

# An Analysis of How a Voluntary Paid Family and Medical Leave Program in Iowa Will Help Advance Maternal Health Outcomes

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*ABSTRACT: The United States lags behind other developed nations for maternal health outcomes, especially for maternal mortality rates. There are a variety of factors that are thought to contribute to these substandard maternal health outcomes, including a lack of access to paid maternity leave. In recent years, many states have adopted paid family and medical leave (“PFML”) programs, which help expand access to paid maternity leave. In contrast to mandatory PFML programs, New Hampshire and Vermont recently enacted voluntary PFML programs in which employers and individual workers can purchase PFML benefits at a low cost through private insurance companies. This Note argues that Iowa should adopt a voluntary PFML program modeled after those used by Vermont and New Hampshire—with certain modifications—because it will provide all Iowa workers with access to paid leave while balancing various other interests across the state. In turn, the increased access to paid leave will help serve as a partial solution to the adverse maternal health outcomes currently faced by Iowa mothers.*

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## INTRODUCTION

The United States is experiencing a “maternal health crisis.”<sup>1</sup> For example, if you were to think of a person most likely to have a successful and safe delivery, perhaps you would consider someone like Lauren Bloomstein: a healthy, neonatal intensive care nurse who was married to a doctor that could advocate on her behalf.<sup>2</sup> Lauren had a smooth pregnancy, except for nausea during the first trimester.<sup>3</sup> Eventually, she successfully delivered a healthy baby girl.<sup>4</sup> However, within twenty hours, Lauren died from preeclampsia.<sup>5</sup> Her husband was a doctor at a different hospital, and when Lauren began having adverse health symptoms, he called a coworker to get an opinion on her symptoms.<sup>6</sup> After receiving the probable diagnosis from his coworker, Lauren’s

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1. Munira Z. Gunja, Evan D. Gumas, Relebohile Masitha & Laurie C. Zephyrin, *Insights into the U.S. Maternal Mortality Crisis: An International Comparison*, COMMONWEALTH FUND (June 4, 2024), <https://www.commonwealthfund.org/publications/issue-briefs/2024/jun/insights-us-maternal-mortality-crisis-international-comparison> [https://perma.cc/JQL3-RYKL].

2. See Nina Martin & Renee Montagne, *The Last Person You’d Expect to Die in Childbirth*, NPR (May 12, 2017, 5:00 AM), <https://www.npr.org/2017/05/12/527806002/focus-on-infants-during-childbirth-leaves-u-s-moms-in-danger> [https://perma.cc/66AX-DDTW].

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

husband repeatedly pushed for help during the postdelivery period.<sup>7</sup> Yet, his advocacy was to no avail.<sup>8</sup> Instead, he was forced to watch “Lauren’s ob/gyn and nurses . . . fail[] to recognize a textbook case of one of the most common complications of pregnancy—not once, but repeatedly over two days.”<sup>9</sup> As heartbreaking and unexpected as Lauren’s story is, hundreds of unnecessary maternal deaths like this occur across the country each year.<sup>10</sup>

Although there are a variety of factors that contribute to the poor maternal health outcomes in the United States, it is notable that the federal government does not guarantee access to paid maternity leave.<sup>11</sup> Access to paid maternity leave has been linked to improved physical and mental maternal health outcomes.<sup>12</sup> Thus, an increase in access to paid leave may improve maternal health outcomes in the United States. To address a lack of access to paid leave at the federal level, twenty-three states and Washington, D.C. have enacted various types of paid family and medical leave (“PFML”) programs.<sup>13</sup> Family and medical leave encompasses maternity leave<sup>14</sup> and allows workers to take time off work for a few other situations, such as “[c]aring for a family member with a serious health condition.”<sup>15</sup>

As is true of the nation as a whole,<sup>16</sup> Iowa is experiencing an unnecessarily high level of adverse maternal health outcomes.<sup>17</sup> The rate of maternal deaths in Iowa is slightly lower than the national average,<sup>18</sup> but it is still almost double the average rate of maternal deaths for countries in the Organisation for Economic Co-operation and Development (“OECD”).<sup>19</sup> Moreover, the occurrence of severe health consequences stemming from childbirth is

7. *Id.*

8. *Id.*

9. *Id.*

10. *See id.*

11. *See* Gunja et al., *supra* note 1.

12. *See, e.g.,* Maureen Sayres Van Niel et al., *The Impact of Paid Maternity Leave on the Mental and Physical Health of Mothers and Children: A Review of the Literature and Policy Implications*, 28 HARV. REV. PSYCHIATRY 113, 114, 122 (2020).

13. *See* State Paid Family Leave Laws Across the U.S., BIPARTISAN POL’Y CTR. (Feb. 20, 2025), <https://bipartisanpolicy.org/explainer/state-paid-family-leave-laws-across-the-u-s> [<https://perma.cc/C7PP-ZTC6>].

14. *See* Phyllis Hutton Raabe & Katherine P. Theall, *An Analysis of Paid Family and Sick Leave Advocacy in Louisiana: Lessons Learned*, 26 WOMEN’S HEALTH ISSUES 488, 488 (2016).

15. *Paid Family and Medical Leave (PFML) Overview and Benefits*, MASS.GOV, <https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-overview-and-benefits> [<https://perma.cc/QKD2-8K9Q>].

16. *See* Martin et al., *supra* note 2.

17. *See* IOWA MATERNAL MORTALITY REV. COMM., IOWA 2024 MATERNAL MORTALITY REPORT, 2019-2021 DEATHS 5 (2024), <https://publications.iowa.gov/52367/1/MMRC%20Report%202025%20-%20Abridged%20FINAL.pdf> [<https://perma.cc/73BH-PFUE>].

18. *See* CDC, MATERNAL DEATHS AND MORTALITY RATES: EACH STATE, THE DISTRICT OF COLUMBIA, UNITED STATES, 2018-2022, at 1, 2, <https://www.cdc.gov/nchs/maternal-mortality/mmr-2018-2022-state-data.pdf> [<https://perma.cc/S52X-YQUK>].

19. *See* ORG. FOR ECON. COOP. & DEV., HEALTH AT A GLANCE 2023: OECD INDICATORS 79 (2023), <https://www.oecd-ilibrary.org/docserver/7a7afb35-en.pdf> [<https://perma.cc/7W8W-587S>].

greater in Iowa compared to the national average.<sup>20</sup> Notably, Iowa follows the federal government's approach regarding paid leave by only providing a small amount of paid parental leave to state government employees, and does not guarantee that all workers have access to PFML benefits.<sup>21</sup> Accordingly, to improve maternal health outcomes, the Iowa legislature should implement a PFML program. Because a significant number of states have implemented PFML programs and paid leave has been linked to improved maternal health, the creation of a PFML program in Iowa would be a relatively easy step towards improving maternal health in the state. Though there are various types of PFML structures, Iowa should base its PFML program on those used in Vermont and New Hampshire. Vermont and New Hampshire recently developed a voluntary PFML structure in which private insurance companies sell PFML insurance plans to employers and individual workers, and the state governments provide a moderate amount of oversight.<sup>22</sup> In turn, this structure provides all workers with access to PFML benefits, helps small businesses retain top talent, and creates economic benefits for the entire state.<sup>23</sup>

This Note argues that Iowa's maternal health outcomes could be improved by expanding access to PFML benefits. Part I discusses the current status of maternal health in Iowa and in the United States. Part I also examines the issue of how many Iowa mothers lack access to paid leave during the postpartum period, even though paid leave is linked to improved maternal health outcomes. Part II then discusses the current laws that provide Iowa mothers with access to leave during the postpartum period as well as the types of PFML programs that are used by different states. Next, Part III advocates for the Iowa legislature to implement a voluntary PFML program similar to those used by Vermont and New Hampshire, reasoning that this type of program will provide all Iowa workers with access to PFML benefits at a low cost while balancing various interests across the state. Finally, in addition to evaluating why the PFML format used by Vermont and New Hampshire would be the best type of PFML program to implement in Iowa, Part III also examines the modifications the Iowa legislature should make to its PFML program in order to further improve maternal health outcomes.

#### I. LIMITED ACCESS TO PAID LEAVE DURING THE POSTPARTUM PERIOD CONTRIBUTES TO SUBSTANDARD MATERNAL HEALTH OUTCOMES

Prior to analyzing the different types of PFML programs that are used in the United States, it is necessary to evaluate why a PFML program is needed. Section I.A will first discuss the status of maternal health in the United States

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20. IOWA MATERNAL MORTALITY REV. COMM., *supra* note 17, at 2.

21. See *State Paid Family Leave Laws Across the U.S.*, *supra* note 13; Iowa H. File 889, 91st Gen. Assemb., Reg. Sess. (Iowa 2025).

22. See *Overview*, N.H. PAID FAM. & MED. LEAVE [hereinafter *N.H. Leave Plan*], <https://www.paidfamilymedicalleave.nh.gov/overview> [https://perma.cc/6DYA-gZDF]; Press Release, Phil Scott, Vt. Governor, Vermont Family and Medical Leave Plan (Jan. 2024) [hereinafter *Vermont Leave Plan*], <https://governor.vermont.gov/vtfnli> [https://perma.cc/XD43-MAgZ].

23. See *infra* Section III.B.

and in Iowa. Next, Section I.B will examine the connection between access to paid maternity leave and improved maternal health outcomes. Lastly, Section I.C will analyze the lack of access to paid maternity leave in Iowa.

#### A. STATUS OF MATERNAL HEALTH IN IOWA AND THE UNITED STATES

The United States is needlessly experiencing a “maternal health crisis.”<sup>24</sup> This Section will discuss the various adverse health outcomes that contribute to this crisis, including a high frequency of maternal deaths, physical health conditions, and mental health disorders.

##### 1. Maternal Mortality

Maternal mortality is a critical issue faced by mothers in the United States, including in Iowa.<sup>25</sup> The maternal mortality rate (“MMR”) tracks “the number of maternal deaths per 100,000 live births.”<sup>26</sup> A maternal death is “the death of a woman while pregnant or within [forty-two] days of termination of pregnancy, irrespective of the duration and the site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management, but not from accidental or incidental causes.”<sup>27</sup> In 2023, the United States had an MMR of 18.6, which corresponded to 669 maternal deaths for the year.<sup>28</sup> From 2018 to 2022, Iowa averaged an MMR of 19.5, which is slightly lower than the national average for the same period of time.<sup>29</sup>

One factor that makes the above statistics particularly alarming is that compared to other developed countries, the United States has one of the highest MMRs.<sup>30</sup> For instance, based on a three-year average, the thirty-eight countries in the OECD averaged an MMR of 10.9, while the United States averaged an MMR of 21.1 for the same period of time.<sup>31</sup> Similarly, the most recent data from the World Bank Group shows that the United States performed worse than sixty other countries regarding maternal mortality and

24. P. Mimi Niles & Laurie C. Zephyrin, *How Expanding the Role of Midwives in U.S. Health Care Could Help Address the Maternal Health Crisis*, COMMONWEALTH FUND (May 5, 2023), <https://www.commonwealthfund.org/publications/issue-briefs/2023/may/expanding-role-midwives-address-maternal-health-crisis> [<https://perma.cc/MU8S-D84N>].

25. See IOWA MATERNAL MORTALITY REV. COMM., *supra* note 17, at 5.

26. DONNA L. HOYERT, NAT'L CTR. FOR HEALTH STAT., HEALTH E-STAT 100: MATERNAL MORTALITY RATES IN THE UNITED STATES, 2023, at 1 (2025), <https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2023/Estat-maternal-mortality.pdf> [<https://perma.cc/76YB-AFTE>].

27. *Id.* (quoting 2 WORLD HEALTH ORG., INTERNATIONAL STATISTICAL CLASSIFICATION OF DISEASES AND RELATED HEALTH PROBLEMS, TENTH REVISION 157 (2008 ed. 2009), [https://icd.who.int/browse10/Content/statichtml/ICD10Volume2\\_en\\_2008.pdf](https://icd.who.int/browse10/Content/statichtml/ICD10Volume2_en_2008.pdf) [<https://perma.cc/NT45-DXP3>]).

28. *Id.*

29. See CDC, *supra* note 18 (showing that the United States had an MMR of 23.2 when averaged over a five-year period from 2018 to 2022).

30. See ORG. FOR ECON. COOP. & DEV., *supra* note 19, at 79 (comparing MMRs that were averaged over a three-year period and reported by the WHO Global Health Observatory).

31. See *id.*

had an MMR that was equal to the MMR in Bahrain and Egypt.<sup>32</sup> In contrast, thirteen countries had an MMR equal to or less than 3.0.<sup>33</sup> Nevertheless, the United States still performs better than many other countries. As of 2023, there are more than sixty countries that have an MMR higher than 100.0, and Nigeria had the worst MMR in the world, at 993 deaths per one hundred thousand births.<sup>34</sup>

There are many possible reasons for the United States having a significantly higher MMR than those of other developed countries.<sup>35</sup> For instance, the United States has a shortage of about eight thousand obstetrician-gynecologists and underutilizes midwifery care.<sup>36</sup> Moreover, around eight million women in the United States are of “reproductive age” and lack health insurance coverage, whereas other high-income countries have universal health care systems.<sup>37</sup> Further, about forty percent of women in the United States do not complete a postpartum health appointment, even though the World Health Organization suggests that women have “at least four health contacts in the first six weeks following birth.”<sup>38</sup> Finally, all high-income countries except the United States ensure that mothers have access to paid maternity leave.<sup>39</sup>

A second alarming factor regarding maternal mortality in the United States is that there are substantial racial disparities in the maternal death data.<sup>40</sup> In 2023, Black women in the United States had an MMR of 50.3, compared to an MMR of 14.5 for white women, 12.4 for Hispanic women, and 10.7 for Asian women.<sup>41</sup> Racial disparities are also present in Iowa-specific maternal mortality data.<sup>42</sup> “[B]oth structural and individual racism . . . contribut[e] to the ongoing Black maternal health crisis.”<sup>43</sup> For example, provider bias adds to the high MMR for Black mothers.<sup>44</sup> Additionally, the chronic stress stemming from racism may have physiological effects, which can place Black women at a higher risk of experiencing maternal death.<sup>45</sup>

32. *Maternal Mortality Ratio (Modeled Estimate, per 100,000 Live Births)*, WORLD BANK GRP., <https://data.worldbank.org/indicator/SH.STA.MMRT> [<https://perma.cc/ENN5-ENCR>] (reporting the U.S. MMR as 17.0, which is lower than the MMR of 18.6 reported by the CDC for the same year).

33. *Id.*

34. *Id.*

35. *See* Gunja et al., *supra* note 1.

36. *See id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. HOYERT, *supra* note 26, at 1.

41. *Id.*

42. IOWA MATERNAL MORTALITY REV. COMM., *supra* note 17, at 5.

43. Melia Thompson-Dudiak, *The Black Maternal Health Crisis: How to Right a Harrowing History Through Judicial and Legislative Reform*, DEPAUL J. FOR SOC. JUST., Winter 2021, at 1, 4.

44. Kathy Katella, *Maternal Mortality Is on the Rise: 8 Things to Know*, YALE MED. (May 22, 2023), <https://www.yalemedicine.org/news/maternal-mortality-on-the-rise> [<https://perma.cc/X488-HEN6>] (finding that providers may ignore “reports of symptoms and requests for help” by Black women, which negatively impacts the quality of care that is provided).

45. *Id.*

A final factor that makes the MMR of the United States particularly alarming is that 83.5 percent of pregnancy-related deaths were preventable.<sup>46</sup> “A death is considered preventable if the [maternal mortality review] committee determines that there was at least some chance of the death being averted by one or more reasonable changes to patient, community, provider, facility, and/or systems factors.”<sup>47</sup> A pregnancy-related death is “[a] death during pregnancy or within [one] year of the end of pregnancy from a pregnancy complication, a chain of events initiated by pregnancy, or the aggravation of an unrelated condition by the physiologic effects of pregnancy.”<sup>48</sup> Additionally, pregnancy-related deaths are both temporally and “causally related to pregnancy or its management.”<sup>49</sup> With respect to the temporal aspect of pregnancy-related deaths, only 36.8 percent of pregnancy-related deaths in the United States occurred during pregnancy or on the day of delivery, while the majority of pregnancy-related deaths occurred between 1 and 365 days postpartum.<sup>50</sup> Similarly, in Iowa, 95 percent of pregnancy-related deaths were found to be preventable,<sup>51</sup> and 70 percent of pregnancy-related deaths occurred between 1 and 365 days postpartum.<sup>52</sup> Mental health conditions were the most common cause of pregnancy-related deaths in the United States in 2020, accounting for 22.5 percent of deaths.<sup>53</sup> Other top causes of pregnancy-related deaths included cardiovascular conditions (16.6 percent of deaths), infection (16.4 percent of deaths), hemorrhage (11.2 percent of deaths), and embolisms (8.6 percent of deaths).<sup>54</sup> As for Iowa, the top conditions responsible for pregnancy-related deaths were infection (30.0 percent of deaths), hemorrhage (20.0 percent of deaths), and embolisms (20.0 percent of deaths).<sup>55</sup> In sum, the MMR for the United States is disastrous not only because it is significantly worse than the rates in other developed countries, but also because most pregnancy-related deaths are preventable and there are large disparities within the MMR data.

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46. *Pregnancy-Related Deaths: Data from Maternal Mortality Review Committees in 38 U.S. States, 2020*, CDC (May 28, 2024) [hereinafter *Pregnancy-Related Deaths*], <https://www.cdc.gov/maternal-mortality/php/data-research/index.html> [<https://perma.cc/2WE3-TQQL>].

47. *Id.*

48. *Id.*

49. *Id.*

50. *See id.*

51. IOWA MATERNAL MORTALITY REV. COMM., *supra* note 17, at 5.

52. *See id.* at 6.

53. *Pregnancy-Related Deaths*, *supra* note 46.

54. *Id.*

55. IOWA MATERNAL MORTALITY REV. COMM., *supra* note 17, at 9. Deaths that were determined to be caused by an infection included COVID-19 deaths, as this data was tracked from 2019 to 2021. *Id.* at n.3.

## 2. Maternal Morbidity

Maternal morbidity is another leading health issue that impacts mothers in the United States.<sup>56</sup> Maternal morbidity is an “[u]nexpected health condition attributed to or complicating pregnancy and childbirth that has a negative impact on well-being or functioning.”<sup>57</sup> Maternal morbidity has varying levels of severity, including near-miss and severe.<sup>58</sup> Near-miss maternal morbidity is defined as “[s]urviving a near-death event related to a complication during pregnancy or childbirth or within [forty-two] days of the end of pregnancy.”<sup>59</sup> Severe maternal morbidity (“SMM”) involves “[u]nexpected outcomes of labor or delivery resulting in significant short- or long-term consequences to health.”<sup>60</sup> The CDC uses twenty-one indicators to identify SMM hospitalizations during delivery.<sup>61</sup> These indicators include health issues that can be diagnosed, such as aneurysms and cardiac arrest, as well as health care procedures, such as blood transfusions and ventilation.<sup>62</sup> Based on the CDC’s indicators, “approximately 50,500 women experienc[e] severe maternal morbidity every year” in the United States.<sup>63</sup> However, the CDC’s indicators only measure hospitalizations during delivery and do not measure morbidities that occur in the prenatal or postpartum periods.<sup>64</sup> Thus, the issue of maternal morbidity is likely even worse than what the current data suggest.<sup>65</sup>

Alarming, Iowa experiences a significantly higher rate of SMM compared to the national average.<sup>66</sup> In 2021, SMM impacted approximately 1.8 percent of births in the United States.<sup>67</sup> However, the average rate of SMM in Iowa between 2020 and 2022 ranged from 2.5 percent for white women to 4.4 percent for Asian and Pacific Islander women.<sup>68</sup> This equates to about a 40 percent higher rate of SMM in Iowa for white women compared to the national average and almost a 150 percent higher rate of SMM in Iowa for American Indian and Alaska Native women compared to the national average.<sup>69</sup>

56. See generally EUGENE DECLERCQ & LAURIE ZEPHYRIN, COMMONWEALTH FUND, SEVERE MATERNAL MORBIDITY IN THE UNITED STATES: A PRIMER (2021), [https://www.commonwealthfund.org/sites/default/files/2021-10/Declercq\\_severe\\_maternal\\_morbidity\\_in\\_US\\_primer\\_db.pdf](https://www.commonwealthfund.org/sites/default/files/2021-10/Declercq_severe_maternal_morbidity_in_US_primer_db.pdf) [<https://perma.cc/8WX6-ZWB8>].

57. *Id.* at 2.

58. *Id.* at 1.

59. *Id.* at 2.

60. *Id.*

61. *Severe Maternal Morbidity*, CDC (May 15, 2024), <https://www.cdc.gov/maternal-infant-health/php/severe-maternal-morbidity/index.html> [<https://perma.cc/Q3FW-W7QP>].

62. *Identifying Severe Maternal Morbidity (SMM)*, CDC (May 15, 2024), <https://www.cdc.gov/maternal-infant-health/php/severe-maternal-morbidity/icd.html> [<https://perma.cc/JT2M-CXSH>].

63. DECLERCQ & ZEPHYRIN, *supra* note 56, at 5.

64. *Id.* at 4.

65. See *id.* at 2 (“Expanding [the CDC’s measurements] to include assessment of severe maternal morbidity after birth and into the postpartum period is important for obtaining a true picture of maternal morbidity and crafting appropriate interventions.”).

66. IOWA MATERNAL MORTALITY REV. COMM., *supra* note 17, at 2.

67. *Id.*

68. *Id.*

69. *Id.*



In contrast to maternal mortality, there are limited data that can be used to compare SMM rates across countries.<sup>70</sup> However, blood transfusion is used as the most common indicator of SMM, and the United States has a higher rate of blood transfusions during birth compared to other countries in Europe.<sup>71</sup> Finally, as with maternal mortality, there are significant racial and socioeconomic disparities in SMM rates in the United States.<sup>72</sup> For instance, “Black mothers are more than twice as likely as non-Hispanic white mothers to experience [SMM],” and SMM rates are higher for low-income mothers than high-income mothers.<sup>73</sup> In addition to the racial disparities described above, Iowa also experiences geographic disparities in SMM rates, with rural women experiencing a higher rate of SMM than women in urban areas.<sup>74</sup> Similarly, Iowa has disparities in SMM rates based on a woman’s healthcare payment source.<sup>75</sup> More specifically, women in Iowa who use public insurance or self-pay options have almost double the rate of SMM compared to women who use private insurance.<sup>76</sup> Consequently, because maternal morbidity is highly prevalent in Iowa and disproportionately impacts low-income, rural, and Black women, the Iowa legislature must take action to address this issue.

### 3. Perinatal Mental Health

Mothers in the United States also face perinatal mental health issues, which include “conditions that occur before, during, and up to one year after giving birth.”<sup>77</sup> Perinatal mental health and substance use issues impact approximately twenty percent of mothers.<sup>78</sup> This equates to approximately 500,000 American women who suffer from perinatal mental health issues each year.<sup>79</sup> Anxiety and depression are the most common perinatal mental health disorders that are diagnosed.<sup>80</sup> As mentioned above, mental health conditions were identified as the most common cause of pregnancy-related deaths in the United States.<sup>81</sup> Nevertheless, seventy-five percent of women with perinatal mental health disorders do not receive treatment, possibly due to “too little screening,” “maternity care deserts,” and feelings of “intense shame” by mothers.<sup>82</sup>

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70. DECLERCQ & ZEPHYRIN, *supra* note 56, at 7.

71. *Id.* at 8.

72. *Id.*

73. *Id.*

74. IOWA MATERNAL MORTALITY REV. COMM., *supra* note 17, at 2.

75. *Id.*

76. *Id.*

77. AM. PSYCHIATRIC ASS’N, PERINATAL MENTAL AND SUBSTANCE USE DISORDERS 5 (2023), <https://www.psychiatry.org/getmedia/344c26e2-cdf5-47df-a5d7-a2d444fc1923/APA-CDC-Perinatal-Mental-and-Substance-Use-Disorders-Whitepaper.pdf> [<https://perma.cc/ML22-Z4PM>].

78. Stacy Weiner, *The Toll of Maternal Mental Illness in America*, AAMCNEWS (Dec. 5, 2023), <https://www.aamc.org/news/toll-maternal-mental-illness-america> [<https://perma.cc/R96A-3XgK>].

79. AM. PSYCHIATRIC ASS’N, *supra* note 77, at 1.

80. *Id.*

81. *Pregnancy-Related Deaths*, *supra* note 46.

82. Weiner, *supra* note 78.

There are multiple factors that influence perinatal mental health disorders.<sup>83</sup> For instance, there are biological factors, such as hormonal changes that occur during pregnancy and genetic predispositions to mental health conditions.<sup>84</sup> Additionally, environmental factors and stress impact mental health.<sup>85</sup> Consequently, a lack of sleep, large changes in a mother's life, poverty, and other environmental factors can contribute to perinatal mental health disorders.<sup>86</sup> Finally, while a more in-depth analysis will be conducted in Section I.B regarding the impact of PFML on maternal health,<sup>87</sup> it should be noted that "[a]ccess to paid maternity leave — which individuals from lower-income households and racial and ethnic minorities access less than their peers — is another influence on women's mental health."<sup>88</sup>

*B. PAID LEAVE IS ASSOCIATED WITH BETTER MATERNAL HEALTH OUTCOMES*

Mental health conditions are the most common cause of pregnancy-related deaths in the United States,<sup>89</sup> so it is significant that multiple systematic reviews have found that "the introduction of paid parental leave schemes was generally associated with improved maternal mental health in the post-partum period."<sup>90</sup> For example, one systematic review found that multiple studies in the United States "noted reduced risks of psychological distress and improved mental health among [mothers in states that implemented paid leave] compared with mothers living in states that did not provide paid leave."<sup>91</sup>

In addition to general improvements in mental health, there are many studies that show paid maternity leave is linked to a reduction in postpartum depression.<sup>92</sup> For instance, one systematic review evaluated five studies on maternal depression, all of which showed that paid leave was related to decreased risks for depression.<sup>93</sup> Specifically, one of the evaluated studies found that until twelve weeks postpartum, "every additional week of paid maternity leave was significantly associated with decreased odds of experiencing symptoms of postpartum depression."<sup>94</sup> This systematic review further noted that, "[nineteen percent] of women who screened positive for postpartum depressive symptoms were found to have self-harm ideation."<sup>95</sup> Because suicide is a significant cause

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*

87. See discussion *infra* Section II.B.

88. Weiner, *supra* note 78.

89. See *Pregnancy-Related Deaths*, *supra* note 46.

90. Amy Heshmati, Helena Honkaniemi & Sol P Juárez, *The Effect of Parental Leave on Parents' Mental Health: A Systematic Review*, 8 LANCET PUB. HEALTH e57, e61 (2023); see also Van Niel et al., *supra* note 12, at 114 (examining research studies that evaluated how paid maternity leave impacts the health of mothers and children).

91. *Id.* (footnotes omitted).

92. See, e.g., Van Niel et al., *supra* note 12, at 114.

93. *Id.*

94. *Id.*

95. *Id.*

of maternal mortality in the United States, there is a need to reduce postpartum depression, which can likely be accomplished through the implementation of paid maternity leave plans.<sup>96</sup>

Maternity leave has also been associated with improvements in maternal physical health.<sup>97</sup> For example, one study showed that “each additional week of paid or unpaid leave was associated with a [four percent] reduction in the odds that a woman would report ‘poor physical well-being.’”<sup>98</sup> A second study found that when a woman takes any amount of paid leave, she “had a [fifty-one percent] lower chance of being rehospitalized in the year after birth.”<sup>99</sup> Finally, a study from Norway evaluated the medium-term and long-term benefits in maternal health after Norway reformed its maternity leave policy from “[twelve] weeks of unpaid leave” to “[four] months of paid leave and [twelve] months of unpaid leave.”<sup>100</sup> Specifically, this study found that after the paid leave reform, women had improved “BMI, blood pressure, and a summary index that aggregates the metabolic health measures.”<sup>101</sup> Moreover, “[t]he reform significantly decreased the probability of experiencing chronic pain, improved self-reported mental and general health, and increased health-promoting behaviors, such as exercise and not smoking, around age 40.”<sup>102</sup> These benefits were found to be greater for mothers who otherwise wouldn’t have taken a lot of time off work if they had only had access to unpaid leave.<sup>103</sup>

There are likely a number of reasons why paid leave is associated with improved maternal physical health.<sup>104</sup> First, women who took paid leave were nearly two times as likely to be better at managing stress and exercising regularly.<sup>105</sup> Similarly, one study hypothesized that the reduced rates of parents being overweight or obese could be from paid leave increasing the time that parents have to exercise, as well as improving nutrition due to increased income.<sup>106</sup> Lastly, an Australian study argued that improvements in the physical health of mothers could be due to delayed enrollment in childcare programs

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96. See *id.*

97. See *id.* at 122.

98. See *id.* (citing Rada K. Dagher, Patricia M. McGovern & Bryan E. Dowd, *Maternity Leave Duration and Postpartum Mental and Physical Health: Implications for Leave Policies*, 39 J. HEALTH POL., POL’Y & L. 369 (2014)).

99. See *id.*

100. Aline Bütikofer, Julie Riise & Meghan M. Skira, *The Impact of Paid Maternity Leave on Maternal Health*, 13 AM. ECON. J. 67, 68 (2021). This is particularly relevant because the United States currently offers twelve weeks of unpaid leave through FMLA, so the results of this study may align with changes to paid leave policies in the United States. *Id.*

101. *Id.*

102. *Id.*

103. *Id.* at 69.

104. See, e.g., Van Niel et al., *supra* note 12, at 122.

105. See *id.*

106. Bethany C. Lee et al., *The Effect of California’s Paid Family Leave Policy on Parent Health: A Quasi-Experimental Study*, SOC. SCI. & MED., Apr. 2020, at 1, 6.

because these programs “increase[] the immediate likelihood of contracting infectious diseases.”<sup>107</sup>

### C. IOWA MOTHERS LACK ACCESS TO PAID LEAVE

Even though paid leave during the postpartum period is linked to improved maternal health outcomes, there is a lack of access to paid family leave (“PFL”) at the federal and state levels.<sup>108</sup> PFL benefits do not allow an employee to take leave to recover from medical conditions, but they do allow employees to take leave to “[b]ond with a new child” and to “[c]are for a family member with a serious health condition.”<sup>109</sup> Nationally, only about twenty-seven percent of workers in private industry have access to PFL benefits through their employer.<sup>110</sup> In the West North Central census division (which includes Iowa), it is estimated that only twenty-one percent of workers in private industry have access to PFL benefits through their employer.<sup>111</sup> Notably, this is the lowest rate of all census divisions in the United States.<sup>112</sup> In contrast, the Middle Atlantic division—the best census division for accessibility to PFL—has an estimated access rate of forty percent.<sup>113</sup>

In addition to geographic location, there are numerous other factors that impact PFL accessibility rates for workers in private industry.<sup>114</sup> First, low-income workers have less access to PFL benefits compared to high-income workers.<sup>115</sup> For the lowest ten percent of wage earners, only five percent have access to PFL benefits through their employer.<sup>116</sup> In contrast, for the highest ten percent of wage earners, fifty-one percent of workers have access to PFL benefits through their employer.<sup>117</sup> Second, small businesses are less likely to provide PFL benefits than large businesses.<sup>118</sup> For businesses with fewer than fifty workers, only nineteen percent of workers have access to PFL benefits.<sup>119</sup> However, for businesses with five hundred or more employees, forty-one

107. Belinda Hewitt, Lyndall Strazdins & Bill Martin, *The Benefits of Paid Maternity Leave for Mothers' Post-Partum Health and Wellbeing: Evidence from an Australian Evaluation*, 182 SOC. SCI. & MED. 97, 101 (2017).

108. See U.S. BUREAU OF LAB. STAT., EMPLOYEE BENEFITS IN THE UNITED STATES, MARCH 2023, at tbl.5 (2023), <https://www.bls.gov/ebs/publications/zip/employee-benefits-in-the-united-states-march-2023.zip> (on file with the *Iowa Law Review*) (estimating access rates to paid family leave across the United States).

109. See *Vermont Family and Medical Leave Insurance - Plan Details*, HARTFORD, <https://fmli.thehartford.com/plan-details> [<https://perma.cc/MW7U-MMXQ>].

110. U.S. BUREAU OF LAB. STAT., *supra* note 108.

111. *Id.* at tbl.All\_data; see also U.S. BUREAU OF LAB. STAT., TABLE 7. PRIVATE INDUSTRY WORKERS BY CENSUS REGION AND DIVISION n.1 (2024), <https://www.bls.gov/news.release/eccc.to7.htm> [<https://perma.cc/WT77-5DK9>] (defining census divisions).

112. See U.S. BUREAU OF LAB. STAT., *supra* note 108, at tbl.All\_data.

113. *Id.*

114. *Id.*

115. See *id.*

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.*

percent of workers have access to PFL benefits.<sup>120</sup> Third, only fourteen percent of part-time workers have access to PFL benefits through their employer, compared to thirty-one percent of full-time workers.<sup>121</sup> Finally, accessibility to PFL varies by occupation and industry.<sup>122</sup> Only twelve percent of workers in the “[c]onstruction, and extraction, farming, fishing, and forestry occupations” have access to PFL benefits.<sup>123</sup> In contrast, forty-six percent of workers in “[m]anagement, business, and financial occupations” have access to PFL benefits.<sup>124</sup>

In addition to low PFL accessibility rates, many Americans struggle to take unpaid family leave.<sup>125</sup> Only fifty-six percent of workers in the United States are eligible to take unpaid leave under the Family Medical Leave Act (“FMLA”), which is discussed in more detail in Part II.<sup>126</sup> Notably, even if an employee does not qualify for FMLA leave, employers may offer unpaid family leave as a benefit.<sup>127</sup> Of the workers in private industry who are employed at businesses with fewer than fifty workers, it is estimated that eighty-three percent of workers still have access to unpaid family leave benefits through their employer.<sup>128</sup> Nevertheless, even if unpaid family leave is offered as an employee benefit or through FMLA, employees might not have the means to take time off work without pay.<sup>129</sup> For example, it is estimated that while fifty percent of Iowa workers are eligible for FMLA leave, only forty percent of Iowa workers are both “[e]ligible [for FMLA leave] and can afford [six] weeks of unpaid leave.”<sup>130</sup> On a positive note, the lack of access to paid leave in Iowa is starting to be recognized by state actors. In Iowa’s 2024 Maternal Mortality Report, the Iowa Maternal Mortality Review Committee recommended that “Iowa policy makers and employers . . . introduce policies to ensure access to paid leave for medical appointments and adequate parental leave for all employees, including hourly wage workers.”<sup>131</sup> Moreover, as of July 1, 2025, Iowa now

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120. *Id.*

121. *Id.*

122. *See id.*

123. *Id.*

124. *Id.*

125. *See* Pamela Joshi, Abigail N. Walters, Elizabeth Wong, Leah Shafer & Dolores Acevedo-Garcia, *Inequitable Access to FMLA Continues*, DIVERSITYDATAKIDS.ORG (Mar. 1, 2023), <https://www.diversitydatakids.org/research-library/data-visualization/inequitable-access-fmla-continues> [https://perma.cc/UTG6-7AFM].

126. SCOTT BROWN, JANE HERR, RADHA ROY & JACOB ALEX KLERMAN, *EMPLOYEE AND WORKSITE PERSPECTIVES OF THE FMLA: WHO IS ELIGIBLE?* 1 (2020), [https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHID\\_FMLA2018PB1WhoIsEligible\\_StudyBrief\\_Aug2020.pdf](https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHID_FMLA2018PB1WhoIsEligible_StudyBrief_Aug2020.pdf) [https://perma.cc/YX3W-NN3F]; *see infra* Part II.

127. *See* U.S. BUREAU OF LAB. STAT., *EMPLOYEE BENEFITS IN THE UNITED STATES, MARCH 2024*, at tbl.All\_data (2024), <https://www.bls.gov/ebs/publications/zip/employee-benefits-in-the-unit-ed-states-march-2024.zip> (on file with the *Iowa Law Review*).

128. *Id.*

129. Joshi et al., *supra* note 125.

130. *Id.*

131. IOWA MATERNAL MORTALITY REV. COMM., *supra* note 17, at 12.

provides FMLA-eligible state government employees with four weeks of paid maternity leave and one week of paid paternity leave.<sup>132</sup>

## II. STATUS OF MATERNITY LEAVE IN THE UNITED STATES AND IOWA

To analyze which policy changes the Iowa legislature should make, this Part examines the current legal protections available to Iowa mothers, as well as the types of family and medical leave programs that are used across the United States. Section II.A provides an overview of the federal and state laws that provide Iowa mothers with job protection and access to unpaid leave. Section II.B then examines the different types of PFML programs that have been implemented across the United States.

### A. CURRENT LAWS THAT PROVIDE UNPAID LEAVE AND JOB PROTECTION TO IOWA MOTHERS

Iowa workers in the private sector are not guaranteed any amount of paid parental leave,<sup>133</sup> and state government workers are only guaranteed a few weeks of paid parental leave.<sup>134</sup> Despite a lack of access to paid leave in Iowa, there are still federal and state laws that protect the jobs of pregnant workers and provide some private sector workers with access to unpaid leave.<sup>135</sup> For example, the FMLA is a federal law that was adopted to help workers balance their employment with their family life and to help advance equality between men and women by minimizing discrimination in the workplace.<sup>136</sup> The FMLA entitles some employees to twelve weeks of unpaid leave during a twelve-month period for qualifying family or medical circumstances.<sup>137</sup> Specifically, the FMLA allows employees to take leave for the following situations: (1) caring for the employee's new child; (2) adopting or fostering a child; (3) caring for a parent, child, or spouse who "has a serious health condition"; (4) having "a serious health condition that makes the employee unable to perform the functions of the position of such employee"; or (5) experiencing a qualifying event related to an immediate family member's active duty military service.<sup>138</sup> When an employee returns from FMLA leave, the employee has the right to return to their previous position or an equivalent position.<sup>139</sup> Additionally, during FMLA leave, the employer must continue to provide the employee with health benefits coverage that is offered through the employer's health insurance plan.<sup>140</sup> Notably, the FMLA only allows an "eligible employee" to

132. Iowa H. File 889, 91st Gen. Assemb., Reg. Sess. (Iowa 2025).

133. See IOWA MATERNAL MORTALITY REV. COMM., *supra* note 17, at 12.

134. See Iowa H. File 889.

135. See IOWA C.R. COMM'N, PREGNANCY FACTSHEET 1-2 (2018), <https://publications.iowa.gov/38078/1/Pregnancy%20Factsheet%20May%202018%20-%20Revised.pdf> [https://perma.cc/3BZD-XF92].

136. 29 U.S.C. § 2601 (2018).

137. *Id.* § 2612(a)(1).

138. *Id.* § 2612(a)(1)(A)-(E).

139. *Id.* § 2614. To qualify as an equivalent position, there must be "equivalent employment benefits, pay, and other terms and conditions of employment." *Id.* § 2614(a)(1)(B).

140. *Id.* § 2614(c)(1).

qualify for unpaid leave.<sup>141</sup> An employee is generally eligible to take FMLA leave if they have worked for their employer for twelve months and have worked 1,250 hours during the previous twelve months.<sup>142</sup> An employee is not eligible for FMLA leave if an employer has fewer than fifty employees within seventy-five miles of the employee's worksite.<sup>143</sup> As discussed in Part I, these requirements result in many Iowa workers who are not eligible to take FMLA leave.<sup>144</sup>

In addition to the FMLA, Iowa mothers may be able to access unpaid leave and job protections under federal and state civil rights laws.<sup>145</sup> Under Title VII of the Civil Rights Act, an employer cannot discriminate against an individual because of the individual's sex.<sup>146</sup> Discrimination based on "pregnancy, childbirth, or related medical conditions" qualifies as sex discrimination.<sup>147</sup> Thus, an employer cannot discharge or otherwise discriminate against a woman because she is pregnant or gives birth to a child.<sup>148</sup> Similarly, under the Iowa Civil Rights Act of 1965, employers cannot discriminate based on pregnancy or childbirth.<sup>149</sup> In Iowa, "the employee's pregnancy, miscarriage, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities."<sup>150</sup> As a result, if an employer offers health insurance, disability insurance, or sick leave, then the employer cannot treat pregnancy-related disabilities worse than other disabilities in providing access to those benefits.<sup>151</sup> Additionally, under the Iowa Civil Rights Act, if a woman does not have access to enough leave and "is disabled by the pregnancy," then the employer must allow her to take time off work for the lesser of eight weeks or "the period that the employee is disabled because of the employee's pregnancy, childbirth, or related medical conditions."<sup>152</sup> The Iowa Civil Rights Act applies to Iowa employers with four or more employees, so many Iowa mothers are eligible to take some amount of leave—though unpaid—to recover from pregnancy or childbirth.<sup>153</sup>

#### B. TYPES OF PAID FAMILY AND MEDICAL LEAVE PROGRAMS

The federal government does not guarantee that workers have access to paid leave to care for loved ones or bond with a child.<sup>154</sup> Consequently, only

141. *Id.* § 2612.

142. *Id.* § 2611(2)(A)(i)–(ii).

143. *Id.* § 2611(2)(B)(2)(ii).

144. See discussion *supra* Section I.C.

145. See IOWA C.R. COMM'N, *supra* note 135.

146. 42 U.S.C. § 2000e-2(a)–(b).

147. *Id.* § 2000e(k).

148. See *id.* § 2000e-2.

149. See IOWA CODE § 216.6(2) (2025).

150. *Id.*

151. See *id.*

152. *Id.* § 216.6(2)(c).

153. *Id.* § 216.6(6).

154. Molly Weston Williamson, *The State of Paid Family and Medical Leave in the U.S. in 2024*, CTR. FOR AM. PROGRESS (Jan. 17, 2024), <https://www.americanprogress.org/article/the-state-of-paid-family-and-medical-leave-in-the-u-s-in-2024> [https://perma.cc/LQQ5-4E2H].

about twenty-seven percent of employees who work in private industry have access to PFL benefits through their employer.<sup>155</sup> Similarly, only twenty-eight percent of individuals who are employed by local and state governments have access to PFL benefits.<sup>156</sup> To address this shortage, the District of Columbia and twenty-three states have enacted laws to implement PFML or PFL programs.<sup>157</sup> This Section discusses the three main categories of paid leave programs: mandatory programs, voluntary programs with moderate state involvement, and voluntary programs with minimal state involvement.<sup>158</sup>

### 1. Mandatory PFML Programs

Mandatory state PFML programs generally offer paid leave for the same situations that are covered under FMLA, including taking care of a family member “with a serious health condition” and “bonding with a new child.”<sup>159</sup> In 2002, California enacted the first mandatory PFML program, but PFML programs have become more popular in the past decade.<sup>160</sup> Specifically, ten states have enacted mandatory PFML programs in the past eight years.<sup>161</sup> As of February 2025, the District of Columbia and thirteen states have enacted laws that ensure eligible employees have access to PFML benefits.<sup>162</sup>

The majority of mandatory PFML programs are funded through a social insurance system in which payroll taxes are collected from employees, employers, or both.<sup>163</sup> The tax rate for the social insurance systems is equal to or less than 1.2 percent of an employee’s wages.<sup>164</sup> New Jersey has the lowest tax requirement for its PFML program, in which only 0.33 percent of an employee’s wages are collected, and the payroll tax is capped at \$545.82 per year per employee.<sup>165</sup> Seven states require employers to cover a portion of the payroll tax rate to help fund the state’s insurance program.<sup>166</sup> For instance, in Oregon, the tax rate is one percent of an employee’s wages, and employers who have more than twenty-five employees must pay forty percent of the

155. U.S. BUREAU OF LAB. STAT., *supra* note 108, at tbl.All\_Data.

156. *Id.*

157. *See State Paid Family Leave Laws Across the U.S.*, *supra* note 13.

158. *See id.*

159. *See Williamson*, *supra* note 154 (discussing the circumstances that may be covered by PFML benefits).

160. *See State Paid Family Leave Laws Across the U.S.*, *supra* note 13 (comparing the enactment dates for states with PFML and PFL programs).

161. *See id.*

162. *See id.*

163. *See id.*

164. *See id.* Notably, California’s 1.2 percent tax rate is the highest of the mandatory PFML tax rates, but it is also used to fund the state’s disability insurance program. *Id.*; *California Paid Family Leave*, HARTFORD, <https://www.thehartford.com/paid-family-medical-leave/ca> [<https://perma.cc/F3EN-57ZT>].

165. *See id.* (comparing payroll tax rates across PFML programs); *Family Leave Insurance*, DEP’T LAB. & WORKFORCE DEV., <https://www.nj.gov/labor/myleavebenefits/worker/fli> [<https://perma.cc/FF73-VK4Z>].

166. *State Paid Family Leave Laws Across the U.S.*, *supra* note 13.



tax.<sup>167</sup> Notably, seven of the last eight states to enact mandatory PFML programs have imposed taxes on both employees and employers.<sup>168</sup> Moreover, in 2022, the District of Columbia enacted its PFML program, which requires employers to pay one hundred percent of the payroll tax.<sup>169</sup> Thus, there has been a trend to make employers contribute more to PFML programs beyond merely collecting payroll taxes and allowing their employees to take leave.

New York is the only state that uses the private insurance industry to fund its mandatory program.<sup>170</sup> Under New York's system, employers are responsible for purchasing PFML insurance plans, but the cost of the premiums are passed through to employees.<sup>171</sup> The PFML insurance market in New York is heavily regulated, and the government sets the cost of the premiums and the level of benefits.<sup>172</sup>

States with mandatory PFML programs vary considerably with respect to job protection, eligibility requirements, and the amount of wages that will be replaced.<sup>173</sup> Ten states offer job protection to employees who take leave under the state's PFML program, but some of these states require the employee to have worked for their employer for a certain amount of time before they are eligible for job protection.<sup>174</sup> Additionally, the requirements to qualify for a state's PFML program in the first place vary significantly, with most states using either a wage or hours requirement.<sup>175</sup> For example, Delaware's eligibility requirements will be similar to the FMLA's eligibility requirements, in which employees must have worked for at least twelve months and have worked for their employer for 1,250 hours.<sup>176</sup> In contrast, employees in Massachusetts are only eligible if they have earned a minimum amount of income set by the Department of Unemployment Assistance for the past year and have earned thirty times the amount of the PFML benefit that will be received.<sup>177</sup> California only requires employees to have "[e]arned at least \$300 . . . with State Disability Insurance withheld" during the employee's base period.<sup>178</sup> Moreover, each state has its own formula for calculating an individual's "wage replacement rate"

167. *Id.* (comparing payroll tax rates across PFML programs); *Common Questions About Paid Leave*, PAID LEAVE OR., <https://paidleave.oregon.gov/resources/common-questions.html> [https://perma.cc/B5YY-9SZ3].

168. *State Paid Family Leave Laws Across the U.S.*, *supra* note 13.

169. *See id.*

170. *See id.*

171. *See id.*

172. *See id.*

173. *See id.*

174. *See id.*

175. *See id.*

176. *Id.* (comparing components of various PFML programs); *Delaware Paid Leave Is Coming: It's Time to Get Your Business Ready!*, DEL. DEP'T LAB., <https://labor.delaware.gov/delaware-paid-leave-is-coming> [https://perma.cc/7Y37-2HH5].

177. *Paid Family and Medical Leave (PFML) Overview and Benefits*, *supra* note 15; *State Paid Family Leave Laws Across the U.S.*, *supra* note 13.

178. *Am I Eligible for Paid Family Leave Benefits?*, EMP. DEV. DEP'T, [https://edd.ca.gov/en/disability/Am\\_I\\_Eligible\\_for\\_PFL\\_Benefits](https://edd.ca.gov/en/disability/Am_I_Eligible_for_PFL_Benefits) [https://perma.cc/N3BQ-YMTP]; *State Paid Family Leave Laws Across the U.S.*, *supra* note 13.

(i.e., how much an employee will be paid while on leave), but the maximum benefit that employees can receive through mandatory PFML programs ranges from approximately \$900 to \$1,620 per week.<sup>179</sup>

Mandatory PFML programs also vary with respect to duration of leave that an employee may take.<sup>180</sup> The vast majority of mandatory PFML programs allow individuals to take up to twelve weeks of leave to care for a family member or to care for a new child.<sup>181</sup> Of the mandatory PFML programs, only California and Rhode Island mandate less than twelve weeks of parental and family leave; however, both of these programs were created more than a decade ago and do not align with the most recent PFML programs.<sup>182</sup> Some mandatory programs also allow individuals to take additional paid leave time for personal medical reasons.<sup>183</sup> For example, California allows workers to take up to fifty-two weeks off for medical conditions.<sup>184</sup> Nevertheless, the most recent trend is for mandatory programs to offer twelve weeks of paid leave total, regardless of whether the reason is for parental, family, or medical leave.<sup>185</sup> Lastly, some mandatory PFML programs allow employees to take some amount of safe leave, ranging from one to twelve weeks.<sup>186</sup> Safe leave allows an employee to take leave if they or one of their family members have experienced violence, sexual assault, stalking, or other similar acts and need to take leave to seek legal support, receive medical care or counseling, find safe housing, or deal with other related issues.<sup>187</sup> In sum, there are many differences between mandatory PFML programs, but most use a mandatory tax system to provide a paid version of FMLA leave to qualifying employees.

## 2. Voluntary PFML Programs with Moderate State Involvement

New Hampshire and Vermont have adopted voluntary PFML programs that involve moderate state oversight.<sup>188</sup> In these programs, the state partners with private insurance companies to sell PFML insurance plans to employers and individual workers.<sup>189</sup> Employees covered under these programs can generally take paid leave for the same reasons as in mandatory PFML states, but not safe leave.<sup>190</sup>

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179. See *State Paid Family Leave Laws Across the U.S.*, *supra* note 13.

180. *Id.*

181. *Id.* Under a mandatory PFML plan, an employee will not be able to take more than the maximum amount of leave set by a state (i.e., twelve weeks), even if the employee has both parental and family caregiving obligations. See *id.*

182. *Id.*

183. See *id.*

184. *Id.*

185. *Id.*

186. *Id.* Four of the most recent PFML programs allow up to twelve weeks of safe leave, indicating a trend towards the inclusion of safe leave in mandatory PFML programs. *Id.*

187. See, e.g., Molly Weston Williamson, *The State of Safe Leave*, CTR. FOR AM. PROGRESS (May 28, 2024), <https://www.americanprogress.org/article/the-state-of-safe-leave> [https://perma.cc/5GBR-VEJU].

188. N.H. REV. STAT. ANN. § 21-I:100 (2025); *Vermont Leave Plan*, *supra* note 22.

189. *N.H. Leave Plan*, *supra* note 22; *Vermont Leave Plan*, *supra* note 22.

190. See N.H. REV. STAT. ANN. § 21-I:101; *Vermont Leave Plan*, *supra* note 22.

New Hampshire's and Vermont's programs essentially operate in the same four ways. First, New Hampshire government employees receive PFL as a benefit, and Vermont government employees receive PFML as a benefit.<sup>191</sup> In turn, the government employees help make up the risk pool for the insurance program.<sup>192</sup> Second, employers may purchase a group PFL or PFML insurance plan to offer to their employees as a benefit.<sup>193</sup> Third, if an individual's employer does not offer PFL or PFML as a benefit, then the individual can purchase an insurance plan themselves.<sup>194</sup> Finally, the states use their bargaining power to minimize the price of insurance premiums, guarantee a certain amount of wage replacement, and ensure that employees have access to a minimum duration of leave.<sup>195</sup>

New Hampshire's program was enacted in 2021 and was made available to all workers in 2023.<sup>196</sup> Vermont enacted its program in 2022, but the program is currently only available to employers and state government employees.<sup>197</sup> Individual workers in Vermont will be able to purchase insurance starting July of 2025.<sup>198</sup> In New Hampshire, employees are eligible for PFML insurance "if they are designated as working for a [New Hampshire] employer and have their wages reported to [New Hampshire] for unemployment purposes."<sup>199</sup> Both full-time and part-time employees can qualify for New Hampshire's PFML program.<sup>200</sup> Employers are eligible to purchase PFML insurance if they are located in New Hampshire.<sup>201</sup> Similarly, Vermont's program gives all Vermont workers access to its PFML program.<sup>202</sup>

Both Vermont's and New Hampshire's programs cover at least sixty percent of an employee's wages for at least six weeks, subject to maximum benefit levels.<sup>203</sup> Currently, the maximum weekly benefit levels in Vermont and New Hampshire are set to \$2,031.92, which is higher than all mandatory PFML programs.<sup>204</sup> In addition to the standard PFML plans, both states offer flexibility to employers in designing group insurance plans. For example, employers who purchase an insurance plan can choose to fully pay for the

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191. CHARLES M. ARLINGHAUS & GEORGE N. COPADIS, DEP'T OF ADMIN. SERVS. & N.H. EMP. SEC., NEW HAMPSHIRE PAID FAMILY & MEDICAL LEAVE ANNUAL REPORT: IMPLEMENTATION AND YEAR 1: 2021–2023, at 2 (2024), <https://www.paidfamilymedicalleave.nh.gov/sites/g/files/ehbemt781/files/documents/nh-pfml-2023-annual-report.pdf> [<https://perma.cc/FWC4-E827>]; *Vermont Leave Plan*, *supra* note 22.

192. ARLINGHAUS & COPADIS, *supra* note 191, at 2; *Vermont Leave Plan*, *supra* note 22.

193. *N.H. Leave Plan*, *supra* note 22; *Vermont Leave Plan*, *supra* note 22.

194. *N.H. Leave Plan*, *supra* note 22; *Vermont Leave Plan*, *supra* note 22.

195. ARLINGHAUS & COPADIS, *supra* note 191, at 2; *Vermont Leave Plan*, *supra* note 22.

196. ARLINGHAUS & COPADIS, *supra* note 191, at 2–3.

197. *Vermont Leave Plan*, *supra* note 22.

198. *Id.*

199. *N.H. Leave Plan*, *supra* note 22.

200. *Id.*

201. *Id.*

202. *See Vermont Leave Plan*, *supra* note 22.

203. *N.H. Leave Plan*, *supra* note 22; *Vermont Family and Medical Leave Insurance - Plan Details*, *supra* note 109.

204. *See State Paid Family Leave Laws Across the U.S.*, *supra* note 13.

premium, split the cost with their employees, or have their employees cover the full cost of the premium.<sup>205</sup> Additionally, employers in New Hampshire can choose either six or twelve weeks of coverage,<sup>206</sup> and employers in Vermont can choose to provide between six and twenty-six weeks of coverage.<sup>207</sup> Further, employers in both states can choose PFML plans that cover more than sixty percent of an employee's wages, subject to maximum benefit levels.<sup>208</sup> Due to the variation in employer-sponsored insurance plans, the cost of premiums for group insurance plans will vary by employer.<sup>209</sup> Nevertheless, premiums in both states are relatively low.<sup>210</sup> In New Hampshire, the maximum cost of a premium for an employee who individually purchases the PFML plan is \$5.00 per week.<sup>211</sup> In Vermont, the PFML program has a weekly cost of \$4.50 for each of the state's government employees.<sup>212</sup>

There are a few differences between New Hampshire's program and Vermont's program. First, New Hampshire employers can receive a tax credit that is "equal to [fifty percent] of the premium they pay for [six] weeks of coverage each year."<sup>213</sup> New Hampshire employers will only receive this tax credit if they purchase insurance from the state's insurance partner, MetLife.<sup>214</sup> In theory, a tax credit will incentivize employers to pay for their employees' premiums, which makes it easier for employees to financially access PFML benefits. In contrast, Vermont does not offer a tax credit to employers.<sup>215</sup> Second, although New Hampshire contracted with MetLife, other insurance companies are allowed to offer PFML leave plans for sale, as long as they are approved by the New Hampshire Department of Insurance.<sup>216</sup> In contrast, Vermont has only partnered with The Hartford to offer its PFML plans for sale.<sup>217</sup> Basic economic theory tells us that allowing more insurance companies to sell a product will reduce prices and improve the quality of product being offered.<sup>218</sup>

In Vermont, there is not a lot of data on the results of the PFML program because individual workers are not yet able to purchase PFML coverage, and

205. *N.H. Leave Plan*, *supra* note 22; *Vermont Family and Medical Leave Insurance - Plan Details*, *supra* note 109.

206. ARLINGHAUS & COPADIS, *supra* note 191, at 2.

207. *Vermont Family and Medical Leave Insurance - Plan Details*, *supra* note 109.

208. *N.H. Leave Plan*, *supra* note 22; *Vermont Family and Medical Leave Insurance - Plan Details*, *supra* note 109.

209. *See N.H. Leave Plan*, *supra* note 22; *Vermont Family and Medical Leave Insurance - Plan Details*, *supra* note 109.

210. *See N.H. Leave Plan*, *supra* note 22; *Vermont Leave Plan*, *supra* note 22.

211. *N.H. Leave Plan*, *supra* note 22.

212. *Vermont Leave Plan*, *supra* note 22.

213. *N.H. Leave Plan*, *supra* note 22.

214. *Id.*

215. *See Vermont Leave Plan*, *supra* note 22.

216. *N.H. Leave Plan*, *supra* note 22.

217. *See Vermont Leave Plan*, *supra* note 22.

218. *See, e.g., Competition and Why It Matters*, AUSTRALIAN COMPETITION & CONSUMER COMM'N, <https://www.accc.gov.au/consumers/competition-and-why-it-matters> [<https://perma.cc/4V5R-UNAA>].

employer-offered PFML benefits did not begin until July 1, 2024.<sup>219</sup> However, New Hampshire recently released a progress report for the first year of the state's PFML program.<sup>220</sup> In 2023, 14,712 workers in New Hampshire were covered by the state's PFML program, equaling 2.19 percent of workers in New Hampshire.<sup>221</sup> Of the workers who were covered by the PFML program, 5,372 workers received their PFML coverage through their employer, 478 workers purchased individual PFML coverage, and the remainder of workers received their coverage by working as a state employee.<sup>222</sup> There were 217 employers that offered group PFML coverage to their employees, 82.9 percent of which were designated as small employers (i.e., employing fewer than fifty New Hampshire workers).<sup>223</sup> Although the benefits of PFML programs will be discussed in further detail in Section III.B,<sup>224</sup> it is important to note that: (1) small businesses may find it especially difficult to offer PFML benefits to their employees;<sup>225</sup> and (2) New Hampshire expressly stated that "providing NH PFML as an employee benefit can make a real difference in remaining competitive in today's labor market."<sup>226</sup> Thus, the state's PFML program is already succeeding in helping small businesses offer expensive benefits and compete for workers in the labor market.<sup>227</sup>

In addition to employer benefits, New Hampshire's PFML program has also provided benefits to employees.<sup>228</sup> Seventy percent of employers paid the full cost of the insurance premium, which further reduces the financial burden placed on employees.<sup>229</sup> Additionally, of the 544 PFML claims that were filed in 2023, 345 of the claims (about 63 percent) were filed so that the employee could bond with their child.<sup>230</sup> Therefore, although a relatively low percentage of New Hampshire workers were covered by the state's PFML program, the program still expanded access to PFML, especially with respect to parental leave.<sup>231</sup>

### 3. Voluntary PFL Programs with Minimal State Involvement

Since 2022, eight states have enacted voluntary PFL programs that have minimal state involvement.<sup>232</sup> Seven of these states have adopted a model law

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219. See *Vermont Leave Plan*, *supra* note 22.

220. ARLINGHAUS & COPADIS, *supra* note 191, at 1.

221. *Id.* at 5.

222. *Id.*

223. *Id.*

224. See *infra* Section III.B.

225. See Deborah A. Widiss, *Privatizing Family Leave Policy: Assessing the New Opt-in Insurance Model*, 53 SETON HALL L. REV. 1543, 1554–56 (2023).

226. ARLINGHAUS & COPADIS, *supra* note 191, at 8.

227. See *id.*

228. See *id.*

229. *Id.* at 5.

230. *Id.* at 8.

231. See *id.*

232. *State Paid Family Leave Laws Across the U.S.*, *supra* note 13.

created by the National Council of Insurance Legislators (“NCOIL”).<sup>233</sup> Because these states only offer PFL insurance plans, employees will not be able to use the paid leave to recover from medical conditions.<sup>234</sup> If employers want to also provide paid leave coverage for their employees’ medical conditions, then employers will need to provide short-term disability insurance.<sup>235</sup>

As with the programs offered in New Hampshire and Vermont, there are no taxes imposed on employees or employers.<sup>236</sup> Instead, employers have the option to buy a PFL plan and offer it as an employee benefit.<sup>237</sup> Additionally, employers get to decide whether the employees or the company pays the cost of the premium for the insurance.<sup>238</sup> These programs differ from those used in New Hampshire and Vermont because they impose fewer requirements on the insurance plans being offered.<sup>239</sup> For instance, these programs do not have a minimum percentage of wages that must be covered by the PFL insurance plan.<sup>240</sup> Additionally, Texas, Florida, and Kentucky only require insurance plans to offer a minimum of two weeks of PFL leave,<sup>241</sup> and the remainder of states using this type of program do not require insurance plans to offer any minimum amount of time for paid leave.<sup>242</sup> Lastly, in this type of program, only employers can purchase PFL insurance, not individuals.<sup>243</sup> Thus, even if an individual works in a state that offers PFL insurance for sale, the individual will not be able to receive PFL coverage unless their employer provides it as a benefit.<sup>244</sup>

### III. ADOPTING A VOLUNTARY PFML PROGRAM THAT HAS MODERATE STATE INVOLVEMENT WILL HELP IMPROVE MATERNAL HEALTH IN IOWA

Because paid leave is linked to improved maternal health outcomes and most Iowa workers do not have access to PFL benefits,<sup>245</sup> the Iowa legislature should adopt a voluntary PFML program similar to those used in Vermont and New Hampshire. In turn, the increased access to PFML benefits may

233. See generally PAID FAM. LEAVE INS. MODEL ACT (NAT’L COUNCIL OF INS. LEGISLATORS 2022); *State Paid Family Leave Laws Across the U.S.*, *supra* note 13.

234. See PAID FAM. LEAVE INS. MODEL ACT § 3; *State Paid Family Leave Laws Across the U.S.*, *supra* note 13.

235. See PAID FAM. LEAVE INS. MODEL ACT § 3 (“Family leave insurance may be written as an amendment or rider to a group disability income policy, included in a group disability income policy or written as a separate group insurance policy purchased by an employer.”); Widiss, *supra* note 225, at 1560.

236. *State Paid Family Leave Laws Across the U.S.*, *supra* note 13.

237. *Id.*

238. *Id.*

239. *Id.*

240. See Widiss, *supra* note 225, at 1567.

241. TEX. INS. CODE ANN. § 1255.104(b) (West 2024); FLA. STAT. § 627.445(3)(b) (2024); KY. REV. STAT. ANN. § 304.53-030(2) (West 2024).

242. See *State Paid Family Leave Laws Across the U.S.*, *supra* note 13; Widiss, *supra* note 225, at 1566.

243. See PAID FAM. LEAVE INS. MODEL ACT § 3 (NAT’L COUNCIL OF INS. LEGISLATORS 2022).

244. See Widiss, *supra* note 225, at 1557–58.

245. See *supra* Part I.

improve maternal health outcomes in Iowa.<sup>246</sup> This Part examines the shortcomings of the programs used in Vermont and New Hampshire, and it discusses the changes that Iowa should make if it is to adopt such a program. This Part then explains why the Iowa legislature should adopt a voluntary PFML program with moderate state involvement, as opposed to a different type of paid leave program.

#### A. IMPROVING THE DESIGN OF VOLUNTARY PFML PROGRAMS

Although Iowa should implement a voluntary PFML program modeled after those used by Vermont and New Hampshire, there are a number of modifications that the Iowa legislature should make when doing so. First, Iowa should increase awareness about the program prior to it being implemented in the state.<sup>247</sup> After the first year of New Hampshire's PFML program, only 2.19 percent of workers in New Hampshire were covered under the state's program.<sup>248</sup> This low enrollment rate could be linked to low levels of awareness.<sup>249</sup> Just before New Hampshire launched its PFML program, only "17 percent of workers had heard about the new program, with public sector workers more likely to know of the program than private (68 percent compared with just 10 percent, respectively)."<sup>250</sup> New Hampshire used a wide variety of media platforms to spread awareness to employers and individuals, including campaigns and advertisements via social media, radio, print, television, billboard, and email.<sup>251</sup> Nevertheless, because the vast majority of private sector workers in New Hampshire did not know about the PFML program before it was launched, Iowa must consider additional outreach strategies to promote its PFML program. For instance, Iowa could mandate that businesses post signage about the program in a break room or otherwise inform employees about PFML benefit options prior to the launch of the program.

In addition to awareness issues with private sector workers, "many employers had already set their 2023 benefits packages by the time New Hampshire launched its program."<sup>252</sup> As a result, the state's insurance commissioner expected more employers to participate in the program in 2024.<sup>253</sup> Nevertheless, even with the relatively low enrollment rate, New Hampshire officials were

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246. See *supra* Part I.

247. See Kristin Smith, *New Hampshire Employees Working in Small Firms Lack Access to Paid Family and Medical Leave*, CARSEY RSCH., Winter 2024, at 1, 2, <https://scholars.unh.edu/cgi/viewcontent.cgi?article=1482&context=carsey> [<https://perma.cc/B4DJ-PUGF>] (discussing awareness issues with New Hampshire's PFML program).

248. ARLINGHAUS & COPADIS, *supra* note 191, at 5.

249. Smith, *supra* note 247, at 2.

250. *Id.*

251. ARLINGHAUS & COPADIS, *supra* note 191, at 3–4.

252. Paul Cuno-Booth, *Almost a Year in, NH Paid Family and Medical Leave Doesn't Have Many Participants*, N.H. PUB. RADIO (Dec. 11, 2023, 6:00 AM), <https://www.nhpr.org/nh-news/2023-12-11/almost-a-year-in-nh-paid-family-and-medical-leave-doesnt-have-many-participants> [<https://perma.cc/ZzVQ-YDZA>] (referencing a statement by the New Hampshire Insurance Commissioner D.J. Bettencourt).

253. *Id.*

happy with the implementation of the PFML program.<sup>254</sup> The state's insurance commissioner opined that "[i]f you were to ask any insurance carrier in the state of New Hampshire if they would be pleased with those enrollment numbers in the first year of rolling out a brand new product, I think they would be thrilled."<sup>255</sup> Iowa could potentially recruit an even greater number of employers when the PFML program is launched if the state starts advertising the program earlier than New Hampshire did.

If Iowa implements a voluntary PFML program, it should also improve the insurance product that is being offered and ensure job protection for workers who take paid leave.<sup>256</sup> One scholar has theorized that the low enrollment rate in New Hampshire's PFML program might be due to the components of the PFML program.<sup>257</sup> This is because "workers with access to leave without job protection have lower usage rates," and fewer than fifty percent of workers believe that six weeks of paid leave is the correct duration.<sup>258</sup> In contrast, Iowa should align its PFML program components with those used in mandatory PFML states.<sup>259</sup> Specifically, there should be options for individuals to purchase coverage for at least twelve weeks.<sup>260</sup> Similarly, to align better with mandatory PFML programs, the voluntary PFML benefits should also be increased to cover a minimum of eighty percent of an employee's wages, up to a maximum weekly benefit amount.<sup>261</sup> Put simply, there should be a range of PFML products offered to both employers and employees. In turn, the assortment of PFML products will allow employers and individuals to balance the costs and benefits of PFML coverage and choose the product that works best for them.

In sum, the best PFML program for the Iowa legislature to adopt is a voluntary PFML program modeled after those used in Vermont and New Hampshire, in which both Iowa employers and individual workers are automatically eligible to purchase PFML benefits from the private insurance industry. To encourage additional enrollment in the PFML program, Iowa

254. *Id.*

255. *Id.* (quoting the New Hampshire Insurance Commissioner, D.J. Bettencourt).

256. *See* Smith, *supra* note 247, at 2 (discussing the shortcomings of New Hampshire's PFML program).

257. *Id.*

258. *Id.* Women can stack PFML benefits with short-term disability leave in order to get more than six weeks of paid leave after giving birth; however, it is not guaranteed that a mother will also have short-term disability insurance. *See* THE HARTFORD, TAKING LEAVE FOR CHILDBIRTH AND BONDING, 1-2 (2024), [https://ewcstatic.thehartford.com/fmli/documents/FMLI\\_Maternity%20and%20Bonding\\_Case%20Study](https://ewcstatic.thehartford.com/fmli/documents/FMLI_Maternity%20and%20Bonding_Case%20Study) [<https://perma.cc/WYS2-4GTD>].

259. *See* Widiss, *supra* note 225, at 1571-72 ("So long as the state policy was relatively robust in its coverage—akin, say, to the policies being implemented in states with comprehensive leave laws in place—this could be an attractive option for all.").

260. *See supra* Section I.B (discussing the link between greater durations of paid leave and improved maternal health); *see also* *State Paid Family Leave Laws Across the U.S.*, *supra* note 13 (comparing the duration of leave for state PFML programs).

261. *See State Paid Family Leave Laws Across the U.S.*, *supra* note 13 (highlighting the wage coverage rates for states with mandatory PFML programs); *see also* Widiss, *supra* note 225, at 1567 (discussing that "low-wage workers . . . were far less likely than more highly-paid workers to use paid family leave when wage replacement rates were low").



should: (1) provide job protection to employees who take leave; (2) ensure that at least eighty percent of wages up to a maximum benefit level are covered by PFML plans; (3) give individual workers and state employees the option to purchase plans with up to twelve weeks of coverage; and (4) expand marketing campaigns to increase awareness of the PFML program before it is launched. Lastly, because most New Hampshire employers chose to pay the full cost of PFML premiums,<sup>262</sup> Iowa should follow New Hampshire's approach of providing a tax credit worth "up to [fifty percent] of the premiums they pay on behalf of their workers."<sup>263</sup> By making the aforementioned changes, the Iowa legislature will have a better opportunity to successfully implement its PFML program.

### B. BENEFITS TO WORKERS, BUSINESSES, AND THE STATE

Implementing a voluntary PFML program in Iowa that is modeled after those used by Vermont and New Hampshire will produce benefits for workers, businesses, and the state.<sup>264</sup> First and foremost, the Iowa legislature should adopt such a program because it will provide every worker with the opportunity to access PFML benefits.<sup>265</sup> Even if an employer does not purchase group coverage, employees can still purchase an individual PFML insurance plan for a low cost.<sup>266</sup> In contrast, other voluntary programs (i.e., the voluntary PFL programs with minimal state involvement) do not guarantee that every worker has access to paid leave benefits because only employers can purchase insurance coverage, and employers have a choice in whether they do so.<sup>267</sup> As discussed above, access to paid leave after birth has been linked to physical and mental maternal health improvements.<sup>268</sup> This is particularly relevant to Iowa because a majority of the pregnancy-related deaths in Iowa were preventable and occurred after the pregnancy ended.<sup>269</sup> Therefore, by expanding access to paid leave through a voluntary system, the Iowa legislature will likely reduce adverse maternal health outcomes in Iowa.

In addition to protecting Iowa mothers, businesses will also benefit from the implementation of a voluntary PFML program because it creates an affordable option for providing PFML benefits to employees.<sup>270</sup> This is important because "[seventy percent] of small businesses believe in offering paid leave to their employees and support the creation of a federal program that will guarantee

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262. ARLINGHAUS & COPADIS, *supra* note 191, at 5.

263. *Id.* at 2.

264. *See generally Paid Leave: Good for Families, Businesses, and the Economy*, CLARK-FOX POL'Y INST. (Feb. 13, 2024), <https://clarkfoxpolicyinstitute.wustl.edu/paid-leave-good-for-families-businesses-and-the-economy> [<https://perma.cc/2A89-YMGQ>] (discussing the positive impacts of paid leave on workers and their families, employers, and the economy).

265. *See, e.g., Vermont Leave Plan*, *supra* note 22.

266. *See N.H. Leave Plan*, *supra* note 22.

267. *See* Widiss, *supra* note 225, at 1547-48.

268. *See supra* Section I.B.

269. IOWA MATERNAL MORTALITY REV. COMM., *supra* note 17, at 5.

270. *See* Widiss, *supra* note 225, at 1547.

access to paid leave.<sup>271</sup> This attitude has been reflected by an increase in the percentage of businesses that offer PFL as a benefit to employees.<sup>272</sup> Employers may want to offer PFML benefits because providing paid leave can help businesses attract the best workers.<sup>273</sup> Approximately “[seventy-seven percent] of workers with access to benefits reported that the amount of paid parental leave had some influence on their choice of one employer over another.”<sup>274</sup> Moreover, employers may want to offer PFML benefits because it helps with employee retention.<sup>275</sup> It is estimated that turnover costs equal twenty percent of the former employee’s salary.<sup>276</sup> This is because employers will incur costs related to recruiting and hiring a new employee, as well as costs associated with the new employee’s lower productivity.<sup>277</sup> Notably, one study found that businesses had a 6.8 percent increase in profit per full-time employee after they started offering paid leave.<sup>278</sup> As a result, small businesses will be better able to compete when it comes to recruiting and retaining workers.

A voluntary PFML program is also beneficial because it balances various interests by giving employers and employees a choice in whether they enroll in the program.<sup>279</sup> Employers can choose to pass along the premiums to their employees, or employers can altogether forgo purchasing PFML coverage.<sup>280</sup> Similarly, if an employer purchases a PFML plan but does not cover the cost of the premium, then employees can choose whether they want to participate in the employer-sponsored plan.<sup>281</sup> In contrast, mandatory programs do less to accommodate the preferences of individuals and businesses who dislike the PFML program. This is because they must pay additional taxes or are required to pay insurance premiums, even if workers do not use the paid leave benefits.<sup>282</sup>

Further, the positive impacts of a voluntary PFML plan (i.e., helping improve maternal health outcomes and assisting small businesses with employee retention) will collectively outweigh the effects on any Iowa businesses who

271. *Paid Leave: Good for Families, Businesses, and the Economy*, *supra* note 264.

272. See Trish Stroman, Wendy Woods, Gabrielle Fitzgerald, Shalini Unnikrishnan & Liz Bird, *Why Paid Family Leave Is Good Business*, BOS. CONSULTING GRP. (Feb. 7, 2017), <https://www.bcg.com/publications/2017/human-resources-people-organization-why-paid-family-leave-is-good-business> [<https://perma.cc/A6DE-MRHZ>] (noting that only eleven percent of workers had access to PFL benefits through their employer in 2010).

273. *Id.*

274. *Id.*

275. See, e.g., *id.*; Molly Weston Williamson, *America’s Small Businesses Need a National Paid Leave Program*, CTR. FOR AM. PROGRESS (Sept. 19, 2024), <https://www.americanprogress.org/article/americas-small-businesses-need-a-national-paid-leave-program> [<https://perma.cc/BV8U-JM62>].

276. *Paid Leave: Good for Families, Businesses, and the Economy*, *supra* note 264, at 3.

277. Williamson, *supra* note 275.

278. PANORAMA & AM. SUSTAINABLE BUS. COUNCIL, *THE BUSINESS IMPACTS OF PAID LEAVE* 11 (2019), [https://assets-global.website-files.com/62448c65f2a3dc7ae94193bd/62448c65f2a3dc0f7a4195a2\\_Business-impacts-of-paid-leave-A-Panorama-report.pdf](https://assets-global.website-files.com/62448c65f2a3dc7ae94193bd/62448c65f2a3dc0f7a4195a2_Business-impacts-of-paid-leave-A-Panorama-report.pdf) [<https://perma.cc/H2QW-3DJZ>].

279. See *Vermont Leave Plan*, *supra* note 22.

280. See *id.*

281. See *id.*

282. See *State Paid Family Leave Laws Across the U.S.*, *supra* note 13.

oppose the program. Although some businesses may oppose a PFML program,<sup>283</sup> “92% of companies with a paid family leave policy reported that it had a positive effect or no effect on profitability.”<sup>284</sup> Additionally, even if an employee purchases an individual PFML insurance plan, there shouldn’t be significant costs imposed on the business because most Iowa businesses already provide unpaid leave benefits—particularly to mothers recovering from childbirth.<sup>285</sup> Of course, paid leave plans may encourage more employees to take time off work in the first place, including new fathers who otherwise would not be protected under state and federal anti-discrimination laws.<sup>286</sup> Nevertheless, in states that have implemented mandatory paid leave programs, most businesses have not struggled with adjusting to the new program or to employees taking leave.<sup>287</sup> Moreover, as described above, the FMLA was designed to promote work-life balance and reduce discrimination in the workplace.<sup>288</sup> A PFML plan will further expand upon these goals by allowing both men and women to take paid leave. Thus, the transition to a voluntary PFML program will have minimal negative impacts on employers and will positively affect all workers.

Additionally, until a federal paid maternity leave program is implemented, a voluntary PFML program will serve as an effective, efficient, and relatively cheap solution to the lack of accessibility of paid leave in Iowa. The cost of implementing a voluntary PFML program is comparatively low. Vermont pays approximately \$2 million per year (\$4.50 each week for each employee) to provide six weeks of PFML insurance to its state employees,<sup>289</sup> and because Iowa recently decided to provide state government workers with four weeks of maternity leave and one week of paternity leave,<sup>290</sup> there would likely only be a small incremental cost to provide state government workers with a minimum of six weeks of PFML insurance. However, if Iowa requires at least eighty percent of wages to be covered under PFML plans and provides a tax credit to businesses who pay for the premiums, then these cost estimates will likely increase. Nevertheless, in the 2023 fiscal year, Iowa had “a \$1.83 billion surplus in the general fund.”<sup>291</sup> Thus, while Iowa will likely incur additional expenses to cover the implementation of a PFML program, the cost per person

283. See *Paid Leave: Good for Families, Businesses, and the Economy*, *supra* note 264, at 3.

284. Stroman et al., *supra* note 272.

285. See *supra* Section II.A (discussing laws that provide Iowa mothers with unpaid leave); see also U.S. BUREAU OF LAB. STAT., *supra* note 127 (showing that most employees in private industry receive unpaid family leave benefits).

286. See Joshi et al., *supra* note 125 (explaining that not every worker who qualifies for unpaid leave can afford to take it).

287. NAT’L P’SHP FOR WOMEN & FAMS., PAID FAMILY AND MEDICAL LEAVE IS GOOD FOR BUSINESS 2–3 (2023), <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf> [<https://perma.cc/D9M9-P5MV>].

288. See *supra* Section II.A.

289. *Vermont Leave Plan*, *supra* note 22.

290. Iowa H. File 889, 91st Gen. Assemb., Reg. Sess. (Iowa 2025).

291. Robin Opsahl, *Here’s What Lawmakers Approved in Iowa’s \$8.9 Billion Budget and What They Cut*, IOWA CAP. DISPATCH (Apr. 23, 2024, 8:24 PM), <https://iowacapitaldispatch.com/2024/04/23/heres-what-lawmakers-approved-in-iowas-8-9-billion-budget-and-what-they-cut> [<https://perma.cc/3SMY-JBL8>].

is low, and Iowa's budget can cover the costs of the program. Moreover, the non-quantitative benefits (i.e., improving the health of Iowa mothers and preventing unnecessary deaths) should outweigh the relatively low financial costs associated with implementing such a program. Additionally, Iowa may also experience economic growth by implementing a PFML program.<sup>292</sup> Paid leave has been associated with greater participation in the labor force.<sup>293</sup> Paid leave may also reduce the number of people relying on public benefits because family members will still receive income while caring for their loved ones.<sup>294</sup> In contrast, studies have found that about ten percent of workers that were covered by FMLA and "receiv[ed] partial or no pay went on some form of public assistance while on leave."<sup>295</sup>

Lastly, because mandatory PFML programs have unfortunately been a contested issue, a voluntary PFML program will likely be easier to pass through the Iowa legislature than a mandatory PFML program.<sup>296</sup> For example, it took Governor Kim Reynolds three years to provide state government workers with paid parental leave benefits.<sup>297</sup> Similarly, in Vermont, Governor Phil Scott vetoed a mandatory PFML program that used a mandatory tax in order to go forward with the state's voluntary PFML program.<sup>298</sup> In doing so, Scott reasoned that the voluntary PFML approach "can be accomplished more efficiently, affordably and quickly, without a \$29 million payroll tax that Vermont workers simply should not be burdened with, and without putting the risk of underfunding on taxpayers."<sup>299</sup> Similar reasoning may be applied for not implementing a PFML program that is funded through a mandatory insurance program because the premiums can look like tax payments, especially if an employee never uses the PFML insurance. The sooner that all Iowa workers

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292. See BARBARA GAULT, HEIDI HARTMANN, ARIANE HEGEWISCH, JESSICA MILLI & LINDSEY REICHLIN, INST. FOR WOMEN'S POL'Y RSCH., PAID PARENTAL LEAVE IN THE UNITED STATES 12–13 (2014), <https://iwpr.org/wp-content/uploads/2020/09/B334-Paid-Parental-Leave-in-the-United-States.pdf> [<https://perma.cc/X663-F545>].

293. See *id.* at 8–9, 12.

294. See *id.* at 12–13.

295. See *id.* at 13.

296. See Widiss, *supra* note 225, at 1544–46 (discussing the political divide between the different types of PFML plans used by states).

297. O. Kay Henderson, *Iowa Governor Signs Family Leave Policy for State Employees*, IOWA PUB. RADIO (May 28, 2025, 1:17 PM), <https://www.iowapublicradio.org/state-government-news/2025-05-28/iowa-governor-signs-family-leave-policy-for-state-employees> [<https://perma.cc/P5LQ-336L>].

298. Press Release, Phil Scott, Vt. Governor, Governor Phil Scott Announces Action on H.107, Details Progress Towards Voluntary Paid Family and Medical Leave (Jan. 31, 2020), <https://governor.vermont.gov/press-release/governor-phil-scott-announces-action-h107-details-progress-towards-voluntary-paid> [<https://perma.cc/55W9-S5QZ>].

299. *Id.* Notably, Governor Scott did not shut down the idea of a mandatory PFML program in the future, by stating:

This approach gives the state flexibility, and we could always add to it, or even make it mandatory in the future if deemed necessary. But we'll have a stronger foundation and tested administrative structure to build on. I truly believe this is an approach that will make this important benefit available to Vermonters more quickly, and is a more economically and fiscally responsible – lower cost – path . . . .

*Id.*

have access to PFML benefits, the sooner that individuals, companies, and the state will experience the positive impacts of paid leave. In sum, a voluntary PFML program accomplishes the goal of providing all employees with access to paid leave while minimizing the costs to businesses and the state.

#### CONCLUSION

Iowa must work to improve its maternal health outcomes. As discussed, there are a variety of factors that contribute to the poor maternal health outcomes in the United States, including a lack of access to paid maternity leave. To provide all Iowa mothers with access to paid maternity leave, Iowa should adopt a voluntary PFML program modeled after those currently used by New Hampshire and Vermont. If this type of program is adopted by the Iowa legislature with the modifications described above, then Iowa can expect to see positive effects on maternal health, small businesses, and the economy. The Iowa legislature must take steps to reduce the number of lives that are unnecessarily lost due to childbirth, and guaranteeing access to paid leave through a PFML program would be one of the most efficient and effective steps that the legislature could take to accomplish this task.