

Executive Summary

In order to clarify the rights of pregnant employees and the obligations of employers, the Ohio Civil Rights Commission is considering changes to the Ohio rule regarding pregnancy discrimination in the workplace. Policy Matters conducted a review of current literature on maternity leave in order to help inform the Commission's decision on this issue.

The federal Family Medical Leave Act guarantees 12 weeks of unpaid leave to employees at medium and large workplaces with at least a year of employment. This covers about 60 percent of U.S. and Ohio workers, ensuring that 3.3 million Ohio men and women can take unpaid family leave to care for a newborn or newly-adopted child.

Because of exemptions in the FMLA, however, a substantial minority of workers – about 2.2 million Ohioans - are not covered by the Family Medical Leave Act. Employers of these workers sometimes offer maternity leave, but they lack clear guidelines about how to do so, unlike in most other countries. Of 168 nations analyzed in one study, 163 provided **paid** leave for women for childbirth, while the U.S. does not even guarantee unpaid leave.

The Ohio Civil Rights Commission is considering clarifying Ohio rules to ensure that all pregnant women are guaranteed at least 12 weeks of unpaid leave. This would provide a minimum acceptable time for women to give birth, recover, rest, get post-natal care, begin breastfeeding, bond with their babies, and provide for initial neo-natal follow-up care and immunizations. Less time is insufficient to begin these important tasks.

When employers do not provide sufficient maternity leave, women either return to work before they and their children are ready or leave their jobs. In the first case, maternal and child health and well-being can suffer. In the second case, economic hardship can result, sometimes lasting years as career paths are interrupted.

Employers need guidance on what constitutes adequate leave to avoid discouraging women from participating in the labor force. Because the leave is unpaid and known about in advance, this modest imposition on employers may be more cost effective than current practices.

Policy Matters' review of existing literature found that most workplaces offer some form of family leave. Nationally 83 percent of workers are eligible for some paid or unpaid leave. Yet an estimated 445,000 Ohio working women are not eligible for any leave at all for pregnancy and childbirth. Workers that are paid less, work for smaller employers, or are in the service sector are much less likely to get this basic protection. However, lack of maternity leave protection affects workers in every sector and at different compensation levels.

Providing unpaid leave is a modest burden for employers according to surveys and existing data. Of employers required to grant leave under FMLA, 71 percent do not find the use of leave for birth or adoption to be a challenge. Only 4.8 percent of employed women give birth in a given year and only 3.1 percent of employees (men and women) take leave to care for a new child

Maternity leave is increasingly necessary. Three quarters of women over age 22 now work while pregnant and 60 percent of these women work into their last month of pregnancy. A large majority of women return to work within a year of giving birth, and most of those (79 percent) return to the same employer. In Ohio, 70 percent of mothers with children under the age of six are in the labor force.

Adequate maternity leave encourages women's employment, which has economic and labor market advantages: labor market productivity and diversity increases, economic well-being is stabilized, job retention increases, turnover and replacement costs decline. Employed, pregnant women with paid or unpaid leave return to their previous jobs after giving birth at a rate of 64 percent, compared to 44 percent for those without leave.

Adequate leave also confers health benefits. Longer leaves increase breastfeeding rates, bonding time, maternal attention, and immunization levels, all factors associated with better lifelong health outcomes.

Eighteen states and the District of Columbia now require private employers to provide some form of job-protected leave. A few states are going further and enacting paid leave laws. California provides over 13 million male and female workers with partial wages for up to six weeks a year to care for a newborn, newly adopted or foster child.

Twenty-six states have policies that give public employees the option to use sick leave to care for newborns, six states have laws allowing private employees to do the same and other states have put in place special protections for temporarily disabled or low-income families that can be used in some pregnancy leaves.

The national government and other states have enacted policies to support women during pregnancy because it is in society's interest to do so. Without provisions for maternity leave, women are forced to choose between employment on the one hand and fully recovering from childbirth and caring for their newborns on the other. Forcing women to choose between motherhood and their livelihood is not a good for society, children, women, or employers.

The Civil Rights Commission should follow the lead of these states and the national government to provide a clear minimum standard of 12 unpaid weeks of maternity leave for all pregnant employees.