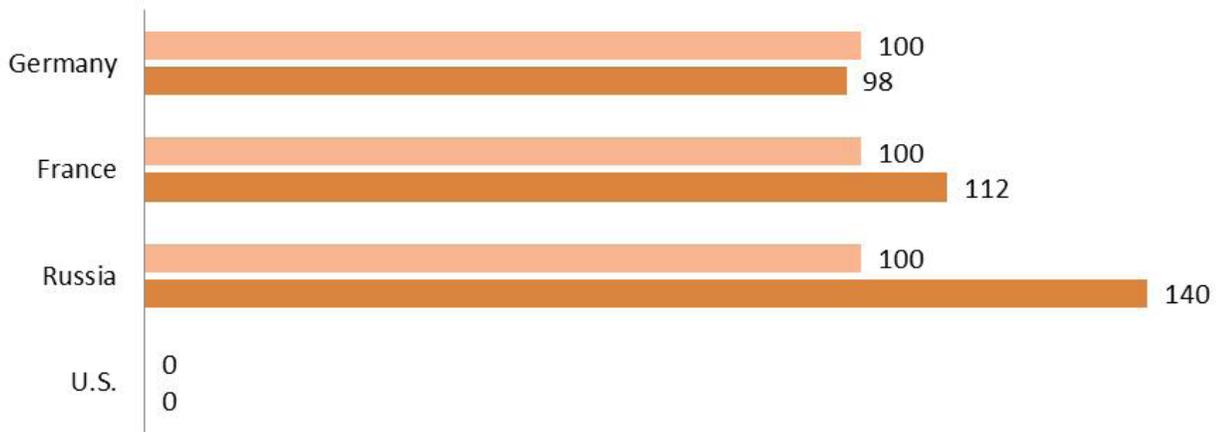
Following review of all aforementioned possibilities, Public Advocate James supports the Paid Family Leave Insurance Act (A.3870/ S.3004), which would expand the state’s TDI program. The bill has passed the Assembly, but still must pass the Senate and be signed into law by Governor Cuomo.



PAID MATERNITY LEAVE: HOW DOES THE US COMPARE?

Source: Huffington Post/International Labour Organization

Percentage of Income Paid for Leave Days of Paid MATERNITY Leave





BENEFITS OF PAID FAMILY LEAVE

Equity in the Workplace

Only 11 percent of workers in the United States are covered by formal paid family leave policies according to employers.⁵ This figure pales in comparison to the fact that all employees in the Netherlands are offered 16 weeks of leave.⁶ The Center for American Progress notes that “granting the kinds of benefits currently enjoyed by CEOs and professional workers could create a cultural shift in how society values other workers; making sure all workers, regardless of how much they earn, get this benefit to level the playing field.”⁷ Paid family leave alleviates the stigma women with children face in the workforce. Working mothers make less than women without children. If a woman gets 30 or more days of paid family leave, she is over 50 percent more likely to see her wages increase, versus those who get no paid time off.⁸ This program also ensures that career advancement is not hindered, which is an especially important challenge for women. A 2012 survey in California, which has a paid family leave program, found that fewer than 10 percent of employers reported problems with career advancement.⁹

For transgender employees and their families in New York, current policies could dissuade them from seeking necessary medical care or time off. This is because in parts of the state, employment discrimination on the basis of gender identity/expression is still legal. It should be noted that the solution to this discrimination is passage of the Gender Expression Nondiscrimination Act (GENDA), which the Public Advocate supports. The City of New York does ban employment discrimination based on gender identity/expression, but implementation of paid family leave along with passage of GENDA would give all transgender New Yorkers and their families statewide the ability to take paid leave off.



Equity in Caregiving Roles

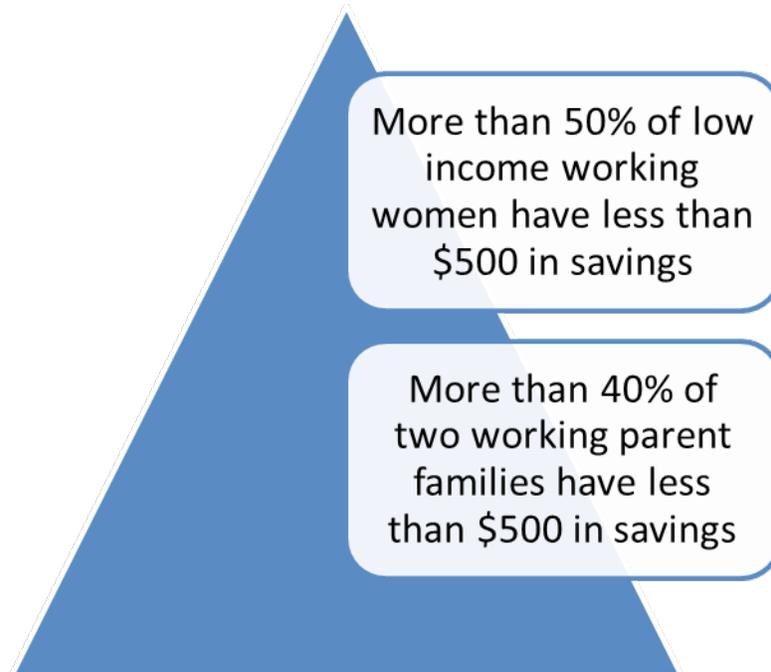
Paid family leave applies to both men and women and is not transferable between a mother and a father. This provision helps to adjust expectations around caregiving and encourages men to also take time off from work. In California, following the implementation of a statewide paid family leave program, “the predicted likelihood of [new fathers] taking paid family leave following a child’s birth more than doubled...from 35 percent in 2004 and earlier, to 76 percent in 2005.”¹⁰ As with any mother, “the vast majority of men want to spend more time with their children and split parenting equally with their partners, and paid leave could be the key to helping them achieve those goals”, according to the Center for American Progress¹¹

Improve Health Outcomes and Reduce Health Costs

New York City’s population is growing older with the number of people age 65 and over projected to increase 44.2%, from 938,000 in 2000 to 1.35 million in 2030.¹² Paid family leave allows employees to take time off to care for ailing parents or guardians, a responsibility becoming more common given these figures. This time allows employees to help parents and guardians recover from illness, fulfill treatment plans and avoid hospital admissions or readmissions. A study from the Family Wealth Advisors Council found that a “woman in her 40s or 50s spends at least 20 hours a week...caring for aging family members while also working at least a part-time job. The stress of it all can hurt her health and longevity, as well as cause her to lose an average of \$324,044 in lost earning power and Social Security benefits.”¹³

Financial Stability

Paid family leave allows working families to care for their loved ones without risking their economic security. In regards to the federal Family and Medical Leave Act (FMLA), “one analysis found that 77 percent of employees who needed leave but decided not take it made that decision for financial reasons, and 88 percent of this group said that they would have taken leave had some wage replacement been available.”¹⁴ Given the high cost of living in New York City, many workers cannot afford to take unpaid time off from work and worry about the protection of their job.



Community Service Society's Unheard Third Survey 2013

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Stronger Workforce, Stronger Economy

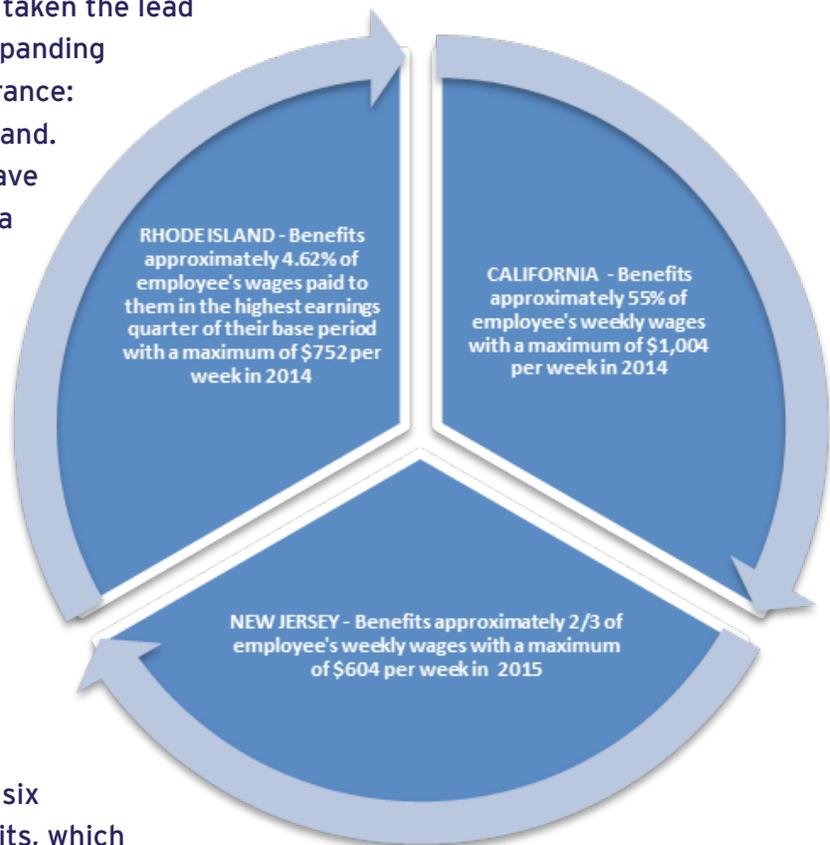
According to the National Partnership for Women & Families, 91 percent of California employers reported that the statewide paid family leave program has had either a positive or no noticeable effect on turnover, productivity, profitability and morale.¹⁶ California's program is estimated to have saved employers \$89 million a year in reduced turnover costs." These types of benefits have the potential to help employers in New York State attract higher-quality workers, reduce absenteeism and tardiness, and decrease turnover, thus increasing overall employee performance.



PAID FAMILY LEAVE IN OTHER CITIES AND STATES:

On the state level, three states have taken the lead and launched paid family leave by expanding the use of Temporary Disability Insurance: California, New Jersey and Rhode Island. Washington State passed a family leave law in 2007, but never implemented a funding mechanism.

- California:** Established in 2002, California's Paid Family Leave program consists of a mandatory contribution to the State Disability Insurance (SDI) program. This contribution is deducted from an employee's wages by the employer and goes to fund both SDI and paid family leave. This model means there are no direct costs to employers.¹⁷ Eligible workers can receive up to six weeks of wage replacement benefits, which must be taken concurrently with the 12 weeks of unpaid benefits from the federal Family and Medical Leave Act (FMLA). Benefits amount to approximately 55 percent of his or her wage, up to a maximum of \$1,075 per week in 2014.¹⁸ To build on this program, in 2014, California workers started being able to receive up to six weeks of wage replacement benefits to care for seriously ill siblings, grandparents, grandchildren, or parents-in-law.¹⁹
- New Jersey:** In 2009, New Jersey established Family Leave Insurance (NJFLA), which offers eligible workers up to six weeks of partially paid leave. In 2014, the program provided two-thirds of an employee's weekly pay up to \$595 per week. That number increased to \$604 in 2015.²⁰ As in California, payroll deductions from employees' wages finance the entirety of the program. Employers transfer the deductions to the Division of Temporary Disability Insurance, which then processes the payments. Leave taken for family care reasons or pregnancy is taken concurrently with FMLA leave²¹, if the employee is eligible for the FMLA leave.²¹ Employers cannot use the taking of any leave times as a negative factor in employment actions, such as hiring, promotions or disciplinary actions. Employers also cannot use leave time to be counted under "no fault"





attendance policies; however, the law does include a provision to allow an employer to deny reinstatement for work to certain highly-paid, salaried (“key”) employees.

- **Rhode Island:** Signed into law on July 11, 2013, Rhode Island’s Temporary Caregiver Insurance Program provides eligible claimants up to four weeks of wage replacement to care for a seriously ill child, spouse, domestic partner, parent, parent-in-law, grandparent, or to bond with a newborn child, newly adopted child or new foster-care child. The weekly benefit rate for eligible workers equals 4.62 percent of the wages paid to them in the highest earnings quarter of their base period. For claims with a benefit year start date effective July 7, 2013 or later, \$72.00 is the minimum and \$752.00 is the maximum benefit rate, not including dependency allowance. If an eligible claimant has dependent children less than 18 years of age, the claimant may be entitled to a dependency allowance. The law requires the employer to provide the same or equivalent job to the worker after the period of leave.



LOCAL INITIATIVES

On the local level, municipalities have implemented programs to bridge gaps where action has not been addressed on a state or federal level. Washington, D.C.; St. Paul, Minnesota; St. Petersburg, Florida; San Francisco, California; Chicago, Illinois; and Austin, Texas offer paid parental leave for their municipal employees. Offering such benefits helps local government attract and retain a talented workforce, maximize efficiency and saves on hiring and turnover costs.²²

- **San Francisco:** Paid Parental Leave (PPL) is offered courtesy of a local City ordinance that provides supplemental pay to ensure employees receive the equivalent of their full salaries for up to 12 weeks following the birth, adoption, or placement of a child from foster care. The PPL benefit is based on salary and is used to supplement the employee's paid leave accruals, including sick leave, vacation, compensatory time, floating furloughs, floating holidays, holidays in lieu, etc. PPL can also be used to supplement other forms of paid leave available to employees, such as State Disability Insurance (SDI) and Paid Family Leave (PFL). The PPL program provides an additional four weeks of supplemental pay to employees who take leave for temporary pregnancy disability.²³
- **Austin:** Paid Parental Leave (PPL) is available to mothers and fathers for the birth of the employee's child and the placement of a child with the employee for adoption or foster care without regard to the marital status or sexual orientation. All employees in regular budgeted positions that qualify for the federal Family and Medical Leave Act (FMLA) can utilize Parental Leave except employees whose terms and conditions of employment with the City are negotiated through a collective bargaining agreement or a meet and confer agreement. The paid PPL benefit is up to 30 working days for a maximum of six weeks for employees who usually work 40 hours per work week. PPL must be taken within the FMLA period associated with the date of the birth or placement of a child for adoption or foster care.²⁴



PAYING FOR PAID FAMILY LEAVE

New Yorkers who want to take leave but who do not have full paid leave benefits from their employers are limited to utilizing the state's Temporary Disability Insurance for certain types of leave or the federal FMLA.

Expansion of New York's Temporary Disability Insurance Program

The New York State Temporary Disability Insurance (TDI) program is currently inadequate for the type of paid family leave envisioned by the Public Advocate. TDI provides five to seven weeks of benefits for recovery from childbirth; however this benefit does not include new fathers, adoptive parents, or care for a seriously ill family member(s). Additionally, TDI has not been adjusted over time to keep pace with rising living costs. As seen in the graph on the following page, the current cap of \$170 per week of benefits, which has been frozen for 25 years, lags dramatically below that of every other state with TDI (where maximum weekly benefits average \$757.50).

PAID FAMILY LEAVE INSURANCE ACT

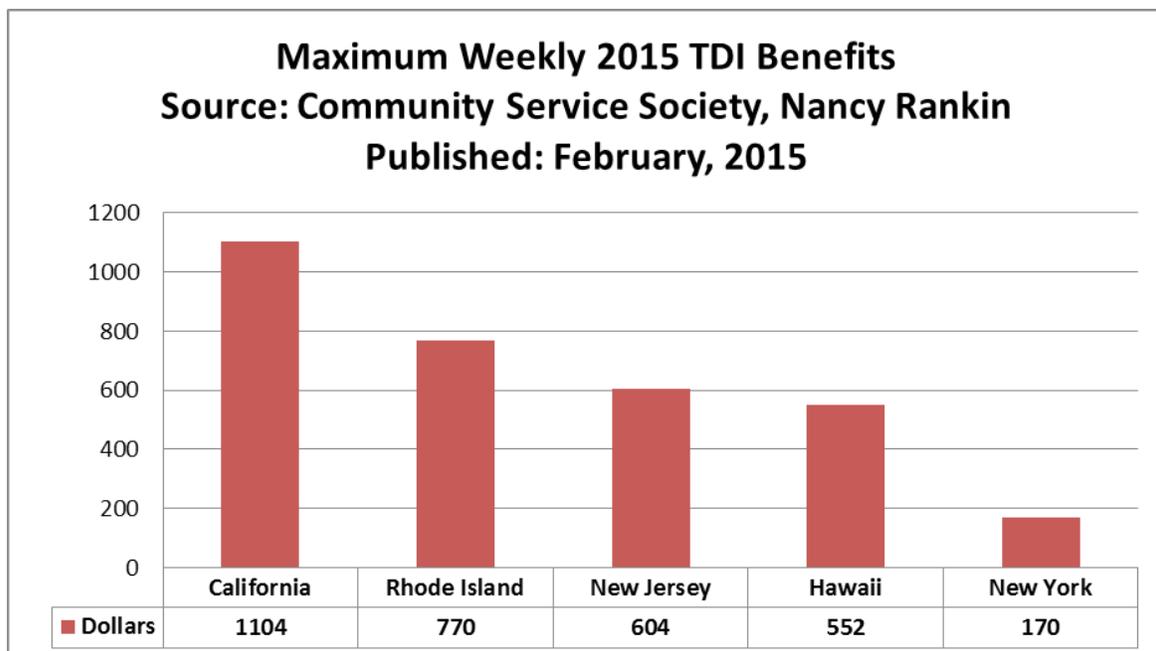
Following a review of the Independent Budget Office's proposal for municipal city workers as well as review of state initiatives in California, Rhode Island and New Jersey, the Public Advocate officially supports the Paid Family Leave Insurance Act (A. 3870/S. 3004) sponsored by Assembly member Catherine Nolan and State Senator Joseph Adabbo. Passed by the New York State Assembly on March 17, 2015, the bill would provide New Yorkers up to 12 weeks of paid leave a year for both mothers and fathers to care for a newborn or newly adopted child, and allow for care of a seriously ill child, spouse, domestic partner, parent, grandchild, grandparent, sibling, or the parent of a spouse or partner. Additionally, military families during times of need would get help by utilizing this benefit to address legal, financial, and childcare issues related to the military service of a spouse, domestic partner, child, or parent.

Paid family leave would become a part of New York's Temporary Disability Insurance (TDI) program, which has been in place since 1950. By using a long-standing, familiar insurance system, implementation of the program will create no administrative changes for New York businesses. This bill also raises the benefit cap for TDI - currently capped at \$170 per week - to roughly \$600 per week. The TDI benefit cap has been stuck at \$170 since 1989.²⁵ The same benefit level and cap will be used for paid family leave.

Workers will receive two thirds of their average weekly wage while taking PFL, up to a maximum benefit level. This maximum benefit level will be raised in steps over four years until it equals 50 percent of the statewide average weekly wage.



This program is attractive option because it comes at no cost to the state, since paid family leave will use the existing mechanisms of the TDI program. There is a track record of success in other states that have expanded their TDI programs to include paid family leave, such as California. Finally, the raise in the cap will bring New York in line with other states where caps have been raised to \$1,104 per week in California; \$604 per week in New Jersey; and \$770 per week in Rhode Island. Besides Hawaii, New York is the only state with a Temporary Disability Insurance program that has not been expanded to include paid family leave.



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ALTERNATIVE NY STATE LEGISLATURE PROPOSALS

Separate from the Paid Family Leave Insurance Act (PFLIA), S. 3301 has been introduced by State Senator Jeffrey Klein. This bill would also amend the workers’ compensation law and the insurance law to establish family care benefits. What differentiates this bill from the PFLIA is that during the first year of implementation, family care benefits would be paid through the state’s general fund. In subsequent years, this level of funding would be continued along with an employee contribution set by the State Superintendent of Financial Services while the PFLIA already lays out specifics for employee contributions. Finally, PFLIA does not include an upfront cost to be taken from the State’s general fund. Utilizing any allocation from the general fund is less cost efficient than expanding the state’s TDI program, which requires little administrative changes thus equating to minimal costs.



CONGRESS

The federal Family and Medical Leave Act (FMLA) was enacted in 1993 to provide 12 weeks of unpaid, job protected leave for working families to handle certain medical situations for themselves or their immediate family. The problem is that a significant percentage of Americans cannot access this benefit due to eligibility restrictions. The FMLA does not cover workers in businesses with fewer than 50 employees or any workers who have not worked for 1,250 hours in the past year at the same job. Nearly 50 percent of all workers and 80 percent of new mothers in the U.S. are not covered by the FMLA.²⁷ Those who may be eligible for the FMLA cannot necessarily afford to take unpaid leave. And, a study of FMLA-eligible workers who chose not to take leave showed that 75 percent said their decision was motivated by financial reasons.²⁸

The proposed Family and Medical Insurance Leave Act (FAMILY) Act, sponsored by Kirsten Gillibrand in the Senate and Rosa DeLauro in the House of Representatives, would create an independent trust fund within the Social Security Administration to collect fees and provide benefits. This trust would be funded by employee and employer contributions of 0.2 percent of wages each, creating a self-sufficient program that would not add to the federal budget. Benefit levels, based on existing successful state programs in New Jersey and California would equal 66 percent of an individual's typical monthly wages up to a capped monthly amount that would be indexed for inflation. The proposal would make leave available to every individual regardless of the size of their current employer and regardless of whether such an individual is currently employed, self-employed or currently unemployed, as long as the person has sufficient earnings and work history.²⁹

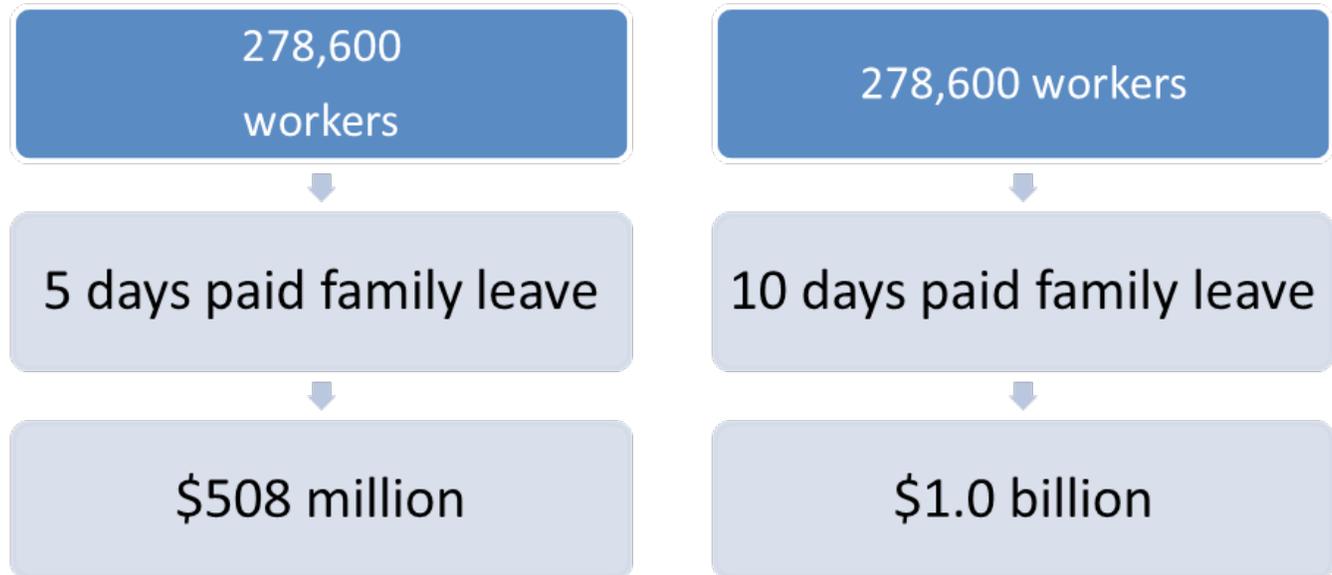
Representative Rosa DeLauro and Senator Tom Harkin have reintroduced the Healthy Families Act, a bill that would allow employees to earn paid sick leave to use when they are sick, to care for a sick family member, to obtain preventive care, or to address the impacts of domestic violence. This bill would allow employees in businesses with 15 or more employees to earn up to seven jobs protected paid sick days. Employees in businesses with fewer than 15 employees would earn up to seven job-protected unpaid sick days each year.³⁰



NEW YORK CITY APPROACH

The Public Advocate worked with New York City Independent Budget Office (IBO) starting in January, 2015 to develop a way for the city to take the lead and implement a paid family leave program. It was determined that the options for such a program are extremely limited in scope and high in cost. The best approach is a pilot program for municipal workers. According to the IBO, for 278,600 full time municipal workers, the annual cost to the city of granting five days of paid family leave is \$508 million. Providing 10 days would double the cost to \$1.0 billion. The average annual pay of these 278,600 employees is \$19,700.

This model is not in line with the Public Advocate’s vision of ensuring that employees in the City of New York working in all sectors can access paid family leave. This option comes at great cost to local government, leaves out employees working in the private and nonprofit sectors whose employers do not offer benefits, and provides an inadequate amount of time off for leave.





CONCLUSION

The New York City Public Advocate has determined that the 2015 State Legislative Session is the time for paid family leave to be brought to New York and the best way to do this is by utilizing a statewide model currently in place in Rhode Island, California and New Jersey. This model would expand the state's Temporary Disability Insurance to include paid family leave while also raising the current cap on benefits of \$170 per week to roughly \$600 per week over the course of four years. States and countries with paid family leave are already seeing the benefits of this policy, which include creating equity in the workforce between men and women and bringing about financial stability to new parents and individuals with ailing relatives. The astronomical costs and limited benefits in terms of earned time make expanding the city's earned sick time law a priority only if the state does not take action. The Paid Family Leave Insurance Act must be made law this year because it is the most efficient and cost effective measure to bring about this long overdue program.



ACKNOWLEDGEMENTS

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