

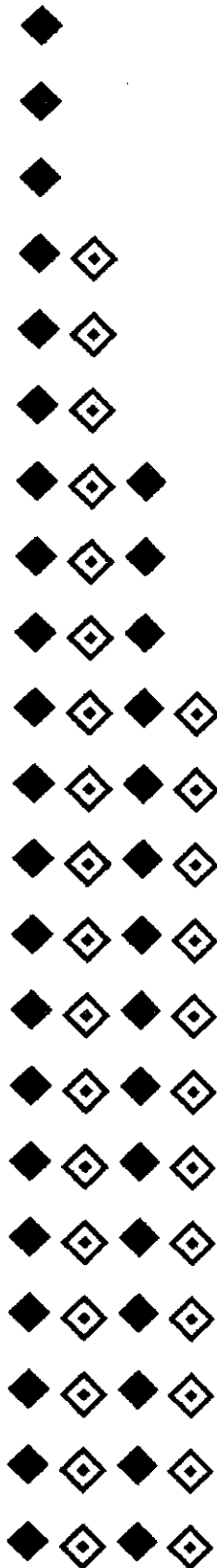
December, 2000

Should the Federal Government Mandate Family Medical Leave Policy for Companies with 25-49 Employees?

Sonja Irlbeck

Susan R. Madsen, *Utah Valley University*

Sue Nash, *University of Minnesota*



Ninth World Business Congress

Managing in a Turbulent International Business Environment

**December 14-17, 2000
San Jose, Costa Rica**

Edited by:

Gary N. McLean, Ph.D.
University of Minnesota, USA

Erdener Kaynak, Ph.D.; D.Sc.
Pennsylvania State University at Harrisburg, USA

Oscar A. Aliaga, Atty.; M.A.
University of Minnesota, USA

Should the U.S. Federal Government Mandate Family Medical Leave Policy for Companies with 25-49 Employees?

Sonja A. Irlbeck, University of Minnesota, USA
Susan R. Madsen, University of Minnesota, USA
Susan Nash, University of Minnesota, USA

Employees and employers struggle with balancing work/family responsibilities. While the U.S. Family Medical Leave Act (FMLA) has been effective for some companies, it created burdens for others. The current debate whether to extend the FMLA to employees in companies with 25-49 employees has spawned U.S. studies and hearings to understand better both sides of the issue. This article reviews both sides of this critical issue, providing a history of the current act and references to international documentation and experts on the topic. The authors discuss possible amendments to the FMLA, as well as expansion of the legislation that will benefit families and businesses.

For decades, employees and employers throughout the world have struggled with balancing work and family responsibilities. U.S. legislators spent many years attempting to formulate and pass legislation to help employees balance the "demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interest in preserving family integrity" (Hosteltler, 1999, p. 2), while accommodating the legitimate business interests of employers. One such piece of legislation is the U. S. Family Medical Leave Act (FMLA). Well after the original act was passed, the debate and controversy have not subsided, and this critical issue continues with no absolute resolution. The purpose of this article is to analyze the current FMLA and its effects on work and family and to look at the possible benefits, challenges, and implications of its proposed expansion within the U.S.

The demands of work and family life posed challenges for businesses and families over the years. The needs of employees requiring the flexibility of family and medical leave in order to balance family and work demands continue to change. Sullivan (1994) pointed out that, even though data show that men are now feeling the effect of this issue, it continues to be a greater challenge for women in the U.S. When workers were plentiful, it

was easier for businesses to ignore the need for flexibility to handle family situations and replace a worker who requested such flexibility. For this and other reasons, the U.S. government intervened in an attempt to insure flexibility while providing greater job security for those who used the benefit. In response to the tighter labor market in recent years, businesses have become more flexible in an effort to retain productive employees. This leads one to wonder: Was the FMLA necessary in the first place and is it still necessary? Should the federal government be involved in mandating family and medical leave benefits for employees? What may be the impact of the Family Medical Leave Act on smaller companies with fewer than fifty employees if it is expanded to include them? What safeguards should be in place to protect the rights of businesses located in the U.S. while supporting the needs of families? These are the questions addressed in this paper.

The Current Family Medical Leave Act (FMLA)

The FMLA was introduced in the U.S. in response to the trend of more heads of households working with no supportive adult in the home to deal with family life issues (Bond, Galinsky, & Swanberg, 1998; Bravo, 1995; Parasuraman & Greenhaus, 1997). The U.S. Congress passed the FMLA in response to the increasing number of single-parent households and two-parent households in which both parents were employed (Kim, 1998). The act was intended to protect the rights of employees and be sensitive to the legitimate interests of employers (Carroll, 1999; Gabel, Mansfield, & Klein, 1998).

Family Medical Leave Act of 1993

The FMLA passed Congress in 1993 and stated that employees can request leave for three reasons: the birth or adoption of a child; an employee's medical condition; and an employee's need to care for a child, spouse, or parent who has a serious health condition (Farr & Katz, 1999; Kim, 1999).

According to the law, employers with fifty or more employees who work within a 75-mile radius must provide eligible employees the option of up to twelve weeks of unpaid leave for family and medical needs. The twelve weeks may be taken in any time increments, from hours to days to weeks. While it is an unpaid leave, the employer must still maintain health insurance benefits with employees paying their regular portions if applicable (LaFemina, 1994; Zall, 2000). FMLA also requires that employees who return from this leave be restored to the positions they held before taking leave or to equivalent positions. The employee must have worked at least 1,250 hours during the year immediately preceding the start of the leave (U.S. Department, 2000).

The following anecdote describes the poignant history of the passage of the FMLA for one well-known and respected legislator (Bravo, 1995):

Pat Schroeder first arrived on Capitol Hill with two small children in 1972, acutely aware of the conflict between job and family. Thirteen years later, she introduced the Parental and Disability Leave Act. The bill became the Family and Medical Leave Act (FMLA) in 1987, extending coverage to include care for a parent or handicapped child over age eighteen with a serious health condition. Opposition from employer groups was fierce. Many arguments were made about cost, although a report by the General Accounting Office indicated costs would be modest.... After being stopped by a senate filibuster in 1988, the FMLA won the necessary votes in 1991 and 1992, only to be vetoed by President Bush. Congress passed the bill again early in 1993; it was the first measure signed into law by President Clinton. (pp. 41-42)

The current FMLA has a twenty-year history and took more than six years to achieve passage in Congress (Paltell, 1999; U.S. Congress, 1993). The plan was that workers are allowed unpaid time from work to meet the needs of family members without losing their jobs. The law was to clearly define the rights for employers and employees. The reality is that, as employees and employers experienced the real-life implementation of this federal mandate, the family and work place needs collided. Prior to the passage of the FMLA, however, diverse and flexible benefits for employees were part of only a few organizations' efforts to improve organizational performance through workers' benefits. The implementation of the FMLA brought about numerous changes. Who actually benefited from this law? Is FMLA really necessary? Have the positive elements of FMLA outweighed the problems for the good of both the employee and the organization?

Who Uses the FMLA?

The federal government has tracked the usage of the FMLA since 1993 in order to improve and possibly expand the act. "Using national data, ... women, parents, those with little income, and African Americans are particularly likely to perceive a need for job leaves. However, it is married--not single--women and Whites who are particularly likely to take such leaves" (Gerstel & McGonagle, 1999, p. 510). As states track the use of leave-taking under the FMLA, they are showing a trend that use (that was originally low) is increasing (Kim, 1998). As employees and employers become familiar with the implementation and monitoring of the policy, it seems to be more acceptable to request leave and label it as an FMLA leave. Woldfogel (1999) stated that

When the Family and Medical Leave Act was enacted in 1993, some thought that it might have little effect on family leave coverage, because it excluded so many workers and firms and because many of those it covered had family leave rights already. However, the evidence suggests that the FMLA has had quite an important impact on family leave coverage. (p. 19)

This quote confirms, eight years after passage of the FMLA, that it has found more acceptance and is seeing more use. This may be seen as a validation of the need for FMLA. Many argue that its increased use is actually misuse (Gelak, 1999; Hostetler, 1999; Lee, 2000; Papa, Kopelman, & Flynn, 1998). Whatever the case, studies have shown that the FMLA experienced increased use by employees in most companies across the United States (Papa et al., 1998; U.S. Department, 2000).

The Relation Between Statutes

The FMLA is a complex act that overlaps with other federally mandated and state medical leave acts and statutes. Prior to the FMLA, families had access to leaves via union agreements affecting employee-employer policies, individual arrangements between employee and employer, and state leave statutes (Kelly & Dobbins, 1999). The interaction of state family leave and medical leave laws with federal mandates creates a complex web of rules (Parsuraman & Greenhaus, 1997). Many of the state acts are more generous to employees than the current FMLA (Jefferson, 1999; Woldfogel, 1999). Under the current FMLA, the employer must determine which set of mandates (federal or state level) are relevant to a specific case.

The FMLA, the Americans with Disability Act (ADA), and workers' compensation laws create a maze of rules and protections for workers. As the final regulations were put in place in 1995, the definition of "serious health conditions" was broadened. This created an overlap with ADA and workers' compensation laws (Dise, 1995; Papa et al., 1998; Robinet, 1994). The ADA and FMLA pre-empt state workers' compensation laws. Now employers must determine if the employee is "disabled" under the ADA or experiencing a "serious health condition" under FMLA (Gabel et. al, 1998;

Young, 1995). The problem of multiple use has been questioned. Another question is whether it is appropriate for workers to extend their workers' compensation by using the FMLA after using up their designated workers' compensation benefits. These three medical leave programs have a great deal of ambiguity and overlap with their definitions and applications. Employers must be very familiar with their responsibilities under the federal mandates and state laws in order to avoid legal liability for violation and bad faith action (Gabel et al., 1998, Harold, 1999).

Gaining Perspective

Sorting out which act should apply in certain situations as well as the relationship between federal and state statutes is only one problem with which to contend. A dynamic interaction also occurs between social, economic and political pressures. The United States is a society that litigates many issues. Thus, an act that was initially implemented to help employers and employees balance work and family demands has added a sense of distrust to the system. The number of FMLA litigation cases increased rapidly within the last few years (Hansen, 1999; Harold, 1999). The current shortage of employees is intensified by sporadic absenteeism associated with employees taking intermittent family leave (Pipes, 1995).

International Comparison

U. S. Americans are not the only ones to face similar struggles with parental and medical leaves. Aldred (2000) reported that in Europe the growth in parental leave litigation is alarming. UK employers are being pressured to improve their enforcement of parental leave rights. In 1996, the European Union's Parental Leave Directive became law and provided 13 weeks of unpaid leave to care for a child (Veysey, 2000). It is suspected that this parental leave will be changed from unpaid to paid and that the provisions would apply to employees who already have children under five. Current controversy in the U.K. revolves around the cut-off date chosen for coverage. In New Zealand, it is expected that a paid parental leave will be enacted in 2001 but there appears to be continued debate as to who pays--the employers or the government (Anonymous, 1999). Many New Zealand employers are not supportive of this proposed statutory leave. The current Act prescribes 14 weeks maternity leave, two weeks paternity leave, and the option of extended unpaid leave up to 52 weeks. In Australia there are proposed changes to the New South Wales Industrial Relations Act of 1996. Changes include that casual employees who have worked for the same employer for at least 2 years will gain an entitlement to unpaid parental leave (Toten, 2000). The German cabinet has written proposals to allow employees parental leave during three years from the birth of a child for both fathers and mothers taking time off at

the same time (Anonymous, 2000).

Lessons Learned from the Current FMLA

The authors contend that the passage of the 1993 FMLA benefited both U.S. employers and employees in many ways, but there are still many elements of the law that do not meet employers' business needs. After being implemented for several years, lessons have been learned, and there appear to be lessons yet to be learned. When considering any proposed expansion of FMLA, one must understand the advantages and disadvantages of the current act.

Benefits Accrued with FMLA

The Commission on Family and Medical Leave (1996) reported several benefits. The report was government-sponsored and took two years to complete. Public hearings and national surveys were used to gauge the cost, benefits, administration and impact of the FMLA. The conclusion was that "the FMLA has not been the burden to business that some feared. For most employers, compliance is easy, the costs are non-existent or small and the effects are minimal" (Papa et al., 1998, p. 38). The report, A Workable Balance: Report to Congress on Family and Medical Leave Policies (1996), documented the following conclusions (see Table 1):

Table 1. Conclusions about FMLA

Size of Impact	Results of FMLA Influence
Two-thirds of U.S. Americans	Work for employers covered by FMLA
More than 50% of U.S. Americans	Meet the Act's length of service and hours-related eligibility requirements
.20 million to 3 million employees	Took leave they described as FMLA leave during the 18-month survey period
86.5% of covered employers	Know that they are covered by the FMLA
58.2% of covered employees	Heard of the Act
90% of employers	Find FMLA easy to administer
89.2 to 98.5% of worksites complying	Incur no or small costs, although larger employers are more likely to experience an increase in costs
66% of covered employers	Expanded coverage to include male employees
80% of leave taken	Is to care for a seriously ill

	child, spouse or parent, or for the employees own health
Employees most likely to take leave	Employees aged 25-34, with children, hourly, family incomes of \$20,000 to \$30,000 a year
84% of leave takers	Return to their same employer
More than 3% of all employees	Needed the leave but did not take it
Two-thirds of this group	Could not afford the loss of wages during their leave

Citing the report by Senator Chris Dodd, Fisher (1996) reported that nine of ten companies reported minimal, if any, added cost to their company associated with the new law. Senator Chris Dodd, chairperson of a 16-member bi-partisan commission, found that the FMLA had not disrupted business productivity, growth or profitability. The commission's results record important facts about the implementation of the FMLA and describe several benefits that accrued to workers in companies with more than fifty employees through 1994. Robinet (1994) interviewed employers who felt the act established clear and common ground rules. The implementation was easy if one already had an existing policy manual and an in-house human resources department. He added that "the law generally is considered to be one of the less disruptive federal mandates for large and small companies" (p. 16). In fact, Frazer (1999) reported that the

Employers' benefit from reduced turnover, increased productivity, greater uniformity and consistency in their family and medical leave policies, and great labor management stability. By promoting job security and encouraging greater productivity, the FMLA enables American businesses to compete effectively in a global economy. (p. 2)

Fisher (1996) explained that the FMLA provides "job security to workers in a time of family crisis and need, has successfully helped American families and has not disrupted business" (p. 34).

From the previously cited reports and writings, it appears that the FMLA has been a workable piece of legislation that benefited workers and their companies. Should not these benefits be extended to employees in smaller businesses?

Concerns about the Existing Act

In April of 1998, Fawell, as head of a six-person bipartisan group, introduced the Family and Medical Leave Clarification Act, an amendment that would make the FMLA more employer-friendly. In his introductory statement he said, "In April 1996, we were told that all was well with the FMLA. But contrary to these assertions,

the report was not a complete picture... There is compelling evidence of problems with the implementation and enforcement of the FMLA" (Papa et al., 1998). Fletcher explained that the FMLA is actually one of the "thorniest that we are facing now. It's an area of constant development" (p. 2).

Initial concern was raised regarding disruption of productivity, scheduling, compensation management, and employer/employee relations (Pipes, S. C., 1995). LaFemina (1994) stated that, early on, most businesses did not even realize that it was their obligation to post information about this act to ensure that workers were fully aware of their rights. Consider the concerns stated by Edward F. Harold (1999) as he testified before the senate subcommittee.

I believe that many of the regulations were written not to implement Congress's intent, but rather to expand the rights of employees beyond what Congress intended...

The DOL [Department of Labor] regulations have expanded the rights of employees far beyond what Congress intended with technicalities. (p. 2)

Harold and others (Gelak, 1999; Zall, 2000) indicated that the interpretation of the law in the years since passage expanded the law's intent.

Initially, only 236 complaints were filed out of 45 million employees, but as the years pass, the number of complaints increase dramatically (Dauer, 1994; Hansen, 1999; Robinet, 1994). A major point worth noting is that, while 86.5% of employers knew they are covered by the FMLA, only 58.2% of employees covered by the FMLA knew that it applied to them (Dauer, 1994; Fisher, 1996). By 1995, numerous FMLA problems had begun to appear in the literature. While a majority of employers seemed to think that implementation was going well, Dauer (1994) noted that 63% of the people who wanted to take time off from work using the FMLA had trouble.

Regrettably, employers do not necessarily respond proactively to federal administration scrutiny; rather, employers tend to wait and respond reactively to perceived risks (Kelly & Dobbin, 1999). The financial liability for the employer, associated with risk of litigation, starts with the burden of proof. The employer pays for proving that the health condition is not serious enough. If the employer questions the employee's evidence of serious health condition, the employer can demand a second opinion from a physician of the employer's choosing. The employer pays for this second evaluation and for the time off. If there is a conflict in the findings, a third opinion must be sought that is agreeable to both parties. The cost for this evaluation must also be paid by the employer (Carroll Jr., 1999; Gabel et al., 1998). The cost of failure to comply with the FMLA can be high. The FMLA is very clear that bad faith action, for example, using influence or intimidation to try to prevent an employee from taking a family leave, is met with stiff financial penalty (LaFemina, 1994).

Complaints began to increase, as shown that by the end

1999 when the Department of Labor (DOL) required businesses to pay out more than \$4.5 million to nearly 400 workers who filed FMLA complaints in 1998. This was a 57% increase in money paid over 1997 payments. Complaints increased 42% over 1997. The DOL hired 200 more full-time FMLA investigators to deal with compliance issues (Hansen, 1999).

Papa et al. (1998) reported the results of their research survey, which was designed to clarify employer's perceptions related to ease of implementation of the FMLA. The authors analyzed Senator Dodd's Report to Congress, comparing Dodd's survey to a survey conducted by Papa and Kopelman. Two main differences between the studies were evident. The first difference was that the number surveyed by Papa and Kopelman was much smaller than Dodd's study. This difference was dealt with via statistical analyses. Another difference was that Dodd's original survey was conducted early in the implementation of the law, before 1995 when the Department of Labor established the final regulations. These final regulations broadened the definition of serious health condition, resulting in an increased overlap between FMLA, ADA, and workers' compensation laws. Papa and Kopelman's findings indicate some dramatic differences in perception regarding the ease of implementation. Papa et al. (1998) found that there have been some significant concerns about the lack of clarity in the process of implementation following the issuance of the final recommendations (Barlas, 1996).

Gabel et al. (1998), Dise (1995), Harold (1999), Robinet (1994), Russell (2000), and Hostetler (1999) discussed several elements about implementation and associated employer concerns. Employers must contend with employees who try to extend workers' compensation with the FMLA. Personnel time is required to track FMLA with overlapping absences associated with other paid leave options. Young (1995) pointed out that employers must use a careful multi-track analysis system for determining which mandates apply. While some business people claim that the law is costing them money and decreased productivity, many more are simply concerned with the nuisance (Papa et al., 1998). Campion and Dill (2000) reported that "the law has not delivered what it promised: a practical solution for employees to deal with personal demands imposed by sick parents and kids or by their own serious illnesses" (p. 147).

Summary of Current FMLA Problems

According to the literature, the controversy over the advantages and disadvantages of the FMLA in the U.S. appears to focus on specific provisions of the act that are not clearly defined or are easily misused or misinterpreted by both employees and employers. A number of pieces of legislation are currently being introduced which attempt to amend and strengthen the 1993 act by resolving some

or all of the following employer and employee challenges:

- Clarification of the definition of a serious health condition
- More employer-friendly (less administratively burdensome) intermittent leave policy
- Extension of the two-day notice period to allow adequate time for designation and guidance on the part of the employer
- The interference of FMLA with attendance control policies in questionable cases
- More responsibility on the employee for providing medical certification and more clearly stated intentions to use FMLA.

The preceding list summarizes the discussion about some of the problems the authors feel are important to resolve about the current act. Some of the original premises of the law, however, are important to retain. By evaluating the problems with the current law and envisioning effective changes, can the FMLA be expanded without adversely impacting employers with 25-49 employees? The U.S. may benefit by studying similar provisions in other countries as it considers changes to its laws. Finding solutions will be important as legislators strive to improve the current law and possibly expand its availability.

Finding a Solution

The FMLA appears to have proven its worth for many employees of companies with more than fifty employees as well as for thousands of employees across the country. Now some legislators contend it is time to expand this act to cover companies with less than fifty employees, at least to companies with 25-49 employees (Campion & Dill, 2000). There is still a difference of opinion about whether such a move will help or hurt the working family member. There is no simple answer.

Employee Perspectives

Employee advocates suggest that the law be broadened in its scope as well as lowering the fifty-worker threshold (Barlas, 1996). One change will apply the law to businesses with twenty-five or more employees, instead of fifty employees. Another modification is to allow twenty-four hours of family leave for educational needs and school-related activities (Clinton, 1997; Campion & Dill, 2000). It has also been proposed that some leave be paid. In fact, legislation was introduced in May 2000 that would give U.S. parents six weeks of paid maternity or paternity leave, as is the practice in some other countries today. While the first provision is not likely to make it through the current Congress, the educational leave portion has already been implemented in many states and agencies (Jefferson, 1999).

Employer Perspectives

Employers have a different vision for the future of FMLA. They tend to prefer a limit set on the time increments. Allowing employers to require workers to take half a day off, instead of one hour here and one hour there, would assist in planning for staffing needs. Another suggestion is to have the employee determine which law is applicable rather than placing this burden on the employer. Having employees declare which law or mandate under which they were seeking coverage would limit the amount of litigation surrounding interplay of the various laws. Currently the employee doesn't even need to mention FMLA when taking a leave. Paltell (1999) explained that "the proverbial ball moves to the employer's court to make follow-up inquiries and request medical certification" (p. 150). Baker (1998) points out that supervisors do not have personal insight into the employee's situation, yet they are legally liable if they make the wrong judgement. Barlas (1996) points out that small businesses don't employ lawyers and in-house resource people. They hire payroll clerks to do their personnel work. Determining who is covered under the complex laws and statutes can be very confusing for staff without extensive knowledge about the FMLA.

Another element of controversy with the current FMLA is the definition of serious health condition. By 1996, even the common cold was viewed as a potentially serious health condition (Farr & Katz, 1999; Harold, 1999; Paltell, 1999). As more and more employees take advantage of this definition, employers are expressing concern about implications for employers. Employers would like this definition narrowed and applied to a more traditional view of serious health condition (Barlas, 1996). Farr and Katz (1999) suggest that a period of incapacity be included to help clarify the definition of serious health condition. If these concerns were addressed, employers might find the expansion of the FMLA to smaller businesses more palatable.

Should the FMLA be Expanded to Companies with 25-49 Employees?

Many elements must be considered as policy makers strive to answer the question in the title of this section. Some of the key elements are summarized in the table below and described further in the following paragraphs. These thoughts are a result of the data and resources reviewed in this paper, considering the economic impact, people involved, and economic benefits for employers, employees, and finally the social benefits.

Table 2. Issues to Consider about FMLA

Concerns from Small	<ul style="list-style-type: none"> • Lack of personnel for paperwork
---------------------	---

Businesses	<ul style="list-style-type: none"> • Lack of legal support • Tighter definition of family leave • Process to monitor abusive uses
Ideas to Smooth Transition	<ul style="list-style-type: none"> • Implement solutions to above concerns • Implement for companies with more than fifty employees until process is smooth • Once process is improved, add companies with 25-49 employees
Potential Benefits for Businesses	<ul style="list-style-type: none"> • Potentially less turnover • Potentially increased productivity • Consistency in leave policies • Stability in managing workforce issues

Legislation is being considered to lower the threshold for the number of employees (Fletcher, 1999; Frazer, 1999; Hansen, 1999; Papa et al., 1998). Some of the documented evidence leads one to believe that the benefits outweigh the problems brought about by the implementation of the 1993 version of the FMLA. Frazer (1999) stated that

The President's first proposal is to lower the FMLA coverage threshold from 50 to 25 employees. This would expand FMLA's benefits and protections to approximately 12 million Americans, thereby helping them to do their best at home and at work. We see tremendous advantages to this broader coverage for both the workers and the affected businesses. FMLA has demonstrated its value to workers in helping them to strike a better balance between competing work and family demands. And, there are a variety of benefits that accrue to companies from providing their workers job-protected family and medical leave. We do not anticipate an adverse cost impact for the smaller sized firms that would be newly covered.....with smaller covered work sites finding it easier to comply than larger businesses. We believe that businesses covered for the first time would have similar experiences with the law. (p. 5)

Senator Dodd and others are using the information from the Report to Congress referenced earlier to build their case for lowering the threshold from fifty employees to 25 employees.

Some evidence, however, leads one to believe that the benefits do not outweigh the problems brought about by the implementation of the FMLA. Concerns are raised that small businesses do not have the personnel to handle the paperwork nor the legal staff to defend the company in litigation cases. Discussions about tightening the definition of family leave (to

exclude the common cold, for example), to make reporting and compliance less burdensome, or monitoring abuses of interpretation by employees may make this adoption more palatable for small businesses.

The answer to the question posed as the title for this section is complex. In the authors' opinion, this act should be expanded, but only after the original FMLA is amended to include the described changes. In addition, the act with amendments should be implemented for at least one year to see if they are truly smoothing out the problems discussed in this paper. After this has proven successful, the law may be expanded to include companies with 25-49 employees. Once these changes have been made, the authors agree with Frazer (1999) when he states that

Since its enactment, the FMLA has become indispensable, supporting family stability by helping Americans balance the demands of work and family. The administration [DOL] believes, in fact, that based on the experience with the law to date, it is time to broaden its coverage to protect more workers and to allow workers to take time off, without placing their jobs in jeopardy, to deal with important family matters that they face daily. (p. 1)

In the current increasingly tight labor market in the U.S., the implementation of the FMLA for 25-49 employee-companies may enable employers to benefit from reduced turnover, increased productivity, greater consistency in their family and medical leave policies, and more stability in their ability to manage their labor force. At this time nearly 45% of the workers in the United States aren't protected by family leave laws. By expanding the FMLA, these people will have greater protections and greater job security, which will translate to greater productivity and loyalty for the employers.

Conclusion

The authors agree with the Commission on Leave (1996) that because of the changes in families, economics, business, and personal needs, there is increasing need among workers for access to more "flexible hours and family-friendly policies, including leave from work to deal with family caregiving responsibilities" (p. 6). In addition we agree that "employers, employees and the general public all have a stake in the development of a highly productive American workforce and in families that raise healthy and capable children" (p. 11). With some changes to the current Act, the original goal of offering a program that helps employees balance the needs of their families and the demands of their employers may be realized. Clearer understanding of the rules and how they apply to employers and employees is

essential and yet is an achievable goal.

Personal and documented experiences of the current FMLA seem to indicate that amendments to the original FMLA as well as an expansion of the legislation will benefit both families and businesses in America. Families will be better able to balance their work and family responsibilities. Businesses will be able to provide flexibility and promote loyalty through this flexibility. It is time to work toward allowing all American workers (or as close to all as expanding the FMLA to companies with 25-49 employees allows) to share in the benefits provided by the flexibility of family and medical leaves accorded by the FMLA.

References

- Anonymous. (2000). News from Europe. Management Services, 44(7), 22-24.
- Anonymous. (1999, Nov/Dec). Mixed views on paid parental leave. New Zealand Manufacturer, 3-4.
- Aldred, C. (2000). Europe witnesses growing popularity of EPL insurance. Business Insurance, 34(45), 15-17.
- Baker, S. (1998, September 16). Family leave act still met with confusion. Knight-Ridder/Tribune Business News [On-line]. OKRB982580B4. Available: <http://web7.infotrac.galegroup.com>.
- Barlas, S. (1996, October). Family time: Two very different bills regarding employee time off attempt to woo working families. Entrepreneur, 24(10), 116-118.
- Bond, J. T., Galinsky, E., & Swanberg, J. E. (1998). The 1997 national study of the changing workforce: Synthesis of findings. New York: Family and Work Institute.
- Bravo, E. (1995). A 9-5 guide: The job/family challenge-not for women only. New York: John Wiley & Sons.
- Campion, W. J., & Dill, J. C. (2000). An investigation of the impact on higher education of the Family & Medical Leave Act of 1993. Public Personnel Management, 29(1), 147-155.
- Carroll Jr., J. W. (1999). Handling cases under the FMLA. Trial, 35(10), 18-26.
- Clinton, W. J. (1997, April 21). Memorandum on expanded family and medical leave policies. Weekly Compilation of Presidential Documents, 33(16), 516-518.
- Commission on Family and Medical Leave. (1996). A workable balance: Report to congress on family and medical leave policies. Washington DC: The Department of Labor.
- Dise, J.H. (1995). FMLA and ADA - at odds with each other? The risk of noncompliance with both. School and College, 34(1), 34-38.
- Dauer, C. (1994). Many firms fail to follow Family Leave Act, study says. National Underwriter Property & Casualty-Risk & Benefits Management, 34, 2-3.
- Farr, T., & Katz, J. (1999). Family leave act has fact-specific rules. Triangle Business Journal, 14(43) 15-16.
- Fisher, M. J. (1996, May 20). Family leave act has proven successful: Report. National Underwriter Life &

Health-Financial Services Edition, 21, 34-36.

Fletcher, M. (1999, May 24). Employment law diverging: Courts, agencies differ on ADA, FMLA. Business Insurance, 2-3.

Fraser, J. R. (1999, July 14). The Family Leave Medical Act: Hearings before the Senate Subcommittee on Children and Families, of the Senate Committee on Health, Education, Labor and Pension. Federal Document Clearing House.

Gabel, J. T. A., Mansfield, N. R., & Klein, R. W. (1998). The new relationship between injured worker and employer: An opportunity for restructuring the system. American Business Law Journal, 35(3), 403-442.

Gelak, D. R. (1999, July 14). The Family Leave Medical Act: Hearings before the Senate Subcommittee on Children and Families, of the Senate Committee on Health, Education, Labor and Pension. Federal Document Clearing House.

Gerstel, N., & McGonagle, K. (1999). Job leave and the limits of the family and medical leave act: The effects of gender, race and family. Work and Occupation, 26(4), 510-534.

Hansen, F. (1999, November-December). Employers hit with \$4.5 million in 1998 FMLA penalties. Compensation and Benefits Review, 7.

Harold, E. F. (1999, July 14). The Family Leave Medical Act: Hearings before the Senate Subcommittee on Children and Families, of the Senate Committee on Health, Education, Labor and Pension. Federal Document Clearing House.

Hostetler, K. K. (1999, July 14). The Family Leave Medical Act: Hearings before the Senate Subcommittee on Children and Families, of the Senate Committee on Health, Education, Labor and Pension. Federal Document Clearing House.

Jefferson, G. (1999, February 22). Senate to take up family leave legislation: Bill aimed at Indiana's small businesses. Indianapolis Business Journal, 19(50) 18-20.

Kelly, E., & Dobbin, F. (1999, September). Civil rights law at work: Sex discrimination and the rise of maternity leave policies (1). The American Journal of Sociology, 106(2), 455-595.

Kim, S. (1998). Toward understanding family leave policy in public organizations: Family leave use and conceptual framework for the family leave implementation process. Public Productivity & Management Review, 22(1), 71-87.

LaFemina, L. (1994, October 3). Family/medical leave act still a mystery. L1 Business News, 40, 1-2.

Lee, K. (2000, August 1). Concern grows over FMLA administration. Employee Benefit News [On-line], OKRB982580B4: <http://web4.infotrac.galegroup.com>

Paltell, E. (1999, September). FMLA: After six years, a bit more clarity. HR Magazine, 144-150.

Papa, J. W., Kopelman, R. E., & Flynn, G. (1998,

August). Sizing up the FMLA. Workforce 77(8), 38-44.

Parasuraman, S., & Greenhaus, J. H. (Eds.) (1997). Integrating work and family: Challenges and choices for a changing world. Westport, CT: Quorum Books.

Pipes, S. C. (1995). Mandate madness. Chief Executive (U. S.), 108, 15-16.

Robinet, J. (1994, April 18). In aftermath of U.S. family leave act, regional firms manage to do business. Pittsburgh Business Times, 13(37), 16-18.

Russell, J. E. A. (2000). Taking time: Parental leave policy and corporate culture. Personnel Psychology, 53(1), 203-206.

Sullivan, S. A. (1994, Winter). Flexibility as a management tool. Employment Relations Today, 21(4), 393-406.

Toten, M. (2000). Working through change. Australian CPA, 70(7), 42-43.

U. S. Congress. (1993). Family and Medical Leave Act of 1993 (Legislative history of P. L. 103-3). Congressional Information System Universe.

U.S. Department of Labor. (2000). Family and medical leave act information. [On-line] Available: <http://www.dolgov/dol/esa/fmla.htm>.

Veysey, S. (2000). It's a family (leave) feud. Business Insurance, 34(22), 17-19.

Waldfoegel, J. (1999, October). Family leave coverage in the 1990s. Monthly Labor Review, 13-21.

Young, R. S. (1995). Managing medical leaves of absence. HR Magazine, 40(8), 23-29.

Zall, M. (2000, February). The family and medical leave act: An employer's perspective. Strategic Finance, 46-50.