

Kentucky Equal Justice Center Family Medical Leave

Current Policy

- Parental leave of up to five (5) days with pay will be available to an employee at the time of the birth or adoption of his/her child.
- Additional leave of up to three (3) months without pay may be taken with the prior approval of the Director. An employee may take this leave time with pay if she has sufficient accrued sick leave, annual leave or Compensatory Time to do so.

Recommendation

- A family leave policy available to all employees, regardless of length of time employed.
- 12 weeks paid (with benefits) job-protected leave for:
 - incapacity due to pregnancy, prenatal medical care, or childbirth;
 - to care for the employee's child after birth or placement for adoption or foster care;
 - to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
 - for a serious health condition that makes the employee unable to perform the employee's job.
- Option to extend paid leave to 6 months using sick, vacation, personal days, or compensatory time or take unpaid leave.
- Special exceptions for military family members as outlined in the Family and Medical Leave Act (FMLA)
- A "serious health condition" would be the same as defined by the FMLA.

Rights and responsibilities of employees:

- Leave can be taken intermittently or on a reduced leave schedule.
- Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations.
- Employees should notify employer at least 30 days prior to planned leave when possible.
- Employees must provide sufficient information for the employer to determine if the leave qualifies for protection and the anticipated timing and duration of the leave.
- The employee must let the employer know they want to take leave under this policy and how much leave they want to accrue under this policy.
- Absent exigent circumstances, the employee will arrange with the director and their supervisor how their work will be covered while on leave, will notify clients who to contact while employee is on leave, and will leave detailed notes in LegalFiles regarding any ongoing cases.

Rights and responsibilities of employer:

- If an employee is not eligible, the employer must provide a reason for the ineligibility, which must be reviewed by the Board of Directors if requested by the employee.
- The employer will maintain paid benefits for the employee and leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Current Landscape for Similar Nonprofits in Kentucky

We reached out to 7 nonprofits around the state, including almost all of the Legal Aid programs. Each nonprofit had little or no paid leave available. Three nonprofits offered 0 days paid leave. We spoke to women in many of these organizations and many women felt powerless to change their organization's paid leave. Some reported saving up vacation days and sick days for years to scrape by with a 6 week maternity leave and receiving little support from their employer before and after their maternity leave.

We outlined a few of the "best" programs below to demonstrate the need for reform in this area. These programs are ranked as "best" because they offered paid leave. Other nonprofits may have offered more unpaid

leave, but due to the low income levels of most employees of nonprofits, unpaid leave was not considered. A Better Balance, a nonprofit in Tennessee, recommended that the gold standard in leave is 12 weeks paid.

- Nonprofit A
 - 12 weeks leave for categories in the FMLA with 4 weeks paid
- Nonprofit B
 - 4 weeks paid
 - Can extend with sick time, but “cautioned” against doing so

Leave in Private Firms

Above the Law maintains a parental leave policies spreadsheet from surveys completed by private law firms, which was most recently updated in 2015. We analyzed only the maternity leave policies, as these policies were the focus of the information collected. You can find it here: <http://goo.gl/avpQgg>.

Highlights:

- 61 firms surveyed
- Average paid maternity leave: 15.5 weeks
- Most frequent amount of paid maternity leave: 18 weeks

Why should KEJC provide leave?

As a nonprofit that is founded on the premise of promoting justice, providing a fair and generous family leave policy is in line with the mission of our organization and what we advocate for our clients. Paid family leave will benefit KEJC by attracting talented applicants, improving employee morale, reducing turnover, and empower individuals by giving them the support they need to stay in the workforce while caring for themselves or relatives. Studies indicate significant benefits to each person in the family with paid job-protected leave when a child enters the family, which is detailed below for the maternity leave aspect of this proposal. We want KEJC to be a leader in family leave policies, showing that it values its employees and cares about their families. Additionally, it has always been known that pay for public interest attorneys is below that of private attorneys, but low salaries can be mitigated by excellent benefits packages. If implemented, we think there should be some sort of plan to encourage other nonprofits in the state to follow suit.

- **Paid leave increases health of mother and reduces child mortality rates.**
 - “Returning to work later or an increase in the length of maternal leave from work has been shown to reduce depressive symptoms on average by 5-10%.” National Partnership for Women and Families, Fact Sheet: Parental Leave and the Health of Infants, Children and Mothers, June 2015, 3.
 - “Taking more than 12 weeks of leave is associated with increased energy and lack of fatigue; taking more than 15 weeks leave is associated with positive maternal mental health including reduced depression and anxiety; and taking more than 20 weeks of leave is associated with positive effects on overall maternal function.” National Partnership for Women and Families, Fact Sheet: Parental Leave and the Health of Infants, Children and Mothers, June 2015, 3. See also, Deanna S. Gomby and Dow-Jane Pei, Newborn Family Leave: Effects on Children, Parents, and Business, The David and Lucile Packard Foundation, 2009, 24.
 - “Rights to a year of job-protected paid leave are associated with roughly a 20% decline in post-neonatal deaths and a 15% decrease in fatalities occurring between the first and fifth birthdays.” Christopher J. Ruhm, Parental leave and child health, Journal of Health Economics, Vol. 19, No. 6, November 2000, 931, 951.
 - “In particular, for college educated mothers able to take advantage of it, an expansion of unpaid leave has been found to increase birth weight, decrease premature birth, and lead to a substantial

decrease in infant mortality.” The Council on Economic Advisors to the President of the United States, *The Economics of Paid and Unpaid Leave*, 2014, 8.

- **Paid leave does not negatively affect employers.**

- “A survey of 253 employers affected by California’s paid family leave initiative found that the vast majority – over ninety percent – reported either positive or no noticeable effect on profitability, turnover, and morale.” The Council on Economic Advisors to the President of the United States, *The Economics of Paid and Unpaid Leave*, 2014, 2.
- “[T]he birth of a child or a serious illness is not a frequent event, and evidence from the states that have paid leave policies in place, as well as other developed countries, shows that these policies do not cause undue interruptions in the workplace. In fact, a body of research finds that these practices can benefit employers by improving their ability to recruit and retain talent, lowering costly worker turnover and minimizing loss of firm-specific skills and human capital, as well as boosting morale and worker productivity.” The Council on Economic Advisors to the President of the United States, *The Economics of Paid and Unpaid Leave*, 2014, 16.
- “Paid leave policies can help business recruit talented workers who plan to stay with a firm after having children. In a survey of two hundred human resource managers, two-thirds cited family-supportive policies, including flexible schedules, as the single most important factor in attracting and retaining employees.” The Council on Economic Advisors to the President of the United States, *The Economics of Paid and Unpaid Leave*, 2014, 16.
- “Paid leave can foster greater attachment to jobs, which reduces recruitment and training costs due to turnover.” See Arindrajit “Arin” Dube, *Paid Family Leave in California: An Analysis of Costs and Benefits* University of Chicago, Department of Economics, June 19, 2002.
- “About two-thirds of employers reported no increase in cost (47 percent) or an increase of less than 2 percent (19 percent) and the report’s authors conclude that there is no business case for opposing paid sick days.” The Council on Economic Advisors to the President of the United States, *The Economics of Paid and Unpaid Leave*, 2014, 17.