

Limited Time Off Under the FMLA

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Executive Summary

In today's healthcare environment, maternal health is at the forefront of the conversation. Long considered health outcomes surround maternal health such as high maternal mortality rates and postpartum concerns. While there are a variety of programs aimed at providing job protected leave for certain medical or family responsibilities, the Family Medical and Leave Act (FMLA) has been the main labor law in the United States. Nonetheless, it is likely the FMLA's current standing on time off will not be adequate for many expecting mothers. Research has shown that when given limited leave or they must return to work too soon after giving birth, new mothers are at significant risk. It is a call to action for policymakers and employers alike to improve access for expecting mothers to receive the best benefits following delivery.

Scope of the Issue

The FMLA is a labor law providing up to 12 work weeks of protected, paid, or unpaid leave, depending on the employer (Fact Sheet, 2023). To qualify for the FMLA, employees must have worked for 12 months, and a minimum of 1,250 hours within the past year (Fact Sheet, 2023). These requirements differ for various entities (i.e., small businesses). Researchers have found that 52% of deaths occur after delivery, or postpartum:

- 19% of all maternal deaths occur between one and six days postpartum.
- 21% of all maternal deaths are between one and six weeks postpartum.
- 12% of all maternal deaths take place during the remaining portion of the year; these are also known as late maternal deaths (Tikkanen et. Al, 2020).

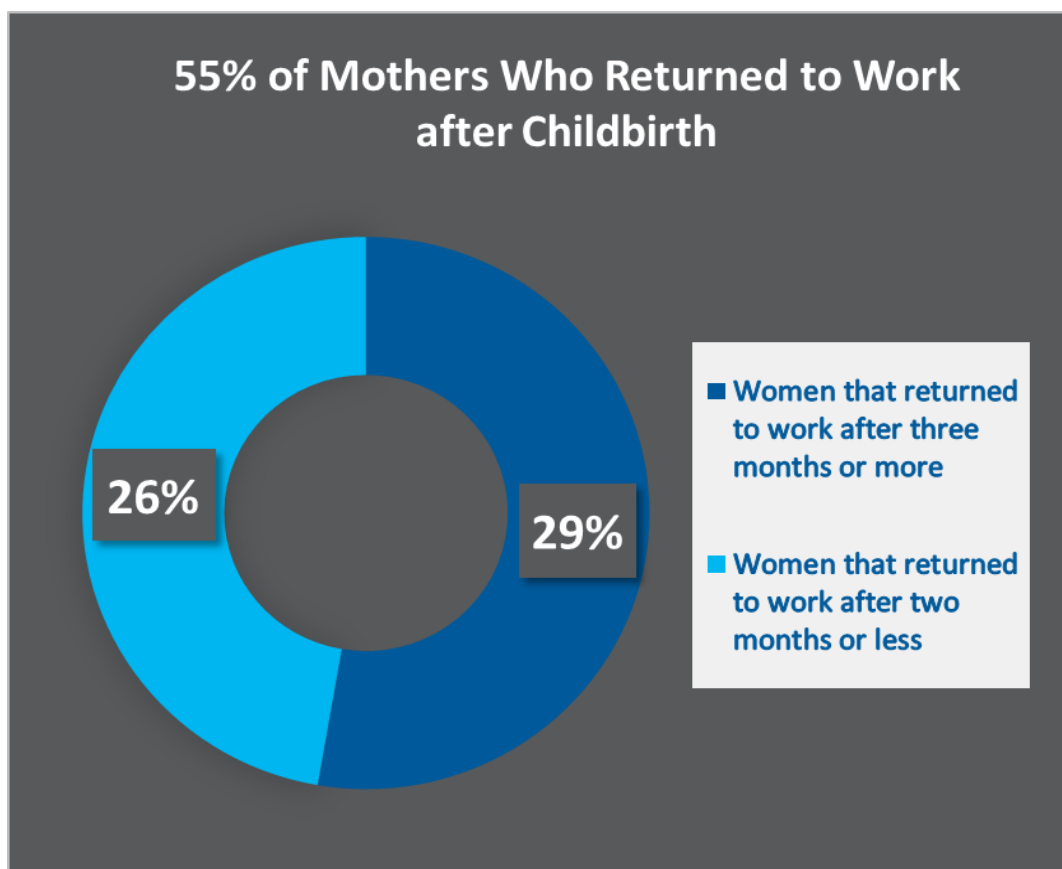
The current 12-week standard for time off under the FMLA is insufficient as expecting mothers require more time to acclimate and recover (Fact Sheet, 2023).

Effects of Current FMLA

More than half of American women (55%) return to work during their child's infancy (Figure 1) (Falletta et al., 2020). Physical health concerns are just a portion of what mothers are indicating when returning to work. New mothers are facing mental health concerns, hemorrhages, infection, and heart disease following delivery (Lamborne & Shah, n.d.). It was found that more

than a quarter of mothers who returned to work, 26.5% reported that their health was “fair” or “poor” during the first month of work reentry, and some reported having mental health challenges (Falletta et al., 2020). In comparison, mothers who took more than 12 weeks of leave expressed happier emotions and had better physical health (Gallant 2023, Whitehouse et al., 2012). Key findings from researchers have found mothers who took more than 13 weeks of paid leave or 26-52 weeks of leave had less psychological stress two to three years after giving birth (Whitehouse et al., 2012) and those who took the longest maternity leave (17 weeks or more) had increased odds of better health upon work reentry compared to those with the shortest length of maternity leave (Falletta et al., 2020).

Figure 1



Data from Flynn, J. (2023, November 14). Mothers Returning to Work After Maternity Leave. *Zipia*. <https://www.zipia.com/advice/how-many-mothers-return-to-work-after-maternity-leave/#:-:text=55%25%20of%20moms%20return%20to,first%20month%20back%20at%20work.>

While the FMLA has taken a step forward in providing aid to families, these findings highlight how increased time is needed, as 12 weeks is insufficient and can negatively contribute to the standing health of mothers. Addressing these issues is highly relevant to policymakers and employers who wish to embrace, attract, and retain the diverse talents and skills that women

bring to the labor force in the form of increased profitability, productivity, and innovation (Falletta et al., 2020).

A Call to Action

Further action is necessary from policymakers and employers alike to ensure expecting mothers are given adequate support and time off. Calls to policymakers and employers to:

- a. Increase time off for birthing parents to up to 24 weeks.
- b. Incentive employers to increase protection for employees.
- c. Educate employers on the importance of having rooms or spaces for breastfeeding.
- d. Encourage employers to offer flexible work options.
- e. Incentive employers to provide fully paid parental leave.

Policy Alternatives/Recommendations

Originating in California, the California Family Rights Act (CFRA) mirrors the FMLA in various aspects but differs in guidelines. Notably, the CFRA provides an extra 12 weeks of unpaid or paid leave, depending on the employer (CCRD, 2023). As it can run consecutively with the FMLA, it provides expecting mothers with up to 24 weeks of leave (Fishman Larsen Callister, n.d.).

Furthermore, the CFRA has been shown to have numerous benefits in the workplace and economically. A key finding from employees reported the CFRA to have a positive or no effect on performance, employee spirit, and profitability, and 89% reported it to have a positive or no distinguishable effect on productivity (West, 2015). The job security provided by the CFRA also attributed to a six to nine percent increase in the hours worked by mothers before and after their leave (West, 2015). With the CFRA in place, it provides increased time off for expecting mothers and positive outcomes in the workplace.

To implement the CFRA in Texas, I propose phasing it out within three developmental steps:

- Phase one: Adopting the policy into Texas legislation.
- Phase two: Policy implementation
 - Allow one year for employers to shift their policies to meet requirements.
- Phase three: Policy monitoring and evaluation.

Conclusion

Motherhood shouldn't be marred by fears of job loss, lack of support, or health concerns. By providing job protection, the FMLA has provided some relief. The recovery of mothers is, however, not sufficiently supported. There is much to be done in policy to dismantle the steady incline of health risks during pregnancy and delivery. It is possible for policymakers and employers to make significant changes to the lives of mothers and families, as well as to continue to build a workforce that utilizes the multifaceted skills of women.

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