



Paid Family and Medical Leave Insurance Program

Placed on the ballot by citizen initiative • Passes with a majority vote

Proposition 118 proposes amending the Colorado statutes to:

- create a paid family and medical leave insurance program for Colorado employees administered by the Colorado Department of Labor and Employment;
- require employers and employees in Colorado to pay a payroll premium to finance paid family and medical leave insurance benefits beginning January 1, 2023;
- allow eligible employees up to 12 weeks of paid family and medical leave insurance benefits annually beginning January 1, 2024; and
- create job protections for employees who take paid family and medical leave.

What Your Vote Means

YES A “yes” vote on Proposition 118 means the state will create an insurance program to provide paid family and medical leave benefits to eligible employees in Colorado funded by premiums paid by employers and employees.

NO A “no” vote on Proposition 118 means the state will not create a paid family and medical leave insurance program.

Summary and Analysis for Proposition 118

What happens if Proposition 118 passes?

Proposition 118 creates a state-run paid family and medical leave (PFML) insurance program in Colorado that allows employees to take up to 12 weeks of leave and keep their job. An eligible employee may take leave for the following reasons:

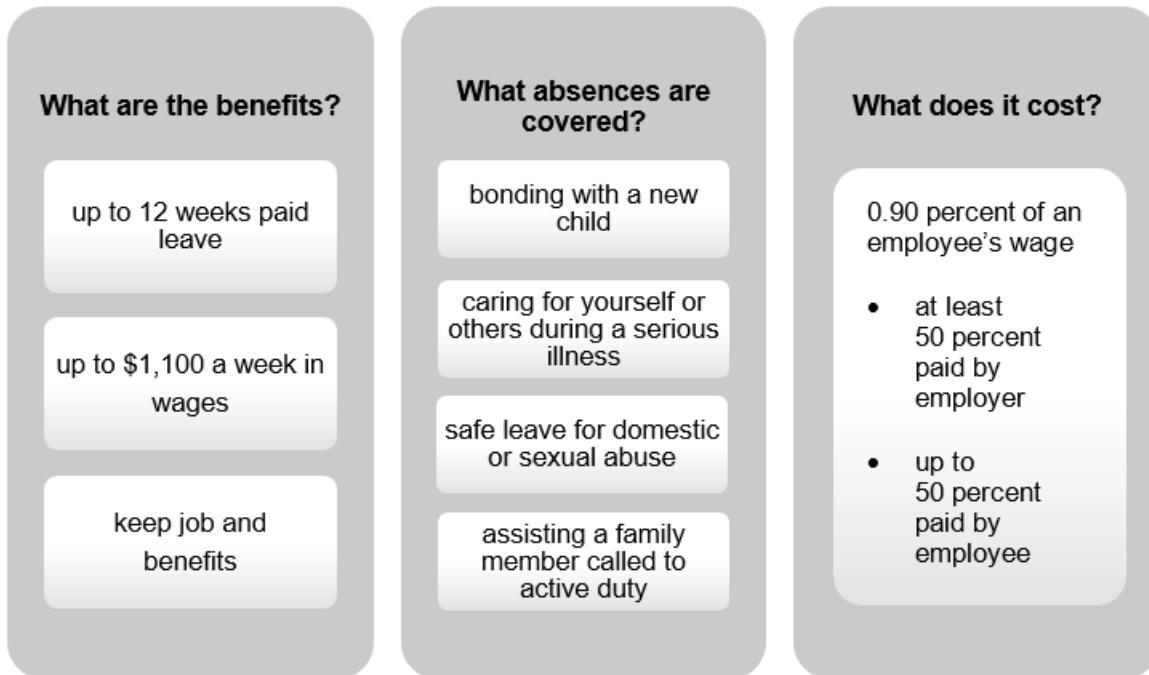
- to care for their own serious health condition;
- to care for a new child during the first year after the birth, adoption, or placement through foster care of that child;
- to care for a family member with a serious health condition;
- when a family member is on active duty military service or being called to active duty military service; and
- when the individual or the individual's family member is a victim of domestic violence, stalking, or sexual assault.

"Family member" is defined in the measure as the eligible employee's child, parent, spouse, domestic partner, grandparent, grandchild, sibling, or any individual with whom the employee has a significant personal bond that is like a family relationship. The maximum number of weeks an eligible employee may take paid leave in a year is 12 weeks, except that employees with a serious health condition related to pregnancy or childbirth complications may take up to an additional 4 weeks (16 weeks in total). Employees are not required to take leave consecutively.

Both employers and employees will pay into a new Family and Medical Leave Insurance Fund (fund). The state will use money in the fund to pay wage benefits to employees during their leave, similar to unemployment insurance. The amount an employee will receive during leave is based on the employee's average weekly wage (AWW). Most employees become eligible to take paid leave after they have earned at least \$2,500 in wages and eligible for certain job protections after being employed with their current employer for at least 180 days.

Figure 1 below highlights the major components of the new PFML insurance program.

Figure 1
Paid Family and Medical Leave Program



What are the current paid and unpaid leave requirements for businesses in Colorado?

Both federal and state leave requirements apply to Colorado businesses. The federal Family and Medical Leave Act of 1993 (FMLA) allows eligible employees to take up to 12 weeks of unpaid leave per year for specified circumstances. A new state law enacted in 2020, and effective for employers with 16 or more employees on January 1, 2021, and all employers on January 1, 2022, requires employers in Colorado to provide one hour of paid sick leave to each employee for every 30 hours worked, up to a maximum of 48 hours per year. See Table 1 for a detailed comparison of the existing provisions of the FMLA and Colorado's mandated sick leave law with the provisions of Proposition 118.

In addition, Colorado law permits an eligible employee to take up to three days of leave in any 12-month period if the employee is a victim of domestic abuse, stalking, sexual assault, or another crime. The leave may be paid or unpaid and must be used to seek a civil protection order, obtain medical care or mental health counseling, secure the employee's home, or seek legal assistance.

Table 1
Comparison of Leave Provisions in Current Law and Proposition 118

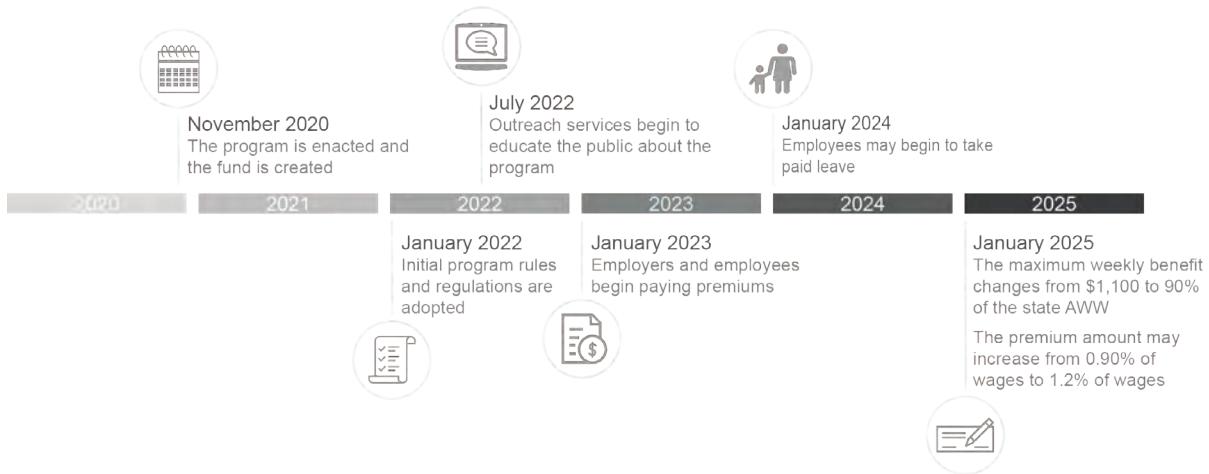
Proposition 118	FMLA	State Mandated Sick Leave
Type of Leave		
Family and medical	Family and medical	Medical
Length of Leave		
Up to 12 weeks	Up to 12 weeks	Up to 6 days
Paid or Unpaid		
Paid	Unpaid	Paid
Time Until Employee Eligibility		
Employee must make \$2,500 in wages subject to premium	Employee must work for 12 months	Employees receive 1 hour paid sick leave per 30 hours worked up to 48 hours per year
Job Protection		
Yes, if an employee has worked for their employer at least 180 days	Yes	N/A
Employer Size		
<ul style="list-style-type: none"> All employer sizes, with a few exceptions 	<ul style="list-style-type: none"> Private sector with 50 or more employees All public agencies All elementary and secondary schools 	<ul style="list-style-type: none"> Employers with 16 or more employees as of 1/1/2021, and all employers beginning 1/1/2022
Qualifying Reasons for Leave		
<ul style="list-style-type: none"> Birth or adoption of child Care for self or family member* with serious health condition For circumstances related to a family member's active duty military service Safe leave for domestic abuse, sexual assault or abuse, and stalking 	<ul style="list-style-type: none"> Birth or adoption of child Care for self or family member with serious health condition For circumstances related to a family member's active duty military service 	<ul style="list-style-type: none"> Care for an employee's health or safety Care for a person for whom the employee is responsible for providing or arranging health or safety related care

* Family member includes someone with whom the employee has a significant personal bond.

How will the program be implemented?

In calendar year 2023, employers and employees will start paying into the program. After the program has been collecting payments from employers and employees for one year, employees can begin receiving up to \$1,100 each week for up to 12 weeks while taking leave. A new paid family and medical leave division in the Colorado Department of Labor and Employment (CDLE) will oversee the new program and create rules and regulations to govern the program. Figure 2 shows the effective dates for various provisions of the program.

**Figure 2
PFML Program Timeline**



How will the program be funded?

Employers and employees must contribute a certain percentage of each employee’s wages to fund the program, known as a premium. The initial premium rate is set in the measure at 0.90 percent of wages per employee in the program’s first two years. The employer must pay at least 50 percent of the premium, but may choose to contribute a larger percentage. The employee is responsible for up to 50 percent of the premium, depending on the employer’s contribution. The premium is calculated based on the employee’s taxable wages. The maximum amount of wages to which the premium can be charged for calendar year 2023 is estimated to be \$161,700 per person, which limits the maximum annual premium to \$1,455. Table 2 shows examples of weekly and annual premiums for different wages and assumes that the employer and employee will split the premium equally. Beginning in calendar year 2025, the program director can set the premium up to 1.2 percent of an employee’s taxable wages for an estimated maximum annual premium of \$2,092.

**Table 2
Weekly and Annual PFML Premium Scenarios
For Calendar Year 2023**

Weekly Wages	Employer Weekly Premium	Employee Weekly Premium	Annual Wages	Employer Annual Premium	Employee Annual Premium
\$500	\$2.25	\$2.25	\$26,000	\$117	\$117
\$1,000	\$4.50	\$4.50	\$52,000	\$234	\$234
\$1,500	\$6.75	\$6.75	\$78,000	\$351	\$351
\$2,000	\$9.00	\$9.00	\$104,000	\$468	\$468
\$3,000	\$13.50	\$13.50	\$156,000	\$702	\$702

Will all employers in Colorado participate in the program and pay premiums?

Most employers are required to participate in the program and pay premiums. The individuals and organizations that are not required to pay the entire premium include:

- employers with nine or fewer employees;
- self-employed individuals;
- local governments that decline participation in the program; and
- employers that already offer approved paid leave benefits.

Employers with nine or fewer employees are not required to pay the employer portion of the premium, but are required to withhold and forward an employee's portion of the premium. Local governments that choose not to participate in the program do not pay the employer portion or collect premiums from employees. Local government employees whose employer has declined to participate and self-employed individuals may choose to opt in and pay only the employee portion of the premium. Finally, an employer with an approved private family and medical leave plan already in place is not required to pay premiums. Table 3 below illustrates premium responsibilities.

Table 3
Premium Responsibilities under Proposition 118

Employer Type	Employer Premium	Employee Premium	No Premium
9 or fewer employees		√	
10 or more employees	√	√	
Participating self-employed		√	
Participating local government employee		√	
Nonparticipating local government			√
Nonparticipating self-employed			√
Employer with private plan			√

How much will employees receive in benefit payments while on paid leave?

The amount of benefits an eligible employee can receive is based on the individual's AWW, compared to the state average weekly wage (SAWW) set annually by the CDLE. Wages include salary, wages, tips, commission, and other forms of compensation. An eligible employee will receive 90 percent of their AWW for the portion of his or her wages that are less than or equal to 50 percent of the SAWW, and 50 percent of the portion of wages that exceed 50 percent of the SAWW. The maximum weekly benefit that an individual can receive is \$1,100 for leave taken in 2024. Table 4 provides examples of benefit payments for different weekly wages in 2024 based on an estimated SAWW of \$1,340. For leave beginning on or after January 1, 2025, the maximum weekly benefit that an individual may receive is 90 percent of the SAWW, which is estimated to be \$1,392 per week for a maximum benefit of \$1,253 per week. To the extent that the SAWW differs from these estimates, the maximum benefit will vary accordingly.

Table 4
PFML Benefit Payment Scenarios
Based on 2024 SAWW of \$1,340

Weekly Wage	Weekly Benefit	Maximum Annual Benefit	Percent of Weekly Wage*
\$500	\$450	\$5,400	90%
\$1,000	\$768	\$9,216	77%
\$1,500	\$1,018	\$12,216	68%
\$2,000	\$1,100	\$13,200	55%
\$3,000	\$1,100	\$13,200	37%

** The weekly benefit as a percentage of the weekly wage declines as income increases and the maximum benefit is reached.*

What are the job protection requirements?

Participating employers may not discipline or take retaliatory actions against employees for requesting or using paid leave. Job protections are available to employees who have been employed for at least 180 days with their current employer prior to taking leave. This means that eligible employees who return from leave are entitled to return to the same position or a position with equal seniority, status, employment benefits, and pay. Employees are entitled to their health benefits during their leave, but are required to pay their portion of the health premium.