



# SOUTH

## MAY 2023

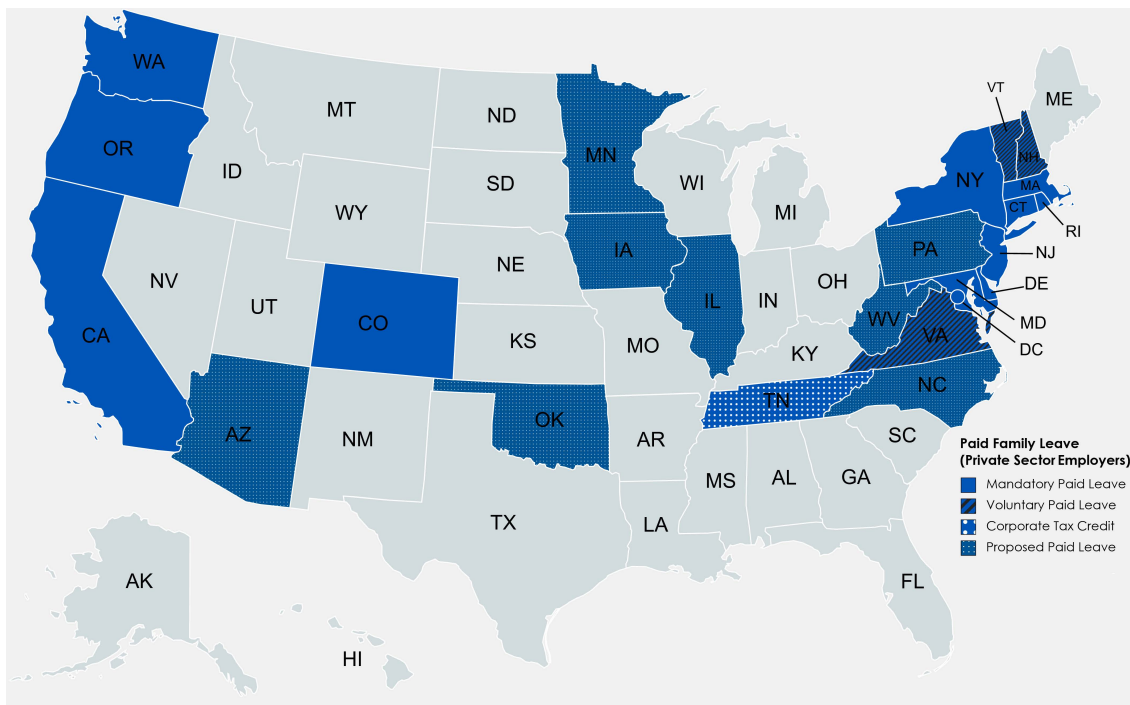
# QofM

### Question of the Month

## In the spirit of Mothers' Day, what states have enacted paid family leave policies for the birth, adoption, or foster placement of a child?

In most cases, state leave policies serve as an additional benefit to the federal Family and Medical Leave Act (FMLA) which guarantees employees at businesses with at least 50 employees access to unpaid, job-protected leave. Recent state trends include efforts to enshrine paid family leave (PFL) laws – mandatory or voluntary – to lure and retain both public and private sector employees. Nationally, only 13 states – including one in the South – have enacted a mandatory or voluntary PFL law for private employers. Most of these measures provide parental and/or family caregiving leave, while others utilize a social insurance policy via funds pooled through payroll taxes on employees and employers.

**Figure 1. Paid Family Leave Laws for Private Sector Employers (2023)**



In the South, only **Virginia** currently has an active private sector PFL law. Specifically, [Virginia Senate Bill 15 \(2022\)](#), while not creating a mandate for private employers, establishes a new class of insurance – family leave insurance – which serves as a policy issued to employees through their benefits plan to cover any loss of income due to the birth, adoption, or placement of a foster child. This new insurance offering may be written as an amendment or rider to a group disability income policy or as a separate policy purchased by an employer. It requires all forms, rates, rules, and risk classifications to be submitted by an insurer to the State Corporation Commission before issuance. As a voluntary and optional employer-purchased plan, the coverage's specifics are left to the insurer's discretion. The insurer sets the leave terms, which also establishes eligibility requirements. The premium is split between the employer and employee but does not include job protection or weekly benefit guidelines – which are left to the insurer. While not quite a comprehensive voluntary or mandatory PFL program or state insurance plan, other CSG South member states may have more limited leave measures impacting private employers, such as:

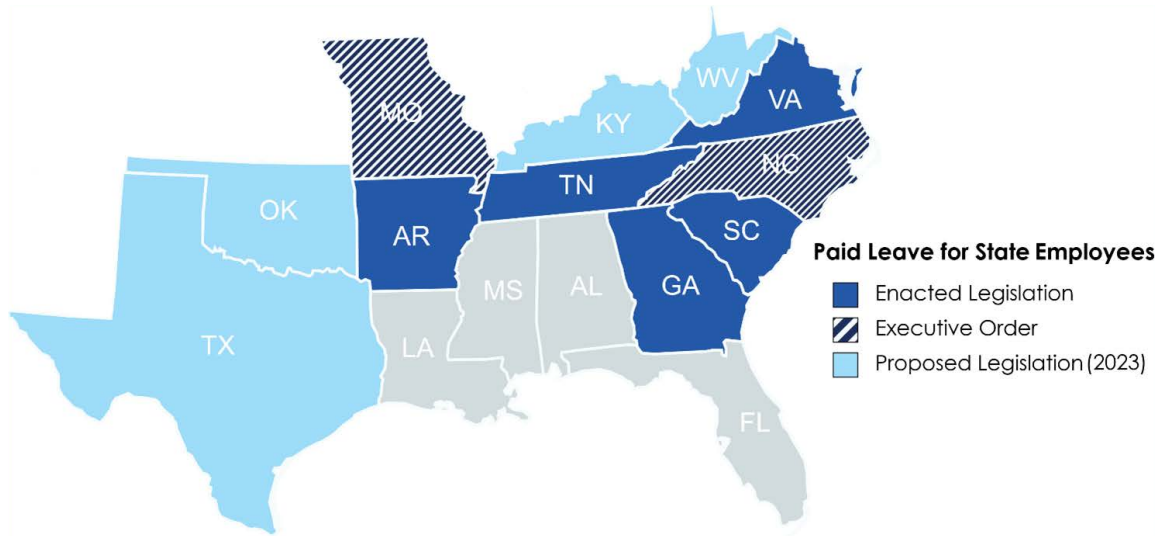
- **Kentucky** [House Bill 210 \(2021\)](#), which added up to six weeks of unpaid leave – beyond FMLA – for the adoption of a child under ten years of age;
- In **Louisiana**, [Senate Bill 215 \(2021\)](#) amended the nondiscrimination law to require employers of more than 25 staff must allow employees to utilize accrued or take unpaid leave for up to six weeks of PFL (with an additional four months as necessary for employees with a pregnancy-related disability);
- Employers with at least 100 or more employees in **Tennessee** must offer at least four months of unpaid leave for pregnancy, childbirth, nursing an infant, or an adoption – only for full-time employees employed at the company for at least 12 consecutive months – per [House Bill 1323 \(2005\)](#); and
- **Texas** [House Bill 88 \(2017\)](#) requires employers with 15 or more workers that provide leave to employees (paid or unpaid) to provide equal leave to parents fostering children.

Additionally, the newly signed Tennessee Works Tax Act of 2023 ([Senate Bill 275](#)) provides an optional paid family leave tax credit for eligible companies to be credited up to 50 percent of their franchise and excise tax levy. Specifically, the credit would amount to the wages reimbursed to employees who utilized paid family leave. However, this credit is only scheduled for the next two tax years and will expire, if not extended, on December 31, 2025.

During the 2023 session, PFL proposals were filed in several states, although none have been enacted:

- **Florida** [Senate Bill 670 \(2023\)](#) would have constructed a paid family leave insurance program that could be utilized for a child's birth, adoption, or foster placement. It also sets the floor at two weeks for the allowable paid leave.
- **North Carolina** [Senate Bill 418 \(2023\)](#) would create a new state insurance program for employees to take more extended paid time off for childbirth, adoption, or fostering. The law would cap the maximum number of weeks for paid benefits at 12 weeks, establish a minimum weekly benefit of \$100 per week for individuals who do not make less than that per week, and set the maximum weekly benefits at 100 percent of the statewide weekly average rate.
- **Oklahoma** [Senate Bill 990](#) would create a PFL program with employers and employees each contributing 0.45 percent of wages paid – employees of nonparticipating employers and state government entities instead may elect to join and contribute 0.9 percent of salary. Benefits would be paid out weekly equal to 90 percent of the employee's weekly wage but may not exceed 50 percent of the statewide average weekly pay for the preceding calendar year. Employees who elect to participate may file to receive an income tax credit covering their 0.45 percent contribution.
- **West Virginia** [House Bill 3277 \(2023\)](#) would have created a PFL insurance program – mandatory for employers – to pay out family leave benefits for the birth, placement, or adoption of a child for up to 12 weeks at 67 percent of the covered employee's average weekly wages during the preceding 12-month period with a cap of \$1,000 and a floor of \$250 per week.

**Figure 2. Paid Family Leave Laws for State Employees in the South (2023)**



Comparatively, a more significant number of states have enacted or implemented PFL programs for state or other public sector employees. Of the approximately 20 states with such a law, only four are in the CSG South region, all recent adopters, that enacted a paid leave policy within the past three years. The four Southern states and their measures are:

- **Arkansas** [Senate Bill 426 \(2023\)](#) expands the paid maternity leave period for state employees from four to 12 weeks – including an eligibility provision for employees who adopt or take on a foster child under one year old. Notably, this measure does not come with a fiscal cost. Instead, the benefits will be pulled from the Catastrophic Leave Fund – an optional program where state employees donate extra vacation and sick leave to other workers.
- **Georgia** [House Bill 146 \(2021\)](#) provides three weeks of paid parental leave for state and certain local government employees after six-consecutive months of employment.
- **South Carolina** [Senate Bill 11 \(2021\)](#) provides up to six weeks of paid maternity leave, two weeks of co-parenting leave, and two weeks of paid leave for adopting or fostering a child by a state employee.
- **Tennessee** [House Bill 324 \(2023\)](#) allows state executive and judicial branch employees to receive six weeks of paid leave for the birth or adoption of a child at 100 percent of their salary – provided they give 30 days' notice.
- Similarly, **Tennessee** [House Bill 983 \(2023\)](#) provides the same leave policies to public educators and administrative staff – with the state responsible for reimbursing local education agencies for the amount of leave disbursed to employees.
- **Virginia** was the first Southern state to enact a measure creating paid leave for state employees via [House Bill 2234 \(2019\)](#). Following a minor child's birth, adoption, or foster placement, employees may utilize eight weeks of paid leave at 100 percent of their regular wage.

While not legislatively enacted, **Missouri** and **North Carolina** joined the list of states offering PFL to some public sector employees via executive orders. In Missouri, then-Governor Eric Greitens issued Executive Order 9 (2017), providing up to six weeks of paid parental leave for primary caregivers, three weeks for secondary caregivers, and an allowance for both parents to utilize the benefit individually, consecutively, or concurrently. In 2019, **North Carolina** Governor Roy Cooper issued [Executive Order 95](#). Per the order, all employees of the Office of the Governor and State Agencies are eligible to receive up to eight weeks of paid leave for the birth of a child, and four weeks of paid leave for adoption, foster, or other circumstances involving the birth of a child to an employee. To qualify, workers must be categorized as full-time, part-time, permanent, or probationary employees for the immediately preceding 12-month period with at least 1,040 hours worked.

\*Another somewhat similar measure – [Arkansas House Bill 1775 \(2023\)](#) – would allow state employees to take up to 40 hours of paid leave to take care of a foster child of any age for time off to bond with the child for adjustment purposes, attend school meetings, court hearings, or case-planning activities.