

I. Introduction & Methodology

On behalf of the **National Coalition to Protect Family Leave**, the **polling company™, inc./WomanTrend** conducted a nationwide telephone survey of 1,000 registered voters Feb. 7-12, 2008 to assess voters' familiarity with the Family and Medical Leave Act (FMLA) and openness or opposition to potential reforms. Interviews were conducted by live callers. The sample was drawn utilizing Random Digit Dial (RDD) technology to ensure that every U.S. household with a landline phone had an equal chance of being called. Sampling controls were used to ensure representative and proportional numbers of respondents were interviewed by demographic characteristics such as race, age, gender, and geographic region. The margin of error is calculated at $\pm 3.1\%$ at the 95% confidence level. Margins of error for subgroups are higher.

This project was directed by Kellyanne Conway, President & CEO of the **polling company™, inc.** with the assistance of Shelley West, Project Director, and Karen Bentley, Research Associate.

A brief summary of the survey findings follows and the full topline data is attached as Appendix A.

II. Key Findings

Most Americans Have (Blind) Faith in Co-Workers to Use Time Off Appropriately...

An unmistakable majority (71%) of Americans said that the policies relating to time off in their own workplaces were "mostly fair." One-fifth (20%) disagreed, calling them "mostly unfair." A majority of all demographic groups assessed their current or most recent employer's policies relating to time off to be mostly fair.

Most Workers Give Colleagues Benefit of the Doubt When it Comes to Leave... When asked to assess the legitimacy of their co-workers' time off requests for medical or family reasons, two-thirds (66%) deemed these to be "always" or "usually" justifiable. Only 5% said their coworkers' reasons are "usually" or "always" not authentic. 26% fell in the middle, deeming their fellow employees' reasons to be "sometimes" legitimate.

...But Nearly Half Can Cite Actual Experiences of Misuse by Co-workers... Asked about their own workplace experiences, the number of people who thought their colleagues were truthful in needing time off ballooned from 5% in the earlier question to 46% in this one. Nearly half of those surveyed said there had been an occasion when they suspected "a fellow employee who claimed to be taking time off for family or medical reasons was really using it for something else."

One-in-Three Workers Say They Can't Get Their Job Done When a Co-Worker Takes Unscheduled Leave ... A majority (63%) of respondents said their own work was not affected when a co-worker fails to show up. But 34% said unannounced absences harm their ability to be productive.

High, Albeit Incomplete, Awareness of FMLA... Participants' awareness of FMLA was mixed: 49% said they were familiar with the law; 49% said they were unfamiliar. In response to an open-ended question, many respondents made clear their knowledge about the FMLA is incomplete or non-existent. A sizeable number of voters surveyed simply repeated elements of the Act's name: 38% said that it was "leave for family or medical issues." Others recited information about the Act: that it allowed time off with job security (13%) or was unpaid (7%). Still, 28% of respondents wouldn't or couldn't venture a guess, despite the Act's almost tautological name. *This result suggests that many American voters are in need of an education on FMLA.*

Upon hearing the following objective description, 76% indicated they had heard of FMLA and were knowledgeable about its content:

The Family and Medical Leave Act was signed into law in 1993. It allows for unpaid time off in the event of the birth or adoption of a child, an employee's own serious health condition, or to care for a close family member who is ill. The law requires that businesses with 50 or more employees provide up to 12 weeks (60 days) per year of unpaid leave if an employee is deemed eligible. The time off does not have to be continuous – it can be taken in small increments of a few days or even a few hours. Employees may not be fired while missing work on FMLA leave and employers are required to continue providing them with pre-existing health insurance coverage. Although FMLA is unpaid, some employers pay for this time off or require paid sick days to be used in concurrence with the FMLA policy.

Majority Claims Firsthand or Secondhand Experience with FMLA ... Half (51%) of respondents reported they had either taken FMLA leave or knew someone who had. Co-workers (15%) were the most common "other people" to have used the leave. Women were twice as likely as men to have personally taken FMLA (21%-10%) – mostly due to the higher rate of FMLA usage among moms (29%).

Americans Reject Intermittent Leave... When asked about specific FMLA provisions, a majority (60%) believed FMLA should cover long absences, such as weeks or months, while only 26% considered short absences, including a few days or even a few hours, worthy of FMLA protection. In the survey's final section, 68% supported correcting the current misuse of intermittent leave.

Federal Workplace Policy Should Protect, Not Jeopardize Public Safety... Survey respondents made clear that any threat to public safety was reason enough for FMLA reform. Fully 64% said that they would be more likely to endorse changes to FMLA knowing that 1) the staffing of hospitals is impacted when unscheduled FMLA leave is taken and 2) vulnerable citizens, such as children waiting for a school bus or people in need of emergency 9-1-1 services, are left to fend for themselves. A high number of respondents also expressed support for reforms that would protect workers themselves. Specifically, 73% supported allowing an employer to directly contact an employee's health care provider before an employee returns to work to ensure the employee would not imperil himself or others.

A Loud Call for Change... Information About FMLA Leads 62% of Voters to Pronounce It in Need of Adjustment or Overhaul.

After offering some initial opinions on FMLA, respondents were provided the following supplemental details:

Let me tell you a little bit more about the Family and Medical Leave Act or FMLA. In order to be eligible, an employee has to have worked for that employer for at least 12 months (one year) and, for medical leave, must have a doctor's certification of a chronic condition or illness. Once that certification is on file with the employer, an employee may take FMLA leave at any time. When possible, employees are supposed to give 30 days' notice prior to taking their FMLA leave, but many times give much shorter notice or even no advance notice whatsoever.

Armed with this information they were then asked to render a judgment on the state of the 15-year-old law. **The majority (52%) believed FMLA required a tune up, another 10% took that call for change even further calling for major adjustments of complete abandonment.** Only 28% supported the status quo, choosing the response that “it is working well and does not need to be changed.”

The Potential for Abuse Deemed Worthy of Action... The majority (59%) of respondents said that the potential for people to misuse FMLA was “serious,” while only 36% disagreed. When asked their reasoning, a plurality of respondents alluded to the lack of effort required to take advantage of FMLA. Among those who said the potential for abuse was minimal, a plurality believed that bureaucratic parameters—both at the business level and the government level—were sufficient to deter abuse. Here are some verbatim quotations in response to an open-ended question on this issue:

“People are people and you give them a choice and people will find a way to abuse anything.”

“I know people abuse it. It happened to me, one guy's mom died four times.”

“If they're taking vacation and not using for medical condition and legitimate reasons they should be fired.”

When given possible remedies to fix potential or actual misuses of FMLA, voters responded well to common sense modifications. For example, respondents favored limiting the number of times an employee could take unscheduled or last-minute leave and strengthening the notification requirements to require reasonable notice.

Well, I Support It, But There Are Some Changes That Are Necessary ... In one series of questions, survey respondents heard (in rotated fashion) five “unintended consequences” of FMLA and were asked whether each was a compelling or unpersuasive reason to support changes. For each unintended consequence, a majority of voters (at least 54%) said they would be “more likely” to favor changes to FMLA.

1. Working Less for More Not Well-Received ... Respondents were unequivocally put off by the notion that co-workers could game the system by failing to show as required, then making up the time on shifts that actually paid more money.

“Because employees can essentially establish their own schedules under FMLA, there is evidence that some employees take their FMLA leave during regular working hours and then work overtime shifts that same week to collect higher wages.”

More Likely to Support Change: 75%/Less Likely to Support Change: 20%

2. Voters Demand Smooth Operation of Essential Services On Which the Public Relies ... The notion that FMLA can hurt industries with mandated staffing ratios caused the majority of respondents to demand reforms to the law to ameliorate or eliminate those possibilities.

“Some industries such as hospitals and airlines have mandated staffing ratios – meaning a certain number of people must be on the job or the organization has to cease operations. When FMLA leave is taken for just a few days or hours and without prior notice, the ability to conduct “business as usual” can be threatened. Flights are canceled or delayed at airports and nursing and doctor shortages occur at hospitals.”

More Likely to Support Change: 65%/Less Likely to Support Change: 24%

3. A Threat to Public Safety Is a Threat to All ... Respondents were asked if their desire for reform would be affected if they knew unscheduled FMLA leave could threaten public safety.

“When people in certain professions such as school bus drivers and 9-1-1 telephone operators take FMLA leave with little or no notice, public safety or welfare can be threatened. School children are left at their bus stops and people calling emergency lines for help are left on hold or not responded to at all.”

More Likely to Support Change: 64%/Less Likely to Support Change: 24%

4. Your Loss Is My Loss, Too ... Many U.S. workers believe employers stand in the way of them earning more or enjoying work-related benefits. Yet when learning that their own benefits could be at stake due to colleagues who take unscheduled FMLA leave, a majority supported FMLA reform

“The money an employer spends on all employees’ salary increases, benefits, and bonuses can be reduced when employers must hire temporary workers and pay them higher wages to cover an absent employee who is out on unscheduled FMLA leave.”

More Likely to Support Change: 55%/Less Likely to Support Change: 32%

5. Four-Day Workweeks Unacceptable ... The final statement explaining an unintended consequence of FMLA use pointed out that FMLA could allow a person to take one day every week off for the entire year.

“The way FMLA is currently structured allows an employee to take up to 60 days off each year. This means that an employee can actually take off one day each week and still receive full-time benefits and salary.”

More Likely to Support Change: 54%/Less Likely to Support Change: 35%

Strong Backing for Five FMLA Reforms: Condition Recertification and Modified Work Arrangements Most Popular ... Five specific changes to the FMLA supported by the National Coalition to Protect Family Leave were tested. All five were embraced by a majority of voters and approval outstripped disapproval by no less than 2.3-to-1 and as much as an 8-to-1 margin. The most heartily endorsed changes included requiring those with FMLA certifications to recertify once or twice a year (88%) and allowing modified work to accommodate employees’ health needs with reassignments instead of simply “waiting out” a period of inactivity during the unpaid time off (81%).

“Currently, if an employee has an FMLA certification from his/her doctor on file stating he/she has a “serious medical condition,” that employee NEVER has to go back to the doctor for check-ups or to get recertified. Some have suggested requiring employees who take FMLA leave to get their “serious medical conditions” recertified once a year or every six months.”

88% Approve/11% Disapprove

“Allow employers to offer modified work that accommodates the serious health condition of the worker, such as a desk job instead of one operating machinery rather than requiring them to simply give the person unpaid time off.”

82% Approve/15% Disapprove

“Allow employers to speak directly to a worker’s healthcare provider when he or she is ready to return to work after taking FMLA leave to ensure that the worker is able to resume working and will not pose a danger to himself or herself or other employees.”

73% Approve/25% Disapprove

“Strengthen the notification requirements so that employees are required to give reasonable notice before taking unscheduled leave under the FMLA.”

69% Approve/27% Disapprove

“Limit the number of times an employee can give last-minute notice for FMLA leave to, say, six times per year.”

67% Approve/29% Disapprove

Calls for Reasonable and Measured Reforms to Clarify and Streamline the 15-year Old Family and Medical Leave Act Resonate with Voters.

Near the end of the substantive portion of the survey, respondents were asked to express their level of agreement with four messages advocating changes to the FMLA. **As the following chart demonstrates, all four arguments were compelling to a clear majority of voters surveyed.**

Agree	Disagree	Proposed Change
86%	12%	“The Family and Medical Leave Act was first passed in 1993 and is now 15 years old. Any law that was passed so long ago should be reexamined and updated to correct unintended consequences and make sure it applies to the realities of the modern workplace.”
82%	16%	“Modifications to the FMLA should not take away any <i>family leave</i> – meaning for the birth or adoption of a child.”
68%	28%	“Reforms to the FMLA should correct the current misuse of intermittent leave, which is taken in small increments like days or even hours and usually without prior notice.”
61%	29%	“The current FMLA rules are confusing and contradictory, often times making the FMLA difficult to understand for employees and unworkable for employers to administer.”

In Their Own Words: Potential For and Evidence Of Misuse Top Reason to Change FMLA; Others Call For Modernization of Outdated Law... In the final substantive query, respondents were asked to express in their own words the most compelling reason to change the FMLA. 32% pointed to its current ineffectiveness at preventing abuse, while 19% felt that any law 15 years old needed to be reexamined. Just 6% said they didn’t feel FMLA needed any changes and 3% offered “no reason.” Here are some verbatim quotations in response to an open-ended question on this issue:

“The FMLA act is kind of outdated and there are misuses occurring.”

“Lessons have been learned it should be revisited.”

“Make it more workable and dependable for the employee and make it less burdensome on the employer.”

“Just to fine-tune it- it’s a good law it just needs to be fine tuned for today’s workplace.”

In Conclusion ... The results of this survey make clear that Americans reject the current misuse and abuse of the Family and Medical Leave Act and favor moderate, common-sense reforms to modernize the statute for the 21st Century workplace.

- No fewer than 54% said that they would be more likely to support changing FMLA based on each of the four unintended consequences of the law presented to them. They were particularly sympathetic to the need for reform knowing that under FMLA employees can establish their own schedules and replace their regular working hours with extra-pay shifts.
- At least two-in-three Americans approved of each of the five proposed FMLA modifications or enhancements tested in this survey. They were most vocally behind requiring employees to seek annual or bi-annual re-certifications from their medical professionals and allowing an employer to offer modified working conditions.
- Finally, four arguments for change were compelling to a clear majority of voters surveyed. Two generated particularly strong accord: (1) that the age of the FMLA (nearly 15 years means it needs to be modernized); and (2) that changes to the statute should not impinge on employees' ability to take time off for the birth or adoption of a child.