



## Testimony of Vicki Shabo

### United States Senate Committee on Finance Subcommittee on Social Security, Pensions, and Family Policy for a Hearing on Examining the Importance of Paid Family Leave for American Working Families

July 11, 2018

#### ***Making Leave for Parental, Family Care and Personal Medical Leave Possible for More than 100 Million People – Supporting Families, Businesses and the Economy***

Good afternoon, Chairman Cassidy, Ranking Member Brown and members of the Committee. I am pleased to be here to discuss how the United States can adopt a paid family and medical leave program that addresses the needs of working people, families and businesses across the country.

My name is Vicki Shabo and I am Vice President for Workplace Policies and Strategies at the National Partnership for Women & Families. The National Partnership is a nonprofit, nonpartisan advocacy organization based in Washington, D.C. We promote fairness in the workplace, reproductive health and rights, access to quality, affordable health care, and policies that help women and men meet the dual demands of work and family. Our goal is to create a society that is free, fair and just, where nobody has to experience discrimination, all workplaces are family friendly, and every family has access to quality, affordable health care and real economic security.

It is encouraging that our conversation today is premised on the notion that there is national economic value and a human investment imperative in creating a national paid leave program, and that using a social insurance model is the best way to go. I'm very hopeful that this general agreement signifies that national paid family and medical leave is now no longer a question of "if" or "why" but rather "when," "what" and "how." The details matter tremendously. Fortunately, research, experience and public opinion demonstrate clearly that the United States needs a comprehensive, inclusive, affordable and sustainable national paid leave plan that does not leave anyone behind.

At the National Partnership, we have been working on this issue for decades. Since our founding in 1971 as the Women's Legal Defense Fund, the National Partnership has fought for every major federal policy advance that has helped women and families, including our leadership in passing the nation's unpaid leave law, the Family and Medical Leave Act (FMLA), 25 years ago. Today, we convene the National Work and Family Coalition, which

includes hundreds of organizations nationwide fighting for a national paid family and medical leave plan and other policies to create a more family friendly and equitable economy and country.

A key part of our work to advance paid leave has involved helping to test policy solutions, and we have been honored and humbled to work with advocates and legislators in dozens of states and cities that have adopted paid family and medical leave and paid sick days laws that now cover approximately 41 million people. Just last month, we celebrated Massachusetts becoming the sixth state plus the District of Columbia to enact a comprehensive paid family and medical leave insurance program, and it did so with bipartisan support and the signature of a Republican governor. Massachusetts joins Washington state in demonstrating that strong, sustainable policies are achievable through real bipartisan partnerships and the engagement of large and small businesses, consumer groups, children's advocates, medical professionals and others.

These states set important examples as Congress considers how to make paid leave available for the more than 100 million working people – 85 percent of the workforce – who do not have paid family leave at their jobs right now.<sup>1</sup> These are sons and daughters, mothers and fathers, husbands and wives who too often are forced to make heartbreaking choices involving work and financial stability, family responsibilities, and providing or receiving care. Lack of access to paid leave is particularly challenging for people who work in industries and occupations that pay low wages, for workers of color and for women, who continue to handle most caregiving for their families and suffer direct and indirect economic penalties that last into retirement. And it is not just these individuals and families who feel the effects of the country's paid leave gaps, but businesses, social service providers, health systems and our economy too.

America's need for paid leave is well-established and clear – and need doesn't distinguish by political party, or family type, or care need. No one should be kept from seeing their baby's first smile, whether at home or in the NICU, and no one should be forced to miss the opportunity to help a parent – or God forbid, a child – get to cancer treatments, or hold the hand of a spouse as she recovers from a stroke or an injury sustained in military service.

Too often, conversations about paid leave focus exclusively on new moms and babies and – to be sure – the critical importance of parental leave for moms, dads and kids is well-supported by health and economic research. But parental leave is not even half of what's needed, and a poorly designed program that results in a cut in Social Security retirement benefits and siphons much-needed resources from existing Social Security obligations without providing new revenue for benefits and administration would grave harm.

In my testimony today, I will first talk about why the United States needs a comprehensive paid leave plan and present research and evidence that supports our vision of what a national paid leave plan should include. Right now, the only pending legislation that reflects that vision is the Family And Medical Insurance Leave (FAMILY) Act (S. 337/H.R. 947). I will also discuss our deep concerns about a plan proposed by the Independent Women's Forum in which Senators Rubio, Ernst and Lee have expressed interest. This plan

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1 U.S. Bureau of Labor Statistics. (2017, September). *National Compensation Survey: Employee Benefits in the United States, March 2017* (Table 32 & Appendix 2). Retrieved 2 July 2018, from <https://www.bls.gov/ncs/ebs/benefits/2017/ebbl0061.pdf>

has includes elements that are gravely concerning and would do more harm than good, including: (1) forcing unnecessary tradeoffs between paid leave and Social Security benefits, which will have devastating effects on the retirement security of women, low-wage workers and people of color; (2) limiting guaranteed access to paid leave to parents of new children while excluding millions of others who need paid family or medical leave, which will lead to a double-hit for many older workers; and (3) setting benefits too low to make paid leave affordable for most people and, in the process, reinforcing rather than reducing gender bias. I look forward to this hearing today as the beginning of what I hope will be a robust bipartisan conversation that soon leads to a national paid leave solution.

## **I. A Shifting Landscape for Families: Demographic and Labor Force Trends Require a Comprehensive National Paid Family and Medical Leave Solution**

Discussions about paid leave – here in Congress, at the state and local levels, in the private sector, among researchers and in the media – are more vibrant than ever. The economic imperative for a national policy on paid leave is now part of conversations in both the Democratic and Republican parties and in boardrooms and breakrooms in unprecedented and very welcome ways. Conservative and progressive economists and politicians warn that the country is missing out on substantial economic activity – estimated at \$500 billion dollars by the U.S. Department of Labor – because women, in particular, are held back from participating in the workforce in equal shares as their peers in other high-wealth countries.<sup>2</sup> Families lose an estimated \$20.6 billion in wages each year due to inadequate or no paid leave.<sup>3</sup> Employers bear high costs of turnover, ranging between 16 percent and more than 200 percent of a worker’s annual wages, when people leave their jobs<sup>4</sup> – which employees are about four times more likely to do when they do not have paid leave.<sup>5</sup> And the human and fiscal costs of America’s paid leave crisis – measured in child and maternal health effects, nursing home utilization, long-term health costs and more – are vast. This is why child development experts,<sup>6</sup> business and management experts,<sup>7</sup> medical providers and experts in social work and gerontology<sup>8</sup> have joined advocacy and small business organizations<sup>9</sup> in telling Congress that it is past time to address America’s paid leave crisis with a comprehensive, national paid family and medical leave program.

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2 U.S. Department of Labor. (2015, September). *The Cost of Doing Nothing: The Price We All Pay Without Paid Leave Policies to Support America’s 21st Century Working Families*. Retrieved 2 July 2018, from <https://www.dol.gov/wb/resources/cost-of-doing-nothing.pdf>; see also American Enterprise Institute & Brookings Institution. (2017, May). *Paid Family and Medical Leave: An Issue Whose Time Has Come*. Retrieved 2 July 2018, from [https://www.brookings.edu/wp-content/uploads/2017/06/es\\_20170606\\_paidfamilyleave.pdf](https://www.brookings.edu/wp-content/uploads/2017/06/es_20170606_paidfamilyleave.pdf)

3 Glynn, S. J., & Corley, D. (2016, September). *The Cost of Work-Family Policy Inaction: Quantifying the Costs Families Currently Face as a Result of Lacking U.S. Work-Family Policies*. Center for American Progress Publication. Retrieved 2 July 2018, from <https://cdn.americanprogress.org/wp-content/uploads/2016/09/22060013/CostOfWorkFamilyPolicyInaction-report.pdf>

4 Boushey, H., & Glynn, S. J. (2012, November 16). *There Are Significant Business Costs to Replacing Employees*. Center for American Progress Publication. Retrieved 2 July 2018, from <https://cdn.americanprogress.org/wp-content/uploads/2012/11/16084443/CostofTurnover0815.pdf>

5 Menasce Horowitz, J., Parker, K., & Graf, N. (2017, March 23). *Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies*. Pew Research Center Publication. Retrieved 2 July 2018, from <http://www.pewsocialtrends.org/2017/03/23/americans-widely-support-paid-family-and-medical-leave-but-differ-over-specific-policies/> (unpublished calculation)

6 Divecha, D., & Stern, R. (2015, February 10). Give our children a strong start. *The Hill*. Retrieved 2 July 2018, from <http://thehill.com/blogs/congress-blog/healthcare/232214-give-our-children-a-strong-start>

7 *Letter from Business School Faculty to Congress in Support of National Paid Leave and the FAMILY Act*. (2015, September 15). Retrieved 2 July 2018, from <http://worklife.wharton.upenn.edu/wp-content/uploads/2012/11/Final-Business-School-Professors-Letter-to-Congress-in-Support-of-the-FAMILY-Act-September-15-2015.pdf>

8 *Aging and Social Work Experts’ Letter to Congress in Support of Strong National Paid Family and Medical Leave*. (2017, November 1). Retrieved 2 July 2018, from [http://www.bc.edu/content/dam/files/research\\_sites/agingandwork/pdf/documents/Caregiving\\_letter\\_10\\_30\\_2017.pdf](http://www.bc.edu/content/dam/files/research_sites/agingandwork/pdf/documents/Caregiving_letter_10_30_2017.pdf)

9 *FAMILY Act Coalition Letter to Congress*. (2016, June 29). Retrieved 2 July 2018, from <http://www.nationalpartnership.org/research-library/work-family/coalition/family-act-coalition-letter.pdf>; National Partnership for Women & Families. (2017, February). *Organizations Endorsing the Family And Medical Insurance Leave (FAMILY) Act*. Retrieved 2 July 2018, from <http://www.nationalpartnership.org/research-library/work-family/coalition/family-act-reintroduction-coalition-quote-sheet.pdf>

## A. The Indisputable Need for Leave So Parents Can Care for Children – Not Just at Birth or Adoption But for the Long Haul

Much of the national conversation about, and attention to, paid leave has focused on the needs of mothers and, increasingly, fathers to care for their newborn children. We absolutely know that parental leave – for all parents of new children, whether newborn, newly adopted or newly placed in a foster home – is important for families’ economic security, women’s workforce participation and earnings over time, child and maternal health, shared division of care within two-parent households and family well-being.<sup>10</sup> Parental leave also helps families maintain financial independence and reduce their use of public programs, such as Supplemental Nutrition Assistance Program (SNAP) or other public assistance.<sup>11</sup> Rather than pursuing draconian SNAP and Medicaid work requirements that punish people for experiencing poverty, we should look to paid leave as a policy that truly promotes a connection to work. With paid leave, women are more likely to return to work and to earn higher wages within the year after a child’s birth, and both women and men are significantly less likely to use SNAP or other public programs in the year after a child’s birth.<sup>12</sup> A national commitment to paid leave is a national commitment to increasing workforce attachment, labor force participation and financial independence.

Indeed, it is very encouraging that a growing number of lawmakers on both sides of the political aisle agree, at least in principle, that the United States needs a national approach to paid parental leave. But details matter tremendously – and a program that undermines social insurance protections without new revenue, fails to replace wages at rates that allow both lower-income and middle-income families to afford leave, and fails to provide employment security is not the approach we support or the country needs. I’ll come back to those points in Section III below – but first I would like to address the evidence that demonstrates that a plan that provides leave only in connection with a child’s birth or adoption isn’t nearly enough.

Children’s health needs do not end after the first few months of their lives. Children, especially those with disabilities and chronic health issues, may need care for months or years. When a child is critically ill – whether at birth or later – the presence of a parent shortens her or his hospital stay by 31 percent.<sup>13</sup> Active parental involvement in a child’s hospital care may head off future health care needs and reduce costs.<sup>14</sup> But parents without paid leave risk their economic security and their child’s well-being by providing care. And sometimes it’s the *parent* of a young child who needs care themselves or must provide care

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10 ZERO TO THREE & National Partnership for Women & Families. (2017, January). *The Child Development Case for a National Paid Family and Medical Leave Program*. Retrieved 2 July 2018, from <http://www.nationalpartnership.org/research-library/work-family/paid-leave/the-child-development-case-for-a-national-paid-family-and-medical-leave-insurance-program.pdf>; American Academy of Pediatrics (2015, March 20). *Major Pediatric Associations Call for Congressional Action on Paid Leave*. Retrieved 3 July 2018, from <https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/familyleaveact.aspx>

11 Houser, L., & Vartanian, T. P. (2012, January). *Pay Matters: The Positive Impacts of Paid Family Leave for Families, Businesses and the Public*. Rutgers, the State University of New Jersey Center for Women and Work Publication. Retrieved 2 July 2018, from <http://www.nationalpartnership.org/research-library/work-family/other/pay-matters.pdf>; Houser, L., & Vartanian, T. P. (2012, April). *Policy Matters: Public Policy, Paid Leave for New Parents, and Economic Security for U.S. Workers*. Rutgers, the State University of New Jersey Center for Women and Work Publication. Retrieved 2 July 2018, from [http://go.nationalpartnership.org/site/DocServer/RutgersCWW\\_Policy\\_Matters\\_April2012.pdf](http://go.nationalpartnership.org/site/DocServer/RutgersCWW_Policy_Matters_April2012.pdf); see also note 5.

12 Houser, L., & Vartanian, T. P. (2012, January). *Pay Matters: The Positive Impacts of Paid Family Leave for Families, Businesses and the Public*. Rutgers, the State University of New Jersey Center for Women and Work Publication. Retrieved 2 July 2018, from <http://www.nationalpartnership.org/research-library/work-family/other/pay-matters.pdf>; Houser, L., & Vartanian, T. P. (2012, April). *Policy Matters: Public Policy, Paid Leave for New Parents, and Economic Security for U.S. Workers*. Rutgers, the State University of New Jersey Center for Women and Work Publication. Retrieved 2 July 2018, from [http://go.nationalpartnership.org/site/DocServer/RutgersCWW\\_Policy\\_Matters\\_April2012.pdf](http://go.nationalpartnership.org/site/DocServer/RutgersCWW_Policy_Matters_April2012.pdf)

13 Heymann, J. (2001, October 15). *The Widening Gap: Why America’s Working Families Are in Jeopardy—and What Can Be Done About It*. New York, NY: Basic Books.

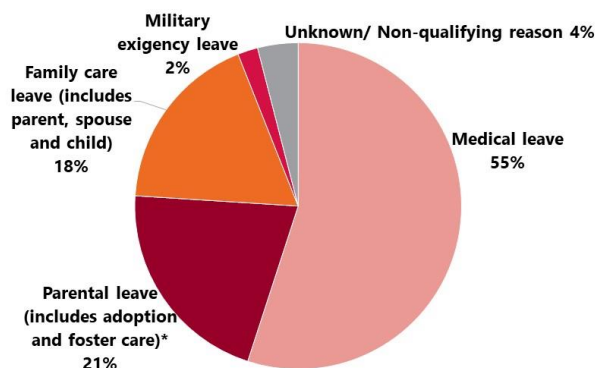
14 Heymann, J., & Earle, A. (2010). *Raising the global floor: dismantling the myth that we can’t afford good working conditions for everyone*. Stanford, CA: Stanford Politics and Policy.

for another family member – and the lack of paid leave in those situations can have serious, long term effects on household financial stability too.

A more comprehensive approach would best serve parents and kids. A 12-week unpaid leave sends millions of working families down deep financial rabbit holes, whereas a paid leave plan that provides even two-thirds' wage replacement for any FMLA reason during that time is estimated to reduce the percentage of families that face significant economic insecurity by a whopping 81 percent nationwide and by 82 percent in the states represented by the Chair and Ranking Member of this subcommittee.<sup>15</sup>

## B. The Urgent and Growing Need for Family Care Leave and Personal Medical Leave

Put simply, paid leave for new parents is necessary, but it is not a sufficient or complete response to the needs of working people and families. In fact, according to the most recent data commissioned by the U.S. Department of Labor, leaves taken for the birth or placement of a child account for about one-fifth (21 percent) of the 20 million leaves taken for FMLA purposes each year.<sup>16</sup> In contrast, as shown in the pie chart below, approximately 75 percent of people take leave to care for a seriously ill, injured, elderly or disabled loved one, a serious personal injury, illness or disability, or to address the deployment or injury of a military service member in their family.<sup>17</sup>



Source: U.S. Department of Labor. (2012). *Family and Medical Leave in 2012: Technical Report*.  
\*This survey includes pregnancy-related disability leave within the parental leave category, rather than in medical leave.

In states that have had temporary disability insurance (TDI) and paid family leave programs in place the longest, people who take paid medical leave through the states' TDI programs also account for a much larger share of claims than parental leave or family care leave.<sup>18</sup>

<sup>15</sup> diversitydatakids.org. (2018). *Full-Year Working Adults Ages 21-64 Living in Families Estimated to be Below 200% of the Federal Poverty Line After Wage Loss Due to 12 Weeks of Paid/Unpaid Family or Medical Leave (Share)*. Brandeis University, The Heller School, Institute for Child, Youth and Family Policy Publication. Retrieved 2 July 2018, from <http://www.diversitydatakids.org/data/ranking/670/full-year-working-adults-ages-21-64-living-in-families-estimated-to-be-below-200/#loct=2&cat=54,25&tf=21&ch=132,133,134> (Unpublished calculation by the National Partnership for Women & Families)

<sup>16</sup> Klerman, J. A., Daley, K., & Pozniak, A. (2012, September 7). *Family and Medical Leave in 2012: Technical Report*. Abt Associates Publication. Retrieved 2 July 2018, from <http://www.dol.gov/asp/evaluation/fmla/fmla2012.htm>

<sup>17</sup> Ibid.

<sup>18</sup> Analysis of state temporary disability insurance and paid family leave insurance programs in California, New Jersey and Rhode Island conducted by Dr. Sarah Jane Glynn for the National Partnership for Women & Families, January 2018, based on: State of California Employment Development Department. (2018, June 12). *Disability Insurance (DI) – Monthly Data*. Retrieved 2 July 2018, from <https://data.edd.ca.gov/Disability-Insurance/Disability-Insurance-DI-Monthly-Data/29jg-ip7e/data>; State of California Employment Development Department. (2018, June 12). *Paid Family Leave (PFL) – Monthly Data*. Retrieved 2 July 2018, from <https://data.edd.ca.gov/Disability-Insurance/Paid-Family-Leave-PFL-Monthly-Data/r95e-fvkm>; New Jersey Department of Labor and Workforce Development. (2016, October). *Temporary Disability Insurance Workload in 2015: Summary*

Health emergencies should not trigger financial emergencies – but too often they do because workers who cannot access paid leave either forgo leave altogether or face substantial financial challenges, leading them to dip into savings earmarked for another purpose, take on debt, put off paying bills or use public assistance programs.<sup>19</sup>

A white paper the National Partnership will release soon, co-authored by Dr. Sarah Jane Glynn, who is a fellow with the National Academy of Social Insurance and a member of the bipartisan Brookings-AEI Working Group on Paid Leave, shows that demand for family caregiving and personal medical leave will only continue to grow. This white paper builds on a report we released last year, *Our Aging, Caring Nation*, which shows that a parents-only paid leave plan would leave behind too many people in every state.<sup>20</sup> Louisiana’s population, for example, has one of the highest shares of family caregivers, with one-fifth of adults caring for family members with an illness or disability; a parental leave-only plan would do nothing to support them, enhance their families’ economic stability or address their care needs.<sup>21</sup>

Family caregiving is a major part of life for millions of working people. Today, 43.5 million people provide unpaid care to family members, and most family caregivers also have full-time, paying jobs.<sup>22</sup> An estimated 36 million working age adults live with a family member with a disability.<sup>23</sup> And there is increasing stress on members of the sandwich generation, the portion of the workforce that is caring for both children and older adults.<sup>24</sup> Millennials (18- to 34 year-olds), whom policymakers may incorrectly assume only need leave to care for a new child, actually need a much more comprehensive leave plan: Among the nation’s 40+ million caregivers, one in four is a millennial, who is typically providing 20 or more hours of care to a family member with a serious health issue and working full-time.<sup>25</sup> In addition, the majority of military caregivers – and more than three-quarters of caregivers for post-9/11 wounded warriors – are also in the labor force.<sup>26</sup>

Demographic trends point squarely to even more strain on people caring for elderly relatives in coming decades. In 2000, the median age in the United States was 35.3,<sup>27</sup> but as

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Report. Retrieved 6 July 2018, from [https://www.nj.gov/labor/forms\\_pdfs/tdi/TDI%20Report%20for%202015.pdf](https://www.nj.gov/labor/forms_pdfs/tdi/TDI%20Report%20for%202015.pdf); New Jersey Department of Labor and Workforce Development. (2016, October). *Family Leave Insurance Workload in 2015: Summary Report*. Retrieved 6 July 2018, from [https://www.nj.gov/labor/forms\\_pdfs/tdi/FLI%20Summary%20Report%20for%202015.pdf](https://www.nj.gov/labor/forms_pdfs/tdi/FLI%20Summary%20Report%20for%202015.pdf); Rhode Island Department of Labor and Training. (2017). *TDI Annual Update: January - December 2016*. Retrieved 6 July 2018, from <http://www.dlt.ri.gov/lmi/pdf/tdi/2016.pdf>; Silver, B., Mederer, H., & Djurdjevic, E. (2016, April). *Launching the Rhode Island Temporary Caregiver Insurance Program (TCI): Employee Experiences One Year Later*. Retrieved 6 July 2018, from <http://www.dlt.ri.gov/tdi/pdf/RIPaidLeaveFinalRpt0416URL.pdf>

19 Stepler, R. (2017, March 23). *Key takeaways on Americans’ views of and experiences with family and medical leave*. Pew Research Center Publication. Retrieved 6 July 2018, from [http://www.pewresearch.org/fact-tank/2017/03/23/key-takeaways-on-americans-views-of-and-experiences-with-family-and-medical-leave/ft\\_17-03-23\\_familyleaveetakeaways\\_2/](http://www.pewresearch.org/fact-tank/2017/03/23/key-takeaways-on-americans-views-of-and-experiences-with-family-and-medical-leave/ft_17-03-23_familyleaveetakeaways_2/)

20 National Partnership for Women & Families. (2017, June). *Our Aging, Caring Nation: Why a U.S. Paid Leave Plan Must Provide More Than Time to Care for New Children*. Retrieved 2 July 2018, from <http://www.nationalpartnership.org/research-library/work-family/paid-leave/our-aging-caring-nation-why-a-us-paid-leave-plan-must-provide-more-than-time-to-care-for-new-children.pdf>

21 Ibid.

22 National Alliance for Caregiving. (2015, June). *Caregiving in the U.S. 2015*. National Alliance for Caregiving and AARP Public Policy Institute Publication. Retrieved 2 July 2018, from <http://www.aarp.org/content/dam/aarp/ppi/2015/caregiving-in-the-united-states-2015-report-revised.pdf>

23 Grant, K., Sutcliffe, T. J., Dutta-Gupta, I., & Goldvale, C. (2017, October 1). *Security & Stability: Paid Family and Medical Leave and its Importance to People with Disabilities and their Families*. Georgetown Center on Poverty and Inequality Publication. Retrieved 2 July 2018, from [http://www.georgetownpoverty.org/wp-content/uploads/2017/10/Georgetown\\_PFML-report-hi-res.pdf](http://www.georgetownpoverty.org/wp-content/uploads/2017/10/Georgetown_PFML-report-hi-res.pdf)

24 Parker, K., & Patten, E. (2013, January). *The Sandwich Generation: Rising Financial Burdens for Middle-Aged Americans*. Pew Research Center Publication. Retrieved 9 July 2018, from <http://www.pewsocialtrends.org/2013/01/30/the-sandwich-generation/>; Institute for Women’s Policy Research, & IMPAQ International. (2017, January 19). *Family and Medical Leave-Taking among Older Workers*. Retrieved 2 July 2018, from <https://iwpr.org/publications/family-medical-leave-taking-among-older-workers/>

25 Flinn, B. (2018, May). *Millennials: The Emerging Generation of Family Caregivers*. AARP Public Policy Institute Publication. Retrieved 2 July 2018, from <https://www.aarp.org/content/dam/aarp/ppi/2018/05/millennial-family-caregivers.pdf>

26 Ramchand, R., Tanielian, T., Fisher, M. P., Vaughan, C. A., Trail, T. E., Epley, C., Voorhies, P., Robbins, M. W., Robinson, E., & Ghosh-Dastidar, B. (2014). *Hidden Heroes: America’s Military Caregivers* (see Figure 3.8). RAND Corporation Publication. Retrieved 9 July 2018, from <http://www.rand.org/health/projects/military-caregivers.html>

27 U.S. Census Bureau. (2017, June 22). *The Nation’s Older Population Is Still Growing, Census Bureau Reports* [Press release]. Retrieved 7 July 2018, from <https://www.census.gov/newsroom/press-releases/2017/cb17-100.html>

the Baby Boom generation continues to age, the median age is projected to rise to 41 by 2060; the size of the population 65 years or older is projected to be larger than the population under 18 by then.<sup>28</sup> These lopsided generational numbers don't add up when it comes to care. The mismatch between the Baby Boom generation and the generations that have followed means that the number of potential family caregivers for each person age 80 and older will fall from about one in seven in 2010 to one in four by 2030, and then to less than one in three by 2050.<sup>29</sup> Each family member available to provide care will be called on to do more, for more aging loved ones, while likely also needing to hold a paying job. A plan that covers only new parents utterly fails to address their needs or those realities.

This is a care issue, a personal economic security issue for the growing legions of caregivers and a budget issue for the United States. The interactions between caregiving and retirement security are especially germane as this committee considers whether to force tradeoffs between Social Security retirement benefits and paid parental leave. AARP and MetLife Mature Market Institute estimate that a woman who is 50 years of age or older who leaves the workforce to care for an aging parent will lose more than \$324,000 in wages and retirement.<sup>30</sup> For men, the figure is substantial as well – close to \$284,000 in lost wages and retirement.<sup>31</sup> It would be a cruel double hit to adopt a paid leave plan that fails to cover family caregivers while simultaneously forcing trade-offs between parental leave and Social Security retirement benefits: Older workers caring for loved ones would not have paid leave when they need it – and those who took parental leave decades earlier would face delayed retirement and lower Social Security benefits from a plan that carves parental leave benefits out of Social Security retirement funds. Both a paid leave plan and Social Security must honor the value of caregiving.

In addition, most working people will themselves need medical leave at some point in their lives and millions of people do not have it – a compelling national problem that any national paid family and medical leave program should solve. Less than 40 percent of the workforce has personal medical leave through an employer's TDI plan and access varies dramatically by job type and wage level.<sup>32</sup> There are increasing numbers of mothers-to-be who face life-threatening complications during or after childbirth;<sup>33</sup> a growing number of Americans with chronic health conditions;<sup>34</sup> and a growing share of older people who remain in the workforce well past the traditional retirement age either because they want to continue working or because they have no other financial option but may also have chronic or acute health issues.<sup>35</sup> Ensuring working people can have paid leave to take time away from their jobs with access to some wage replacement and then go back to work is far

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28 Ortman, J. (2012, December 14). *A Look at the U.S. Population in 2060*. Retrieved 7 July 2018, from [https://www.census.gov/newsroom/cspan/pop\\_proj/20121214\\_cspan\\_popproj.pdf](https://www.census.gov/newsroom/cspan/pop_proj/20121214_cspan_popproj.pdf)

29 Redfoot, D., Feinberg, L., & Houser, A. (2013, August). *The Aging of the Baby Boom and the Growing Care Gap: A Look at Future Declines in the Availability of Family Caregivers*. AARP Public Policy Institute Publication. Retrieved 2 July 2018, from [http://www.aarp.org/content/dam/aarp/research/public\\_policy\\_institute/ltc/2013/baby-boom-and-the-growing-care-gap-insight-AARP-ppi-ltc.pdf](http://www.aarp.org/content/dam/aarp/research/public_policy_institute/ltc/2013/baby-boom-and-the-growing-care-gap-insight-AARP-ppi-ltc.pdf)

30 MetLife Mature Market Institute. (2011, June). *The MetLife Study of Caregiving Costs to Working Caregivers: Double Jeopardy for Baby Boomers Caring for Their Parents*. Retrieved 2 July 2018, from <https://www.caregiving.org/wp-content/uploads/2011/06/mmi-caregiving-costs-working-caregivers.pdf>

31 Ibid.

32 See note 1, table 16.

33 Norton, A. (2012, October). Birth Complications On The Rise In The U.S., Study Finds. *Huffington Post*. Retrieved 2 July 2018, from [http://www.huffingtonpost.com/2012/10/24/usbirth-complications\\_n\\_2008771.html](http://www.huffingtonpost.com/2012/10/24/usbirth-complications_n_2008771.html)

34 See note 23; see also Bodenheimer, T., Chen, E., & Bennett, H. D. (2009, January 1). Confronting the Growing Burden of Chronic Disease: Can the U.S. Health Care Workforce Do the Job? *HealthAffairs*, 28(1), <https://doi.org/10.1377/hlthaff.28.1.64>

35 U.S. Bureau of Labor Statistics. (2017, October 24). *Civilian labor force participation rate, by age, sex, race, and ethnicity, Table 3.3 Civilian labor force participation rate, by age, sex, race, and ethnicity, 1996, 2006, 2016, and projected 2026*. Retrieved 7 July 2018, from [https://www.bls.gov/emp/ep\\_table\\_303.htm](https://www.bls.gov/emp/ep_table_303.htm); Lester, G. (2009). *The Aging Workforce and Paid Time Off*. University of California, Berkeley Institute for Research on Labor and Employment Publication. Retrieved 7 July 2018, from <http://www.irle.berkeley.edu/files/2009/The-Aging-Workforce-and-Paid-Time-Off.pdf>; see also note 20.

preferable to the alternatives, which include no leave, delayed care that jeopardizes their health and increases costs, or an exit from the workforce altogether.

Evidence of the value of paid leave to working people, their families, health systems and government is clear. Paid family leave can support working people who are helping older family members recover from serious health issues, fulfill treatment plans, and avoid complications and hospital readmissions – all of which boost health and reduce costs.<sup>36</sup> Among cancer patients and survivors, access to paid leave is significantly related to completing treatment, managing symptoms and side effects, and being able to afford treatments – yet only half of cancer patients and survivors report having access to paid leave that extends beyond a few paid sick days.<sup>37</sup> Among family members caring for a loved one with cancer, access to paid leave is significantly related to helping loved ones get to treatment, caring for them and caring for their own health, but only four in ten caregivers say they are able to take paid leave.<sup>38</sup> Family caregiving can also support aging in place, which can reduce costs on public programs, but this is more practical when paid leave is available. A California study found that implementation of the state’s paid leave program accounted for an 11-percent relative decline in elderly nursing home usage.<sup>39</sup> And, for the millions of families in communities that are struggling with opioid and other substance use disorders, paid leave supports family caregivers, who play a key role in care and recovery by helping loved ones with health care arrangements and treatment.<sup>40</sup>

### C. The Future of Work

In addition to the demographic imperatives that intensify the need for paid leave, we must also look at the future of work and labor market trends. Of the 30 occupations with the most job growth anticipated between 2016 and 2026, two-thirds are occupations that typically pay wages below the current national median wage.<sup>41</sup> These are also jobs that, today, are unlikely to offer paid family leave benefits.<sup>42</sup> In addition, 10 of these 30 occupations pay low wages and are disproportionately held by women – which underscores the need for change because women continue to shoulder the bulk of caregiving for children and older adults in their families.<sup>43</sup> Unless the private sector substantially enhances leave benefits for lower-wage workers – which even conservative economists admit is extremely unlikely to happen<sup>44</sup> – public policy interventions that create a national baseline are

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36 See e.g., Institute of Medicine. (2008, April 11). *Retooling for an Aging America: Building the Health Care Workforce* (p. 254). Retrieved 2 July 2018, from <http://www.nationalacademies.org/hmd/reports/2008/retooling-for-an-aging-america-building-the-health-care-workforce.aspx>; Arbaje, A. I., Wolff, J. L., Yu, Q., Powe, N. R., Anderson, G. F., & Boulton, C. (2008). Postdischarge Environmental and Socioeconomic Factors and the Likelihood of Early Hospital Readmission Among Community-Dwelling Medicare Beneficiaries. *The Gerontologist* 48(4), 495-504. Summary retrieved 9 July 2018, from <https://www.ncbi.nlm.nih.gov/pubmed/18728299>

37 American Cancer Society Action Network. (2017, December 8). *Key Findings – National Surveys of Cancer Patients, Survivors, and Caregivers*. Retrieved 2 July 2018, from <https://www.acscan.org/sites/default/files/ACS%20CAN%20Paid%20Leave%20Surveys%20Key%20Findings%20Press%20Memo%20FINAL.pdf>

38 Ibid.

39 Arora, K., & Wolf, D. A. (2017, November 3). Does Paid Family Leave Reduce Nursing Home Use? The California Experience. *Journal of Policy Analysis and Management*, 37(1), 38-62. Retrieved 2 July 2018, from <http://onlinelibrary.wiley.com/doi/10.1002/pam.22038/full>

40 Biegel, D.E., Katz-Saltzman, S., Meeks, D., Brown, S., & Tracy, E.M. (2010). Predictors of Depressive Symptomatology in Family Caregivers of Women With Substance Use Disorders or Co-Occurring Substance Use and Mental Disorders. *Journal of Family Social Work*, 13(1), 25-44. Retrieved 7 July 2018, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2834204/>

41 U.S. Bureau of Labor Statistics. (2018, April 11). *Occupations with the most job growth, Table 1.4 Occupations with the most job growth, 2016 and projected 2026*. Retrieved 7 July 2018, from [https://www.bls.gov/emp/ep\\_table\\_104.htm](https://www.bls.gov/emp/ep_table_104.htm)

42 See note 1, tables 16 & 32; see also DeSilver, D. (2017, March 23). *Access to paid family leave varies widely across employers, industries*. Pew Research Center Publication. Retrieved 7 July 2018, from <http://www.pewresearch.org/fact-tank/2017/03/23/access-to-paid-family-leave-varies-widely-across-employers-industries/>

43 See notes 22 & 41; see also U.S. Bureau of Labor Statistics. (n.d.). *Household Data, Annual Averages, 11. Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity*. Retrieved 7 July 2018, from <https://www.bls.gov/cps/cpsaat11.pdf>

44 Mathur, A., McCloskey, A.M., & Rachidi, A. (2017, January 9). Child-Care and Paid-Leave Policies that Work for Working Parents. *National Review*. Retrieved 5 July 2018, from <http://www.nationalreview.com/article/443654/child-care-paid-leave-reforms-trump-administration-congress>; Gitis, B. (2016, August 15). *The Earned Income Leave Benefit: Rethinking Paid Family Leave for Low-Income Workers*. American Action Forum Publication. Retrieved 5 July 2018, from <https://www.americanactionforum.org/solution/earned-income-leave-benefit-rethinking-paid-family-leave-low-income-workers>



required. Without them, the country will continue to suffer from unrealized economic growth and cost-savings – and working people across the country will continue to be unable to live their dearly-held values related to families and care.

Accounting for the future of work also means grappling with the impact of the contingent workforce and the “gig” economy, which is at least 10 percent of the workforce.<sup>45</sup> It is important to adopt a national paid leave plan that includes people who are entrepreneurs, freelancers, contract workers and others who have what today are considered “nontraditional” employment relationships that, in the future, may be commonplace. People should have access to paid leave, no matter their employers or their jobs.

#### **D. Benefits to Business**

Paid leave not only benefits working families; it also benefits employers both directly and indirectly. This recognition, propelled by the growing body of evidence quantifying business value and experiences, is a new and welcome part of the growing bipartisan discussion on paid leave. Business value occurs whether paid leave is adopted as an internal policy or through legislation creating a paid family leave and medical leave insurance program.

Businesses that choose to implement paid leave policies find they help attract talent. A 2016 survey by Deloitte found that 77 percent of workers with access to benefits reported that the amount of paid parental leave employers offer had some influence on their choice of one employer over another.<sup>46</sup> And EY reports that nearly 40 percent of millennials say they would move to another country for better paid leave.<sup>47</sup>

Paid leave also positively affects employee retention. According to Pew Research Center data, a larger share of workers with paid leave return to their same employer,<sup>48</sup> and the experiences of high-end companies like Google, Accenture and Aetna bear this out, with each reporting lower turnover rates among affected employees after improving their paid leave policies.<sup>49</sup> Retaining workers is important because of the high costs that employers bear as a result of employee turnover. For high-wage, high-skilled workers, including in fields like technology, accounting and law, turnover costs can amount to 213 percent of workers’ salaries.<sup>50</sup> Across all occupations, median turnover costs are estimated to be 21 percent of workers’ annual wages and, even in middle- and lower-wage jobs, turnover costs are estimated to be 16 to more than 20 percent of workers’ annual wages.<sup>51</sup> Direct costs associated with turnover include separation costs, higher unemployment insurance, costs associated with temporary staffing, costs associated with searching for and interviewing new workers, and training costs for new workers.<sup>52</sup> Indirect costs can arise from lost

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45 Mishel, L. (2018, June 7). *Contingent Worker Survey is further evidence that we are not becoming a nation of freelancers*. Economic Policy Institute Publication. Retrieved 3 July 2018, from <https://www.epi.org/press/contingent-worker-survey-is-further-evidence-that-we-are-not-becoming-a-nation-of-freelancers/>

46 Deloitte. (2016, June 15). *Parental leave survey: Less than half of people surveyed feel their organization helps men feel comfortable taking parental leave* [Press release]. Retrieved 2 July 2018, from <https://www.prnewswire.com/news-releases/deloitte-survey-less-than-half-of-people-surveyed-feel-their-organization-helps-men-feel-comfortable-taking-parental-leave-300284822.html>

47 EY. (2015, May 5). *Global generations: A global study on work-life challenges across generations*. Retrieved 2 July 2018, from [https://www.ey.com/Publication/vwLUAssets/EY-global-generations-a-global-study-on-work-life-challenges-across-generations/\\$FILE/EY-global-generations-a-global-study-on-work-life-challenges-across-generations.pdf](https://www.ey.com/Publication/vwLUAssets/EY-global-generations-a-global-study-on-work-life-challenges-across-generations/$FILE/EY-global-generations-a-global-study-on-work-life-challenges-across-generations.pdf)

48 See note 5.

49 Stroman, T., Woods, W., Fitzgerald, G., Unnikrishnan, S., & Bird, L. (2017, February). *Why Paid Family Leave Is Good for Business*. Boston Consulting Group Publication. Retrieved 2 July 2018, from <http://media-publications.bcg.com/BCG-Why-Paid-Family-Leave-Is-Good-Business-Feb-2017.pdf>

50 See note 4.

51 Ibid.

52 Allen, D. G., Bryant, P. C., & Vardaman, J. M. (2010). Retaining talent: Replacing misconceptions with evidence-based strategies. *The Academy of Management Perspectives*, 24(2), 48-64

productivity leading to and following employee separations, diminished output as new workers ramp up, reduced morale and lost institutional knowledge.<sup>53</sup>

Finally, paid leave improves employees' overall well-being: A 2016 EY study found that more than 80 percent of companies that offer paid leave reported a positive impact on employee morale, and more than 70 percent reported an increase in employee productivity.<sup>54</sup> After Nestlé improved its parental leave policy, health care costs for infants whose parents took paid leave under the policy went down and mothers who used the policy reported lower rates of anxiety and filed fewer mental health claims.<sup>55</sup>

This data is compelling, but the reality is that – even faced with the most persuasive evidence possible – private sector initiatives will never cover all, or even most, working people. That is why a public policy standard that recognizes the shared value of leave for employees, employers and the economy is needed.

Businesses need not fear paid leave insurance programs. Research consistently shows that employers have not been unduly challenged by the public policies adopted in states, have not encountered negative effects of the policies, and, if anything, that companies have found these policies helpful. Businesses in California, New Jersey and Rhode Island are supportive of those states' laws. In California, researchers found that the vast majority of employers see a positive effect or no effect on employee productivity, profitability and performance related to the paid leave law that has been in place since 2004 – and smaller businesses are even more positive or neutral effects than larger businesses.<sup>56</sup> Many may even have experienced cost-savings by coordinating their benefits with the state plan.<sup>57</sup>

Even the Society for Human Resource Management (SHRM), one of the chief opponents of paid family leave before it was passed in California, issued a report finding that employers' concerns about the program had “not been realized” and that the law created “relatively few” new burdens for employers.<sup>58</sup> A report prepared on behalf of the New Jersey Business and Industry Association finds that the majority of both small and large New Jersey businesses adjusted easily to the state's law and experienced no effects on business profitability, performance or employee productivity.<sup>59</sup> This finding is consistent with qualitative research conducted among a cross-section of New Jersey employers.<sup>60</sup>

In Rhode Island, business supporters were important allies in passing the paid leave law, and early research suggests that businesses in key industries have adjusted easily. A study of small- and medium-sized food service and manufacturing employers in Rhode Island by

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53 Hausknecht, J. P., & Holwerda, J. A. (2013). When does employee turnover matter? Dynamic member configurations, productive capacity, and collective performance. *Organization Science*, 24(1), 210-225; see also note 30.

54 See note 49.

55 The Paid Leave Project. (2017, December). *Case Study: Nestlé USA*. Retrieved 2 July 2018, from <http://www.paidleaveproject.org/wp-content/uploads/2017/12/Nestle-Case-Study-layout-12-1-17.pdf>

56 Milkman, R., & Appelbaum, E. (2013). *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy* (pp. 67-68). Ithaca, NY: Cornell University Press; Bartel, A., et al. (2014, June 23). *California's Paid Family Leave Law: Lessons from the First Decade*. U.S. Department of Labor Publication. Retrieved 2 July 2018, from <http://www.dol.gov/asp/evaluation/reports/paidleavedeliverable.pdf>

57 Ibid.

58 Redmond, J., & Fkiaras, E. (2010, January). *Legal Report: California's Paid Family Leave Act Is Less Onerous than Predicted*. Society for Human Resource Management Publication. Retrieved 9 July 2018, from [https://www.sheppardmullin.com/media/article/809\\_CA%20Paid%20Family%20Leave%20Act%20Is%20Less%20Onerous%20Than%20Predicted.pdf](https://www.sheppardmullin.com/media/article/809_CA%20Paid%20Family%20Leave%20Act%20Is%20Less%20Onerous%20Than%20Predicted.pdf)

59 Ramirez, M. (2012). *The Impact of Paid Family Leave on New Jersey Businesses*. New Jersey Business and Industry Association and Rutgers University, The State University of New Jersey Presentation. Retrieved 9 July 2018, from <http://bloustein.rutgers.edu/wp-content/uploads/2012/03/Ramirez.pdf>

60 Lerner, S., & Appelbaum, E. (2014, June). *Business As Usual: New Jersey Employers' Experiences with Family Leave Insurance*. Center for Economic and Policy Research Publication. Retrieved 2 July 2018, from <http://www.demos.org/sites/default/files/publications/nj-fli-2014-06.pdf>

researchers at Columbia Business School reports no negative effects on employee workflow, productivity or attendance, and finds that 61 percent of employers report supporting the law.<sup>61</sup> Larger and smaller businesses were actively engaged in crafting an extremely strong paid leave policy in Washington state, praised by the Washington Hospitality Association, the Northwest Grocery Association and the Washington Retail Association, and in Massachusetts as well.<sup>62</sup>

## **II. A Comprehensive, Inclusive, Affordable and Sustainable National Paid Leave Plan is What People Want and the Country Needs**

The National Partnership and our partners in the advocacy, research and business communities urge Congress to pass a national paid family and medical leave plan that addresses working people's need for leave for well-established FMLA reasons, offers meaningful benefits and is affordable and sustainable for workers, employers and the government. At this time, the Family And Medical Insurance Leave (FAMILY) Act (S. 337/H.R. 947) is the only federal proposal that meets these essential requirements.

The FAMILY Act would create a strong, inclusive national paid family and medical leave insurance program and set a nationwide paid leave baseline. It would cover eligible individuals across the country, no matter where they live, their employer or their job; and it would apply whether they are caring for a new child, a seriously ill or injured loved one, their own serious health condition or dealing with a family member's call to military duty or a service member's health issue. It would do so by creating a new, self-sustaining fund from which working people would receive paid leave for up to 12 weeks. Workers who typically earn low and even mid-level wages would receive two-thirds of their typical wages for that time. And people who need to take time away from their jobs would be protected from retaliation when they do.

The FAMILY Act fund would be self-sustaining and deficit-neutral, just like the state programs that have paved the way. Payroll deductions from both employees and employers and contributions from self-employed workers would fund both the benefits and the administrative costs of the program. The program would be administered through a new Office of Paid Family and Medical Leave within the Social Security Administration (SSA) to help create an efficient, uniform standard. Program integrity measures would help ensure appropriate use, as has worked in the states. And employers that seek competitive advantages over competitors or have a particular desire to attract talent could add to FAMILY Act benefits.

The FAMILY Act would provide the comprehensiveness and affordability that voters want in a paid leave plan, the help that small businesses need to ensure their workers have access to leave, and the consistency and certainty larger multi-state businesses want. It also reflects core values on which people of all ideologies and parties agree: Connecting people to work, valuing care, honoring commitment to family, encouraging health and the

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61 Bartel, A., et al. (2016, January). *Assessing Rhode Island's Temporary Caregiver Insurance Act: Insights from a Survey of Employers*. U.S. Department of Labor Publication. Retrieved 9 July 2018, from [http://www.dol.gov/asp/evaluation/completed-studies/AssessingRhodeIslandTemporaryCaregiverInsuranceAct\\_InsightsFromSurveyOfEmployers.pdf](http://www.dol.gov/asp/evaluation/completed-studies/AssessingRhodeIslandTemporaryCaregiverInsuranceAct_InsightsFromSurveyOfEmployers.pdf)

62 Washington Hospitality Association. (2017, June 30). *Businesses support bipartisan law creating statewide paid family and medical leave*. Retrieved 2 July 2018, from <https://wahospitality.org/blog/businesses-support-bipartisan-law-creating-statewide-paid-family-and-medical-leave/>; Leung, S. (2018, June 28). How progressives and businesses made an unlikely deal on family leave. *The Boston Globe*. Retrieved 2 July 2018, from <https://www.bostonglobe.com/business/other/2018/06/28/how-progressives-and-businesses-made-unlikely-deal-family-leave/7fRz5Pv0VCy8WDbeG32VeP/story.html?event=event25?event=event25>

responsible use of health care services, supporting employment and business innovation and strengthening our economy.

Each component in the FAMILY Act is grounded in economic, health, business and user-centered research, including research based on the experiences of workers and employers with state paid leave programs.

### **A. State Paid Leave Plans Show Us How to Design a Program Built to Last – the FAMILY Act in Perspective**

Six states plus the District of Columbia now have or will soon have paid family and medical leave policies in place to guarantee private sector workers access to a portion of their wages when they need to take time away from their jobs to care for themselves, a seriously ill or injured loved one or a new child. California's program has been in place since 2004, New Jersey's since 2009, Rhode Island's since 2014 and New York's launched this year. Each of these four states' programs build on decades-old TDI programs, which have provided wage replacement to workers with serious injuries or illnesses that required time away from work. Strong new programs, built from scratch, will begin collecting revenues within the next two years and begin offering paid leave benefits in Washington state and the District of Columbia in 2020, and in Massachusetts in 2021.<sup>63</sup>

Evidence from the longest-standing state programs in California, New Jersey and Rhode Island shows that these programs benefit parents and children, people with serious health issues, employers and taxpayers. Key data and findings are included in the attached National Partnership for Women & Families fact sheet, *Paid Leave Works in California, New Jersey and Rhode Island*. Researchers have also identified areas for improvement in existing programs to better meet people's needs. California has expanded its law multiple times and newer state programs have innovated on the older programs, including by offering higher rates of wage replacement for lower-wage workers, longer leave durations, a wider range of family members to whom a leave-taker can provide care and job protection guarantees that go beyond federal or state FMLA laws. An attachment to this testimony includes a chart detailing the key parameters of each state's law.

State policy designs offer lessons about what a workable national paid leave program should look like, and comparisons to more generous state plans show that the FAMILY Act is a reasonable, common-sense approach to guaranteeing paid leave to America's workforce. I'll touch briefly on key elements that must be embedded in any paid leave plan in order for it to meet the country's needs:

- **Comprehensive of all FMLA-covered events and gender-equal.** The FAMILY Act would provide paid leave to people equally, no matter their gender, for each FMLA-covered event – caring for a family member with a serious health condition, one's own serious health condition, military family care needs and care for a new child. In every state that has adopted a paid leave plan so far – and in the vast majority of the bills introduced in more than 30 states in the most recent legislative sessions – paid leave would be available for new parents, people caring for seriously ill or injured family members and people's own serious illnesses. To create consistency

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63 National Partnership for Women & Families. (2018, July). *State Paid Family and Medical Leave Insurance Laws*. Retrieved 2 July 2018, from <http://www.nationalpartnership.org/research-library/work-family/paid-leave/state-paid-family-leave-laws.pdf>

and to meet the needs of the workforce and employers now and in the future, any federal plan must include all of the FMLA-covered reasons that working people need leave and must offer gender-equal benefits.

- **Adequate wage replacement.** The FAMILY Act offers a 66 percent wage replacement rate, up to a \$4,000 monthly cap. Early research on California indicated that California’s original wage replacement rate of 55 percent was too low for low-wage workers to be able to make maximum use of leave, even as its weekly cap (\$1,216 in 2018, around \$1,000 in 2013) was high enough for middle-income workers;<sup>64</sup> As a result of early studies and a market research report conducted by the California Employment Development Department,<sup>65</sup> the California legislature updated the state’s paid family leave program in 2016 to increase the wage replacement rate up to 70 percent for lower-wage workers and 60 percent for others. Rhode Island’s plan offers approximately 60 percent of a worker’s wages (up to just over \$800 per week); New York’s plan will offer a two-thirds wage replacement rate when the program is fully phased in in 2021 (with a maximum weekly benefit capped at \$1,000); and Washington, the District of Columbia and Massachusetts have each included higher wage replacement rates of 80 to 90 percent for lower-wage workers so they can afford to take leave, with reduced wage replacement rates for higher-income workers (still averaging around two-thirds wage replacement for median-wage workers, with weekly caps of \$850-1,000 per week).<sup>66</sup>

Any federal plan must replace at least two-thirds of a worker’s wages, as the FAMILY Act does, and offer a meaningful capped benefit so that middle-wage workers can afford to take leave. As Congress considers paid leave policy options, it could also consider progressive wage replacement as the three newest state programs have done, so that lower-wage workers receive a higher share of their wages.

- **Meaningful duration of leave.** The FAMILY Act offers a combined 12 weeks of leave annually for all FMLA purposes to create consistency with the FMLA, reflect the minimum amount of leave needed for maternal and child health and to provide adequate paid time off for people dealing with personal or family care needs.<sup>67</sup> States’ TDI and paid family leave programs go further, and analysis shows that people only use the leave they need, rather than the maximum amount available;<sup>68</sup> after all, with replacement of only a portion of one’s typical wages, people have an incentive to get back to work when their need to provide or receive care is over.

The duration of leave in the FAMILY Act is modest compared to many state plans. California provides six weeks of paid leave for family caregiving, including caring for

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64 Bana, S., Bedard, K., & Rossin-Slater, M. (2018, May). Trends and Disparities in Leave Use under California’s Paid Family Leave Program: New Evidence from Administrative Data. *AEA Papers and Proceedings*, 108, 388-391. Retrieved 3 July 2018, from <https://www.aeaweb.org/articles?id=10.1257/pandp.20181113>; State of California Employment Development Department. (2015, December 14). *Paid Family Leave Market Research*. Retrieved 2 July 2018, from [https://www.edd.ca.gov/Disability/pdf/Paid\\_Family\\_Leave\\_Market\\_Research\\_Report\\_2015.pdf](https://www.edd.ca.gov/Disability/pdf/Paid_Family_Leave_Market_Research_Report_2015.pdf); Milkman, R., & Appelbaum, E. (2013). *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy* (pp. 67-68). Ithaca, NY: Cornell University Press

65 State of California Employment Development Department. (2015, December 14). *Paid Family Leave Market Research*. Retrieved 2 July 2018, from [https://www.edd.ca.gov/Disability/pdf/Paid\\_Family\\_Leave\\_Market\\_Research\\_Report\\_2015.pdf](https://www.edd.ca.gov/Disability/pdf/Paid_Family_Leave_Market_Research_Report_2015.pdf)

66 See note 63.

67 WORLD Policy Analysis Center. (2018, February). *A Review of the Evidence on the Length of Paid Family and Medical Leave*. Retrieved 3 July 2018, from <https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Length%20Paid%20Family%20and%20Medical%20Leave.pdf>

68 Analysis of state temporary disability insurance and paid family leave insurance programs in California, New Jersey and Rhode Island conducted by Dr. Sarah Jane Glynn for the National Partnership for Women & Families, January 2018; see also Bana, S., Bedard, K., & Rossin-Slater, M. (2018, May). Trends and Disparities in Leave Use under California’s Paid Family Leave Program: New Evidence from Administrative Data. *AEA Papers and Proceedings*, 108, 388-391. Retrieved 3 July 2018, from <https://www.aeaweb.org/articles?id=10.1257/pandp.20181113>

a new child, and 52 weeks of leave to recover from a temporary disability;<sup>69</sup> average utilization is 16 weeks for TDI and 5.4 weeks for paid family leave (women who give birth typically take 12 weeks).<sup>70</sup> New Jersey allows six weeks for family leave and 26 weeks for temporary disability;<sup>71</sup> average program utilization is 71 days for TDI and 5.2 weeks for paid family leave (again, women who give birth combine the two types of leave).<sup>72</sup> Rhode Island provides four weeks of family leave and 30 weeks of leave for temporary disability, up to a combined total of 30 weeks per year;<sup>73</sup> average utilization is 10.4 weeks for TDI and 3.6 weeks for paid family leave.<sup>74</sup> New York will eventually offer 12 weeks of family leave when the law is fully phased in in 2021, and has long provided 26 weeks of temporary disability leave.<sup>75</sup> Washington state will soon offer 12 weeks of family leave and 12 to 14 weeks of personal medical leave, up to a combined total of 16 to 18 weeks per year.<sup>76</sup> And Massachusetts has just enacted a law that will provide 12 weeks of family leave and 20 weeks of medical leave, up to a combined total of 26 weeks annually.<sup>77</sup>

- **Inclusive family definitions.** The FAMILY Act incorporates the FMLA’s definition of family members (parents, children under 18, adult children incapable of self-care, spouses) and domestic partners. Each state paid leave law includes those covered in this definition and all but one (New Jersey) is substantially more expansive, recognizing that families come in many forms. For example, in 2013, California amended its law to allow family caregiving for grandparents, grandchildren, siblings and parent-in-law, and now every state paid leave program except New Jersey’s includes caring for a grandparent in addition to a parent, spouse, partner or child. Four states permit family care leave to be used for siblings; three recognize grandchildren; two recognize parents-in-law.<sup>78</sup> Families in the United States are diverse, and federal law should recognize different ways that families manage the care needs of their loved ones.
- **Affordable, sustainable funding.** The FAMILY Act would be funded through small payroll deductions shared equally by employers and employees, or paid in full by independent contractors who receive 1099 forms. This is consistent with state financing of paid leave: Each state plan is funded through payroll deductions that are either paid by employers, employees or shared in some proportion by each. In no state are payroll deductions onerous, ranging from 0.09 percent in New Jersey (taxed on only the first \$33,700 in wages) for six weeks of family and parental leave<sup>79</sup> and 0.126 percent in New York for eight weeks of family leave (taxed on the first

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69 Cal. Unemp. Ins. Code §§ 3301(c), 2653.

70 State of California Employment Development Department. (2018, June 12). *Disability Insurance (DI) – Monthly Data*. Retrieved 2 July 2018, from <https://data.edd.ca.gov/Disability-Insurance/Disability-Insurance-DI-Monthly-Data/29jg-ip7e/data>; State of California Employment Development Department. (2018, June 12). *Paid Family Leave (PFL) – Monthly Data*. Retrieved 2 July 2018, from <https://data.edd.ca.gov/Disability-Insurance/Paid-Family-Leave-PFL-Monthly-Data/r95e-fvkm>

71 N.J. Stat. § 43:21-39(b).

72 New Jersey Department of Labor and Workforce Development. (2017, August). *Temporary Disability Insurance Workload in 2016: Summary Report*. Retrieved 2 July 2018, from [https://www.nj.gov/labor/forms\\_pdfs/tdi/TDI%20Report%20for%202016.pdf](https://www.nj.gov/labor/forms_pdfs/tdi/TDI%20Report%20for%202016.pdf); New Jersey Department of Labor and Workforce Development. (2017, August). *Family Leave Insurance Workload in 2016: Summary Report*. Retrieved 2 July 2018, from [https://www.nj.gov/labor/forms\\_pdfs/tdi/FLI%20Summary%20Report%20for%202016.pdf](https://www.nj.gov/labor/forms_pdfs/tdi/FLI%20Summary%20Report%20for%202016.pdf)

73 R.I. Gen. Laws §§ 28-41-7 28-41-35(d)(1), (f).

74 Rhode Island Department of Labor and training. (2017). *2016 Annual Report*. Retrieved 3 July 2018, from <http://www.dlt.ri.gov/pdf/2016AnnualRpt.pdf>

75 N.Y. Workers’ Comp. Law §§ 204(2)(A), 205(1).

76 S.B. 5975, 65th Leg., 3rd Special Sess. (Wash. 2017).

77 H. 4640, 190th Gen. Court, Reg. Sess. (Mass. 2018).

78 See note 63.

79 State of New Jersey Employment Development Department. (n.d.). *FLI – Cost to the Worker*. Retrieved 6 July 2018, from <https://www.nj.gov/labor/fli/content/cost.html>; Temporary disability insurance is shared in New Jersey – 0.19 percent of the first \$33,700 for workers and an amount ranging from 0.1 to 0.75 for employers on the first \$33,700 of a workers’ wages to fund the state’s 26-week temporary disability insurance program. State of New Jersey Employment Development Department. (n.d.). *TDI – Cost to the Worker – State Plan*. Retrieved 6 July 2018, from [https://www.nj.gov/labor/tdi/state/sp\\_cost.html](https://www.nj.gov/labor/tdi/state/sp_cost.html)

\$67,908 in wages), to up to one percent of wages in California (taxed on employees' first \$114,967 in wages), which funds a statewide program offering 52 weeks of TDI and six weeks of family care and parental leave and 1.1 percent in Rhode Island (taxed on employees' first \$69,300 in wages), which funds a state program offering 30 weeks of disability and four weeks of family care and parental leave.<sup>80</sup>

To my knowledge, there has not been any backlash in states on these payroll deduction rates nor does the literature reflect any indication of pushback on these rates as too high or too onerous for either low-wage workers or, where applicable, employers. Researchers have modeled the costs of paid leave programs in states across the country and at the federal level and routinely estimate payroll deductions at or below 1 percent – most within the 0.35 to 0.6 range – depending on the duration of leave and the wage replacement rate.<sup>81</sup>

- **Employment protections.** The FAMILY Act would offer anti-retaliation protections to the 41 percent of workers who are not covered by the federal FMLA.<sup>82</sup> This is critical because research on California's program and New Jersey's has shown that workers without FMLA job protection, particularly low-income workers, often fear repercussions for taking leave and therefore forgo the paid leave that the state plan makes available.<sup>83</sup> Newer state laws address this critical need for employment security, with Massachusetts offering full job protection – reinstatement to the same or an equivalent job after returning from leave – for family and medical leave, and New York and Rhode Island offering job protection for family leave. The state FMLA law in California was just amended to offer job protection to new parents in smaller businesses so that these paid leave-takers are protected; FMLA and anti-discrimination laws are also more expansive in Washington, D.C. and Washington state and will protect some paid-leave takers that are not covered by the federal FMLA.<sup>84</sup>

## B. Public Support for the FAMILY Act Approach

Not only is the FAMILY Act informed by research and successful state experience, it is the type of plan voters support. Survey after survey confirms that people in the United States want and need paid family and medical leave and that a plan like the FAMILY Act fits their needs and desires. At the end of 2016, 71 percent of voters said they or their families would face substantial financial hardship if a serious family or medical need arose.<sup>85</sup> Eight

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<sup>80</sup> See note 63.

<sup>81</sup> Hayes, J., & Hartmann, H. (2018, February 2). *Paid Family and Medical Leave Insurance: Modest Costs are a Good Investment in America's Economy*. Institute for Women's Policy Research Publication. Retrieved 5 July 2018, from [https://iwpr.org/wp-content/uploads/2018/02/B368\\_Paid-Leave-Fact-Sheet-1.pdf](https://iwpr.org/wp-content/uploads/2018/02/B368_Paid-Leave-Fact-Sheet-1.pdf); Pennsylvania Department of Labor & Industry. (2017, November 14). *Paid Family and Medical Leave in Pennsylvania: Research Findings Report* (p. 16). Retrieved 3 July 2018, from [https://www.dol.gov/wb/media/Pennsylvania\\_Final\\_Report.pdf](https://www.dol.gov/wb/media/Pennsylvania_Final_Report.pdf); Montana Budget & Policy Center. (2016, May). *Helping People Balance Work and Family: It's Within Montana's Reach* (Table 2). Retrieved 3 July 2018, from <http://www.mbadmin.jaunt.cloud/wp-content/uploads/2016/07/Paid-Leave-Updated-Report-3.pdf>; Glynn, S. J., Goldin, G., & Hayes, J. (2016). *Implementing Paid Family and Medical Leave Insurance Connecticut* (pp. 17-21). Institute for Women's Policy Research Publication. Retrieved 3 July 2018, from <https://www.ctdol.state.ct.us/FMLI%20report%20for%20CT.pdf>; University of Minnesota (2016, February). *Paid Family & Medical Leave Insurance: Options for Designing and Implementing a Minnesota Program* (Table 63). Retrieved 3 July 2018, from [https://mn.gov/deed/assets/paid-family-medical\\_tcm1045-300604.pdf](https://mn.gov/deed/assets/paid-family-medical_tcm1045-300604.pdf); Albelda, R., & Clayton-Matthews, A. (2016, July 18). *Cost, Leave and Length Estimates Using Eight Different Leave Program Schemes for Washington* (Table 2). Retrieved 3 July 2018, from [http://governor.wa.gov/sites/default/files/documents/2016-11-22\\_WAPaidLeave\\_modeling\\_final\\_report.pdf](http://governor.wa.gov/sites/default/files/documents/2016-11-22_WAPaidLeave_modeling_final_report.pdf); see also *ibid*.

<sup>82</sup> See note 16.

<sup>83</sup> See note 65; see also Setty, S., Skinner, C., & Wilson-Simmons, R. (2016, March). *Protecting Workers, Nurturing Families: Building an Inclusive Family Leave Insurance Program Findings and Recommendations from the New Jersey Parenting Project*. National Center for Children in Poverty Publication. Retrieved 3 July 2018, from [http://www.nccp.org/publications/pub\\_1152.html](http://www.nccp.org/publications/pub_1152.html)

<sup>84</sup> See note 63.

<sup>85</sup> Lake Research Partners and the Tarrance Group. (2016, November). Polling commissioned by the National Partnership for Women & Families. Retrieved 2 July 2018, from <http://www.nationalpartnership.org/research-library/work-family/lake-research-partners-2016-election-eve-omnibus-toplines-for-national-partnership-for-women-and-families.pdf>

in 10 (82 percent) said it was important for Congress and the president to consider creating a national paid leave plan. More than three-quarters (78 percent) expressed support for a comprehensive, 12-week national paid family and medical leave law, including 66 percent of Republicans, 77 percent of independents and 93 percent of Democrats; nearly two-thirds of voters (64 percent) said they would “strongly favor” such a law.<sup>86</sup> Research in 15 states conducted earlier in 2016 confirmed voters’ willingness to pay for a paid leave plan, and most indicated they were willing to pay much more than the FAMILY Act would cost.<sup>87</sup>

To follow up on national polling, the National Partnership commissioned a bipartisan research team to conduct focus groups with conservative and independent voters in September 2017 in Missouri, Nevada, Texas and Virginia. These voters, most of whom had voted for the President Trump, preferred the FAMILY Act model to an employer tax credit, a tax-free savings account or a limited parents-only leave program; they found the shared contribution system used in the FAMILY Act to be fair, its cost to be reasonable and its comprehensive coverage of family care, personal medical leave and parental leave to be essential to meeting their current or anticipated needs.<sup>88</sup> Additional qualitative research commissioned around the same time by the national grassroots group, MomsRising, also concluded that voters see the need for paid leave that covers all family care needs and stress the importance of protecting leave-takers against adverse consequences at work.<sup>89</sup>

### **C. Business Support for the FAMILY Act Approach**

More than 75 companies and business leaders across the country have endorsed the FAMILY Act.<sup>90</sup> They represent a cross-section of industries, including apparel manufacturing and sales, food and hospitality, technology and financial services. The reasons they give echo those offered by more than 200 business and management school experts who, in 2015, reached out to Congress asking for your support in passing the FAMILY Act<sup>91</sup> – gender equity, workforce and talent development and U.S competitiveness, among others.

Over the past two years, in individual discussions with company leaders and in meetings with employer coalitions and benefits consultants, we have seen a growing interest in establishing a national paid leave baseline. Some businesses want the certainty and stability that a federal standard would provide; they believe paid leave is coming, either at the state level or nationally, and would prefer to level-set on a national basis. Others focus on the value that their own strong paid leave policies have had on their employees’ lives and believe that all working people and families should have the same. For example, a senior leader at Environmental Science Associates (ESA), a mid-size company with several hundred employees at offices in California and several other states, has spoken publicly about the positive effects that California’s law has had on employees there and indicated

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86 Ibid.

87 National Partnership for Women & Families. (2016, September 29). *Voters’ Willingness to Pay for a National Paid Leave Fund*. Retrieved 3 July 2018, from <http://www.nationalpartnership.org/research-library/work-family/paid-leave/memo-voters-willingness-to-pay-for-a-national-paid-leave-fund.pdf>

88 Perry Udem Research and Bellwether Consulting. (2018, January). *Highlights from Focus Groups with Conservative Voters on Paid Family and Medical Leave* (on file with the National Partnership for Women & Families)

89 Lake Research Partners and MomsRising.org (2018, February). *Interested Parties Memo on Key Findings from Recent Qualitative Research*. Retrieved 2 July 2018, from [https://s3.amazonaws.com/s3.momsrising.org/images/MomsRising\\_LPR\\_Interested\\_Parties\\_memo\\_on\\_paid\\_leave.pdf](https://s3.amazonaws.com/s3.momsrising.org/images/MomsRising_LPR_Interested_Parties_memo_on_paid_leave.pdf)

90 Better Workplaces, Better Businesses. (n.d.). *Testimonials from Business Leaders Who Support the FAMILY Act*. Retrieved 2 July 2018, from <http://betterwbb.org/testimonials-from-business-leaders-who-support-the-family-act/>

91 See note 7.



that ESA would like their employees in other states to have those benefits through public policy too.<sup>92</sup>

It is not just larger businesses that support the FAMILY Act approach. Smaller businesses across the country see value in a shared-cost model like the ones that have benefited small companies in California, New Jersey and Rhode Island. These small business owners say the FAMILY Act model would help level the playing field with large corporations, improve worker retention, productivity and morale, and help protect their own economic security if an accident or medical emergency occurs.<sup>93</sup> This is part of the reason that 70 percent of small businesses with 100 or fewer employees surveyed nationwide support the FAMILY Act model of shared payroll deductions.<sup>94</sup>

### **III. Paid Leave and Retirement Security Are Both Important – One Cannot Come at the Expense of the Other**

The developing consensus that a social insurance model is the right way to design a national paid leave program is encouraging – and we agree that, with new resources for start-up and technology improvements, benefits and administration, the SSA is the agency that is best positioned to administer this benefit. But it is reckless and unnecessary to jeopardize Social Security’s core functions and workers’ retirement savings in order to provide paid leave. Social Security represents a promise to U.S. workers and their families that has been built up and honored for more than 80 years; Social Security has a history of updates to better reflect people’s needs, but those updates have always been additive. Social Security should not be limited, cut or privatized.

No one should face delayed retirement and a benefit cut in the future because they access paid leave today. We are deeply concerned that, under a plan proposed by the Independent Women’s Forum (IWF), working people would face exactly that Hobson’s choice.<sup>95</sup> The IWF proposal would fundamentally alter the operating principle of Social Security by contemplating that people who use the program early in life would later face a penalty for doing so. No paid leave program should ever penalize those who use it.

There are five key problems with the IWF approach, based on the research and evidence presented above, the realities of retirement for millions of women, low-income workers and people of color and the current circumstances of the SSA itself.

#### **A. Parental Leave Only Is Insufficient**

First, as discussed in Section I, any plan that applies only to parents caring for new children and excludes 75 percent of people who take family and medical leave is unacceptable, short-sighted and would very likely be detrimental to the income and

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92 Bonilla, A. (2017, March 29). Making the Business Case for a More Family Friendly and Prosperous America [video stream of Silicon Valley Community Foundation event]. Retrieved 6 July 2018, from <https://www.facebook.com/LeaveLogic/videos/1455624167795091/>

93 Main Street Alliance. (2017). *National Paid Family and Medical Leave: A Proposal for Small Business Success*. Retrieved 2 July 2018, from [https://d3n8a8pro7vnm.cloudfront.net/mainstreetalliance/pages/10/attachments/original/1486411533/PFML\\_2017\\_Report.pdf?1486411533](https://d3n8a8pro7vnm.cloudfront.net/mainstreetalliance/pages/10/attachments/original/1486411533/PFML_2017_Report.pdf?1486411533)

94 Lake Research Partners. (2017, February). Polling commissioned by Small Business Majority and Center for American Progress. Retrieved 2 July 2018, from <http://www.smallbusinessmajority.org/sites/default/files/research-reports/033017-paid-leave-poll.pdf>

95 We are responding here to the January 2018 “policy focus” paper published by the Independent Women’s Forum, which proposes allowing people to use existing Social Security resources, at Social Security Disability Insurance wage replacement rates, to fund 12 weeks of paid parental leave. See Shapiro, K. A. (2018, Jan.), *A Budget Neutral Approach to Parental Leave*. Independent Women’s Forum Publication. Retrieved 9 July 2018 from <http://iwf.org/publications/2805496/Policy-Focus-A-Budget-Neutral-Approach-to-Parental-Leave>

retirement security of a growing share of the population caring for aging and ill loved ones or their own serious health issue. Parental-only leave would also lead to stark inequities within the workplace, even for people with young children: A parent of a newborn would have access to paid time away from work for bonding, but a coworker whose six-month-old is critically ill or whose spouse needs postpartum care would have no guarantee of time or income support.

## **B. Wage Replacement Rates and Benefit Caps Are Too Low to Be Meaningful for Most People**

Second, although Social Security Disability Insurance (SSDI) rates do provide very high wage replacement to the very lowest income workers, its wage replacement rates drop sharply. The parental leave benefit proposed by IWF would provide inadequate levels of wage replacement to most workers (an estimated 45 percent of usual wages, according to IWF, or 54 percent, according to the Urban Institute). Moreover, the average SSDI monthly benefits (approximately \$1,200 in 2018) are much lower than what state plans offer.<sup>96</sup> As noted above, researchers studying California's paid family leave program concluded that its original 55 percent wage replacement rate was too low for many workers to use, precipitating a change in California's law. Newer state programs have responded as well, by creating progressive wage replacement rates that provide more wage replacement to low-income workers during their leaves and meaningful wage replacement for all people who take leave. Researchers who have studied examples abroad conclude that wage replacement should be at least 67 percent of a worker's usual wages, and that an optimal wage replacement rate for both affordability and gender equity is 80 percent.<sup>97</sup>

## **C. The IWF Policy Design Could Promote Gender Bias and Reinforce Gendered Caregiving Norms**

The first and second problems together create a third: the risk of exacerbating gender-based bias and reinforcing, rather than breaking down, gender stereotypes. A program that only covers new parents and offers low wage replacement rates will be used primarily by lower-wage women who have given birth and have no other option and a significant need. Indeed, one reason the FMLA was designed to cover family caregiving leave and personal medical leave was to minimize the potential for employment discrimination.<sup>98</sup> While fathers increasingly want to, and do, provide care for their families,<sup>99</sup> norms and stereotypes about gender, work and caregiving mean that some employers perceive mothers and young women as less committed workers. A paid leave program that is only accessible to parents, especially one with low wage replacement and low maximum benefits, could exacerbate implicit bias and discrimination, undermining the potential of gender-equal leave to help create workplace equity and foster women's employment opportunities.

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96 Social Security Administration. (2018). *Annual Statistical Supplement, 2018* (Table 5.E1). Retrieved 3 July 2018, from <https://www.ssa.gov/policy/docs/statcomps/supplement/2018/5e.html#table5.e2>

97 WORLD Policy Analysis Center. (2018, February). *A Review of the Evidence on Payment and Financing of Family and Medical Leave*. Retrieved 3 July 2018, from [https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Payment%20and%20Financing%20of%20Paid%20Family%20and%20Medical%20Leave\\_0.pdf](https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Payment%20and%20Financing%20of%20Paid%20Family%20and%20Medical%20Leave_0.pdf)

98 Family and Medical Leave Act of 1993, Pub. L. No. 103-3, § 2, 107 Stat. 6, 6-7 (1993), available at [https://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC\\_2\\_FINDINGS\\_AND\\_PURPOSES](https://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_2_FINDINGS_AND_PURPOSES).

99 Harrington, B., Van Deusen, F., Sabatini Fraone, J., Eddy, S., & Haas, L. (2014). *The New Dad: Take Your Leave. Perspectives on paternity leave from fathers, leading organizations, and global policies*. Boston College Center for Work & Family Publication. Retrieved 2 July 2018, from [http://www.thenewdad.org/yahoo\\_site\\_admin/assets/docs/BCCWF\\_The\\_New\\_Dad\\_2014\\_FINAL.157170735.pdf](http://www.thenewdad.org/yahoo_site_admin/assets/docs/BCCWF_The_New_Dad_2014_FINAL.157170735.pdf); Heilman, B., Cole, G., Matos, K., Hassink, A., Mincy, R., & Barker, G. (2016). *State of America's Fathers*. A MenCare Advocacy Publication. Retrieved 2 July 2018, from [http://men-care.org/soaf/download/PRO16001\\_Americas\\_Father\\_web.pdf](http://men-care.org/soaf/download/PRO16001_Americas_Father_web.pdf)

#### **D. Retirement Penalties Would Average Tens of Thousands of Dollars – with Especially Harsh Effects in Retirement for Women, People of Color and Lower-Wage Workers**

Fourth, and of intense concern, is the penalty at retirement that workers who have used parental leave benefits will be forced to absorb. The IWF paper incorrectly assumes that people can make an unconstrained choice to work longer, and it also frames delayed retirement as a trade-off between working longer and a benefit cut, when in fact, delaying retirement itself means lower lifetime benefits. Urban Institute researchers estimate that a 12-week leave would require a 20-25 week increase in the age at which a retiree can receive full benefits, which is equivalent to a three percent benefit cut.<sup>100</sup> Two 12-week leaves – the duration that a mother with two children might take – would require a six percent benefit cut. The lifetime loss of benefits would average more than \$12,500 for a mother of two, whether she delays her retirement date or retires on time with a reduced monthly benefit. A family that has four children would see a 10 percent reduction in Social Security benefits – essentially penalizing parents who choose to have larger families.<sup>101</sup>

The IWF proposal would be particularly detrimental to women's retirement security, as well as to people of color and low-wage workers, who are less likely to have employer-provided paid parental leave<sup>102</sup> and therefore would be more likely to use parental leave benefits that will cost them retirement income they will need later. Social Security benefits comprise a larger total share of retirement income for these workers in retirement,<sup>103</sup> so the IWF proposal is especially concerning. Women would be substantially harmed because they spend more time out of the workforce or reduce their working hours to care for children and older adults and also have lower average wages for full-time, year-round work relative to men. These factors contribute to a gender gap in Social Security retirement benefits, which are an average of 20 percent lower for women – \$1,244 for women compared to \$1,565 per month for men, as of December 2017.<sup>104</sup> For women of color, the double bind of the wage gap and the racial wealth gap is even more punishing at retirement.<sup>105</sup> The fundamental goal of a national paid leave program should be to strengthen and support women and working families; the IWF proposal instead promises to take the most from those who can afford it the least.

#### **E. The Social Security Administration Needs Enhanced Resources and Not a Diversion of Existing Resources to Administer a New Benefit**

Fifth, the IWF proposal does not contemplate any new resources for the SSA to create or administer this new benefit. SSA is already underfunded, has backlogs and is unable to

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100 Favreault, M. M., & Johnson, R. W. (2018, April). *Paying for Parental Leave with Future Social Security Benefits*. Urban Institute Publication. Retrieved 3 July 2018, from [https://www.urban.org/sites/default/files/publication/98101/paying\\_for\\_parental\\_leave\\_with\\_future\\_social\\_security\\_benefits\\_0.pdf](https://www.urban.org/sites/default/files/publication/98101/paying_for_parental_leave_with_future_social_security_benefits_0.pdf)

101 Ibid.

102 See note 1, table 32; Analysis of demographic data from several U.S. government surveys conducted for the National Partnership for Women & Families by E. Del Morone, E. Hamilton, E. Krevsky, A. Sprover, & C. Viall, The George Washington University Trachtenberg School of Public Policy & Public Administration, May 2018 (on file with the National Partnership for Women & Families)

103 Dushi, I., Iams, H. M., & Trenkamp, B. (2017, May). The Importance of Social Security Benefits to the Income of the Aged Population. *Social Security Bulletin*, 77(2), 1-12. Retrieved 3 July 2018, from <https://www.ssa.gov/policy/docs/ssb/v77n2/v77n2p1.html>

104 Social Security Administration. (2018). *Annual Statistical Supplement, 2018* (Table 5.A6). Retrieved 3 July 2018, from <https://www.ssa.gov/policy/docs/statcomps/supplement/2018/5a.html#table5.a6>

105 McCulloch, H. (2017, January). *Closing the Women's Wealth Gap: What It Is, Why It Matters, and What Can Be Done About It*. Closing the Women's Wealth Gap Initiative Publication. Retrieved 3 July 2018, from <https://womenswealthgap.org/wp-content/uploads/2017/06/Closing-the-Womens-Wealth-Gap-Report-Jan2017.pdf>; see also Richard, K. (2014, October). *The Wealth Gap for Women of Color*. Center for Global Policy Solutions Publication. Retrieved 3 July 2018, from <http://www.globalpolicysolutions.org/wp-content/uploads/2014/10/Wealth-Gap-for-Women-of-Color.pdf>; National Academy of Social Insurance. (n.d.). *Social Security and People of Color*. Retrieved 3 July 2018, from <https://www.nasi.org/learn/socialsecurity/people-of-color>

provide the high-level of customer service that people need.<sup>106</sup> Congress should provide the SSA more funds to help retirees and people with disabilities live with greater financial security and to shore up SSA technology and infrastructure – not repurpose limited resources and further stretch already-overburdened SSA staff to implement a new program and add new benefits from existing funds.

## **F. Additional Concerns about Setting a Harmful Precedent**

Beyond the four corners of the IWF proposal itself, the concept creates a dangerous precedent of diverting existing, dedicated Social Security funds for non-retirement purposes and encouraging an individualized, pro-privatization mindset about this bedrock social insurance program. The president of the IWF has said as much.<sup>107</sup> Social Security works because everyone pays in; a national paid leave program would work because everyone would pay in. This would keep costs low and benefits meaningful and available when people need them.

Finally, while the IWF proposal purports to be budget-neutral, the Urban Institute analysis found that such a program would in fact run a cash deficit every year of its operation because the costs of one cohort's leave-taking would not be recouped until their retirement benefit offsets had been fully realized – generally decades later. Furthermore, it would raise the net costs of the Social Security program by an estimated one percent per year and would slightly accelerate the projected date at which Social Security would no longer be able to pay full scheduled retirement benefits.<sup>108</sup>

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We at the National Partnership for Women & Families are eager to engage in a bipartisan process that results in a strong, comprehensive, sustainable and affordable national paid family and medical leave social insurance program. We look forward to working with you and your colleagues to help ensure that people who work have the security and stability they need to take time from their jobs to gaze into the eyes of a new child and form a lifelong bond, hold the hand of a dying parent, or recover from their own serious health issue.

Research and evidence show what a workable plan should include and how it can be designed efficiently and effectively to provide baseline paid leave coverage to every working person in the country, no matter where they live or work or the job they hold. I urge you not to be tempted by a half-measure that would do more harm than good. The FAMILY Act is the paid leave plan the country needs to strengthen families, businesses and our economy and promote many of the core values we collectively hold most dear.

Thank you. I look forward to answering your questions.

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106 Romig, K. (2017, October 6). *More Cuts to Social Security Administration Funding Would Further Degrade Service*. Center on Budget and Policy Priorities Publication. Retrieved 3 July 2018, from <https://www.cbpp.org/research/social-security/more-cuts-to-social-security-administration-funding-would-further-degrade>

107 Lukas, C. (2018, February 2). *Why Running Parent Leave Through Social Security Is The Smartest Live Option*. The Federalist Publication. Retrieved 3 July 2018, from <https://thefederalist.com/2018/02/02/running-parent-leave-social-security-smartest-live-option/> (IWF president Carrie Lukas writes that "encouraging people to think about Social Security's assets as if those benefits are their property for use now or at retirement could even encourage people to want to move more in that direction [of privatization and individual control of Social Security assets] and transform the current pay-as-you-go system into one that pre-funds future benefits and with assets that belong to individuals.")

108 See note 99.



## State Paid Family and Medical Leave Insurance Laws

July 2018

	California	New Jersey	Rhode Island	New York	District of Columbia	Washington	Massachusetts
<b>Status</b>	<p>Enacted 2002, effective 2004; expanded 2016, effective 2018; expanded 2017, effective 2020</p> <p>(A.B. 908, 2015-2016 Leg., Reg. Sess. (Cal. 2016) (enacted); S.B. 63, 2017-2018 Leg., Reg. Sess. (Cal. 2017) (enacted))</p>	<p>Enacted 2008, effective 2009</p> <p>(N.J. Stat. Ann. § 43:21-38)</p>	<p>Enacted 2013, effective January 2014</p> <p>(R.I. Gen. Laws § 28-41-35(h))</p>	<p>Enacted 2016, effective January 2018</p> <p>(S. 6406C, Part SS, 239th Leg., Reg. Sess. (N.Y. 2016) (enacted))</p>	<p>Enacted 2017, effective July 2020</p> <p>(D.C. Law 21-264 (D.C. 2016))</p>	<p>Enacted 2017, effective January 2019 (premiums) and January 2020 (benefits)</p> <p>(S.B. 5975, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))</p>	<p>Enacted 2018, effective July 2019, January 2020, January 2021</p> <p>(H. 4640 § 29, 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted))</p>
<b>Reasons for paid leave</b>	<ol style="list-style-type: none"> <li>1. Bonding with new child (birth, adoption, foster)</li> <li>2. Care for family member with serious health condition</li> <li>3. Care for own disability (must be unable to perform)</li> </ol>	<ol style="list-style-type: none"> <li>1. Care for new child (birth, adoption, foster)</li> <li>2. Care for family member with serious health condition</li> <li>3. Care for own disability (must be continuously and totally unable to)</li> </ol>	<ol style="list-style-type: none"> <li>1. Bonding with new child (birth, adoption, foster)</li> <li>2. Care for family member with serious health condition</li> <li>3. Care for own disability (must be unable to perform)</li> </ol>	<ol style="list-style-type: none"> <li>1. Bonding with new child (birth, adoption, foster)</li> <li>2. Care for family member with serious health condition</li> <li>3. Qualifying exigency arising out of spouse, domestic partner, child</li> </ol>	<ol style="list-style-type: none"> <li>1. Bonding with new child (birth, adoption, foster)</li> <li>2. Care for family member with serious health condition</li> <li>3. Care for own serious health condition</li> </ol>	<ol style="list-style-type: none"> <li>1. Bonding with new child (birth, adoption, foster)</li> <li>2. Care for family member with serious health condition</li> <li>3. Care for own serious health condition</li> </ol>	<ol style="list-style-type: none"> <li>1. Bonding with new child (birth, adoption, foster)</li> <li>2. Care for family member with serious health condition</li> <li>3. Care for own serious health condition</li> </ol>

	<b>California</b>	<b>New Jersey</b>	<b>Rhode Island</b>	<b>New York</b>	<b>District of Columbia</b>	<b>Washington</b>	<b>Massachusetts</b>
	regular or customary work), includes pregnancy  (Cal. Unemp. Ins. Code §§ 2626, 3302(e))	perform customary work), includes pregnancy  (N.J. Stat. Ann. §§ 43:21-27(g), (o))	regular or customary work; partially unemployed workers may be able to claim benefits) (R.I. Gen. Laws §§ 28-39-2, 28-41-5(d)), 28-41-35(a))	or parent being on active duty (or having been notified of an impending call or order to active duty)  4. Care for own disability (must be unable to perform work)  (N.Y. Workers' Comp. Law § 201(14) (as amended by S. 6406C))	(D.C. Law 21-264 §§ 101(12)-(17), 104(a)-(b) (D.C. 2016))	4. Qualifying exigency arising out of family member being on active duty (or having been notified of an impending call or order to active duty)  (S.B. 5975, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))	4. Qualifying exigency arising out of family member being on active duty (or having been notified of an impending call or order to active duty)  5. Care for family member who is a covered servicemember  (H. 4640 § 29(2)(a), 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted))
<b>Definition of family member</b>	Child, parent, spouse, domestic partner  Amended in 2013 (effective 2014) to add grandparent, grandchild, sibling and parent-in-law  (Cal. Stat. §§ 3302(f)-(j))	Child, parent, spouse, domestic partner, civil union partner  (N.J. Stat. Ann. § 43:21-27(n))	Child, parent, spouse, domestic partner, grandparent  (R.I. Gen. Laws § 28-41-35(a))	Child, parent, spouse, domestic partner, grandparent, grandchild  (N.Y. Workers' Comp. Law § 201(16), (17), (19)-(21) (as amended by S. 6406C))	Child, parent, spouse, domestic partner, grandparent, sibling  (D.C. Law 21-264 § 101(7) (D.C. 2016))	Child, parent, spouse, domestic partner, grandchild, grandparent, sibling  (S.B. 5975 § 2, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))	Child, parent or parent of a spouse or domestic partner, spouse, domestic partner, grandchild, grandparent, sibling  (H. 4640 § 29(1), 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted))
<b>Maximum length of paid leave</b>	Six weeks for family leave  (Cal. Unemp. Ins. Code § 3301(c))	Six weeks for family leave  26 weeks for own disability	Four weeks for family leave  (R.I. Gen. Laws § 28-41-35(d)(1))	For family leave, eight weeks in 2018; increasing to 10 weeks in 2019 and to 12 weeks in 2021 (increases subject to delay)	Eight weeks for parental leave, six weeks for family care, two weeks for own serious health condition	12 weeks for family leave  12 weeks for own serious health condition (14 if employee experiences	12 weeks for family leave  26 weeks for caring for a covered service member

	<b>California</b>	<b>New Jersey</b>	<b>Rhode Island</b>	<b>New York</b>	<b>District of Columbia</b>	<b>Washington</b>	<b>Massachusetts</b>
	<p>52 weeks for own disability</p> <p>(Cal. Unemp. Ins. Code § 2653)</p>	<p>(N.J. Stat. Ann. § 43:21-38)</p>	<p>30 weeks for own disability; no more than 30 weeks total/year for combined own disability and family care</p> <p>(R.I. Gen. Laws §§ 28-41-7, 28-41-35(e))</p>	<p>26 weeks for own disability</p> <p>(N.Y. Workers' Comp. Law §§ 204(2)(A), 205(1)(A) (as amended by S. 6406C))</p>	<p>No more than eight weeks total/year for combined family and medical leave</p> <p>(D.C. Law 21-264 §§ 101(12)-(17), 104(d) (D.C. 2016))</p>	<p>pregnancy-related serious health condition that results in incapacity); no more than 16 weeks total/year for combined own serious health condition and family leave (18 if employee experiences pregnancy-related serious health condition that results in incapacity)</p> <p>(S.B. 5975 § 6, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))</p>	<p>20 weeks for own serious health condition</p> <p>No more than 26 weeks total/year for combined family and medical leave</p> <p>(H. 4640 § 29(2)(c), 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted))</p>
<b>Minimum increment of leave time for which benefits are payable</b>	<p>Statute does not mention the minimum length of leave time, just benefits for intermittent leave</p> <p>(Cal. Unemp. Ins. Code § 3303; <a href="http://www.edd.ca.gov/disability/Part-time%20Intermittent%20Reduced%20Work%20Schedule.htm">http://www.edd.ca.gov/disability/Part-time Intermittent Reduced Work Schedule.htm</a>)</p>	<p>Statute does not mention the minimum length of leave time, just benefits for intermittent leave</p> <p>(N.J. Stat. Ann. § 43:21-39)</p>	<p>No minimum increment of leave time; claimants must initially be out of work for at least seven consecutive days to be eligible for benefits</p> <p>(11-000-002 R.I. Code R. §§ 16(G), 37(D))</p>	<p>For family care, benefits can be paid in increments of one full day or one-fifth of the weekly benefit</p> <p>(N.Y. Workers' Comp. Law § 204(2)(A) (as amended by S. 6406C))</p>	<p>Leave can be taken in one-day increments</p> <p>(D.C. Law 21-264 § 101(9) (D.C. 2016))</p>	<p>Eight consecutive hours</p> <p>(S.B. 5975 § 6, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))</p>	<p>Statute does not mention the minimum length of leave time, just benefits for intermittent leave</p> <p>(H. 4640 § 29(2)(c), 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted))</p>
<b>Employee eligibility</b>	<p>Employee must have been paid \$300 in</p>	<p>Employee must have had at least 20 calendar weeks of</p>	<p>Employee must have been paid wages in Rhode Island and paid</p>	<p>For family care, employee must be currently employed by</p>	<p>Employee must spend more than 50 percent of work time in the</p>	<p>Must have worked for at least 820 hours in four out of the five</p>	<p>Must meet the financial eligibility requirements of the</p>

	<b>California</b>	<b>New Jersey</b>	<b>Rhode Island</b>	<b>New York</b>	<b>District of Columbia</b>	<b>Washington</b>	<b>Massachusetts</b>
<b>requirements</b>	<p>wages during the base period</p> <p>(<a href="http://www.edd.ca.gov/Disability/Am_I_Eligible_for_PFL_Benefits.htm">http://www.edd.ca.gov/Disability/Am I Eligible for PFL Benefits.htm</a>)</p>	<p>covered New Jersey employment, earning \$168 or more each week, or must have been paid \$8,400 or more in such employment during the base period</p> <p>(<a href="http://lwd.state.nj.us/labor/fli/content/fli_faq.html#21">http://lwd.state.nj.us/labor/fli/content/fli_faq.html#21</a>)</p>	<p>into the TDI/TCI fund and must have been paid at least \$12,120 in the base period</p> <p>Alternately, employees qualify if they earned at least \$2,020 in a quarter of their base period, their total base period taxable wages were at least 150 percent of their highest quarter of earnings, and their taxable wages during their base period are \$4,040 or more</p> <p>(<a href="http://www.dlt.ri.gov/t di/tdifaqs.htm">http://www.dlt.ri.gov/t di/tdifaqs.htm</a>)</p>	<p>a covered employer and must have been employed by a covered employer for 26 or more consecutive weeks (or 175 days of employment for part-time employees)</p> <p>For own disability, employee must have been employed by a covered employer for four or more consecutive weeks (or 25 days of employment for part-time employees)</p> <p>(N.Y. Workers' Comp. Law § 203 (as amended by S. 6406C))</p>	<p>District of Columbia for a covered employer or be based in the District of Columbia and regularly spend a substantial amount of work time for the covered employer in the District of Columbia and not more than 50 percent of work time for that covered employer in another jurisdiction; and must have been a covered employee for some or all of the 52 calendar weeks preceding the covered event</p> <p>Self-employed individual must have earned self-employment income for work performed more than 50 percent of the time in the District of Columbia during some or all of the 52 calendar weeks preceding the covered event, and must have opted into the paid leave program</p>	<p>quarters prior to leave application</p> <p>(S.B. 5975 §§ 2-3, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))</p>	<p>state unemployment insurance law (currently, one must have earned at least \$4,700 in the last four completed calendar quarters and at least 30 times the weekly unemployment benefit amount that person would be eligible to collect)</p> <p>(H. 4640 § 29(1), 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted); <a href="https://www.mass.gov/service-details/check-eligibility-for-unemployment-benefits">https://www.mass.gov/service-details/check-eligibility-for-unemployment-benefits</a>)</p>



	California	New Jersey	Rhode Island	New York	District of Columbia	Washington	Massachusetts
					(D.C. Law 21-264 §§ 101(3)-(4), (6) (D.C. 2016))		
<b>Discrimination prohibited</b>	Not more than federal Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA)	Not more than federal FMLA and New Jersey Family Leave Act (NJ FLA)	Not more than federal FMLA and RI Parental and Family Medical Leave Act(PFMLA)	Yes  (N.Y. Workers' Comp. Law § 120 (as amended by S. 6406C))	Yes  (D.C. Law 21-264 §§ 101(18), 110 (D.C. 2016))	Yes  (S.B. 5975 § 72, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))	Yes  (H. 4640 § 29(9), 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted))
<b>Method to fund insurance system</b>	Own disability and family care are funded by the employee only (currently at one percent of worker's first \$114,967 in wages)  ( <a href="http://www.edd.ca.gov/Payroll_Taxes/Rates_and_Withholding.htm">http://www.edd.ca.gov/Payroll_Taxes/Rates_and_Withholding.htm</a> )	State's temporary disability insurance program is financed jointly by employee and employer payroll contributions. As of January 1, 2018, each worker contributes 0.19 percent of the taxable wage base (the first \$33,700 in covered wages paid during the calendar year), up to \$64.03 per year. The contribution rate for employers varies from 0.10 to 0.75 percent. For 2018, employers contribute between \$33.70 and \$252.75 on the first \$33,700 paid to each employee during the calendar year.	Own disability and family care are funded by the employee only. The current withholding rate is 1.1 percent of worker's first \$69,300 in wages.  ( <a href="http://www.dlt.ri.gov/lmi/news/quickref.htm">http://www.dlt.ri.gov/lmi/news/quickref.htm</a> )	Own disability is funded jointly by employee and employer payroll contributions. Each worker contributes one half of one percent of the worker's wages, up to 60 cents per week. The employer contributes the balance of the plan costs not covered by the employee.  ( <a href="http://www.wcb.ny.gov/content/main/DisabilityBenefits/Employer/complyWithLaw.jsp">http://www.wcb.ny.gov/content/main/DisabilityBenefits/Employer/complyWithLaw.jsp</a> )  Family care is funded by the employee only. The current rate is 0.126 percent of the worker's first	Funded by employer only. The current rate is 0.62 percent of wages or of annual self-employment income.  (D.C. Law 21-264 § 103 (D.C. 2016))	For the program's first year, the total premium rate is 0.4 percent of an individual's taxable wage base; employers can deduct from the wages of each employee the full amount of the premium for family leave and 45 percent of the premium for medical leave.  For each following year, the premium rate is adjusted annually based on the solvency of the fund.  Employers with fewer than 50 employees are not required to pay their portion; if they do	For the program's first year, the total premium rate is 0.63 percent of an employee's wages; employers can deduct from the employee's wages the full amount of the premium for family leave and 40 percent of the premium for medical leave.  For each following year, the premium rate is adjusted based on the fund's expenditures.  Employers with fewer than 25 employees are not required to pay their portion

	<b>California</b>	<b>New Jersey</b>	<b>Rhode Island</b>	<b>New York</b>	<b>District of Columbia</b>	<b>Washington</b>	<b>Massachusetts</b>
		<p>(<a href="http://lwd.dol.state.nj.us/labor/tdi/state/sp_cost.html">http://lwd.dol.state.nj.us/labor/tdi/state/sp_cost.html</a>)</p> <p>Family care is funded entirely by the employee. Currently, each worker contributes 0.09 percent of the taxable wage base (first \$33,700 in covered wages paid during the calendar year), and the maximum yearly deduction for family leave insurance is \$30.33.</p> <p>(<a href="http://lwd.dol.state.nj.us/labor/fli/content/cost.html">http://lwd.dol.state.nj.us/labor/fli/content/cost.html</a>)</p>		<p>\$67,907.84 in wages, up to \$85.56 per year.</p> <p>(<a href="https://paidfamilyleave.ny.gov/paid-family-leave-information-employers">https://paidfamilyleave.ny.gov/paid-family-leave-information-employers</a>)</p>		<p>pay, they are eligible for state assistance. Employers with 150 or fewer employees are also eligible for state assistance with premiums.</p> <p>(S.B. 5975, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))</p>	<p>(H. 4640 §§ 29(6)-(7), 30, 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted))</p>
<b>Size of employer covered</b>	<p>All private sector employers are covered</p> <p>(Cal. Unemp. Ins. Code §§ 3302, 2606, 675, 135)</p> <p>Self-employed individuals can opt in</p> <p>Only some public employees are covered</p>	<p>Private and public sector employers covered by the New Jersey Unemployment Compensation Law must provide paid leave for family care and temporary disability, with some exceptions for government employers</p>	<p>All private sector employers are covered</p> <p>Only some public employees are covered</p> <p>(R.I. Gen. Laws §§ 28-39-2, -3)</p>	<p>Most private sector employers are covered</p> <p>Self-employed individuals can opt in</p> <p>Certain public employers (other than the state government) can opt in to family care or own disability; the state government, certain public</p>	<p>Private sector employers covered by the D.C. Unemployment Compensation Act are covered</p> <p>Self-employed individuals can opt in</p> <p>Employees of the D.C. city government and the United States</p>	<p>All employers are covered</p> <p>(S.B. 5975, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))</p> <p>Self-employed individuals and independent contractors can opt in</p>	<p>Private sector employers and the state government are covered</p> <p>Self-employed individuals* and local governments can opt in</p> <p>*Some self-employed individuals may be automatically covered</p>

	<b>California</b>	<b>New Jersey</b>	<b>Rhode Island</b>	<b>New York</b>	<b>District of Columbia</b>	<b>Washington</b>	<b>Massachusetts</b>
	<a href="http://www.edd.ca.gov/disability/FAQ_PFL_Eligibility.htm">http://www.edd.ca.gov/disability/FAQ_PFL_Eligibility.htm</a> )	<a href="http://lwd.state.nj.us/abor/fli/content/fli_faq.html">http://lwd.state.nj.us/abor/fli/content/fli_faq.html</a> ; <a href="http://lwd.state.nj.us/abor/tdi/employer/state/sp_emp_coverage.html">http://lwd.state.nj.us/abor/tdi/employer/state/sp_emp_coverage.html</a> )		employers, and public employees represented by an employee organization can only opt in to family care  (N.Y. Workers' Comp. Law §§ 201(4), 212(2), (4)(B), 212-A, 212-B (as amended by S. 6406C))	government, or of any employer the District is not authorized to tax under federal law or treaty, are not covered  (D.C. Law 21-264 § 101(4) (D.C. 2016))	(S.B. 5975, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))	(H. 4640 §§ 29(1), (6)(e), 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted))
<b>Benefit amount</b>	Beginning on January 1, 2018, for a four-year period:  A) For workers whose quarterly earnings are at least \$929 but less than 1/3 of the state average quarterly wage, the weekly benefit will be 70 percent of the worker's weekly wage;  B) For workers whose quarterly earnings are at least 1/3 of the state average quarterly wage, the weekly	The weekly benefit rate is 66 percent of a worker's average weekly wage, with a maximum benefit of \$637 in 2018 (maximum adjusted annually based on statewide average weekly wage)  <a href="http://lwd.dol.state.nj.us/labor/fli/worker/state/FL_SP_calculating_benefits.html">http://lwd.dol.state.nj.us/labor/fli/worker/state/FL_SP_calculating_benefits.html</a> ; <a href="http://lwd.dol.state.nj.us/labor/tdi/state/sp_calculating_bene_amounts.html">http://lwd.dol.state.nj.us/labor/tdi/state/sp_calculating_bene_amounts.html</a> )  The average weekly benefit for family care was \$524 in 2016; benefit for own	The average weekly benefit rate is 4.62 percent of wages paid during the highest quarter of worker's base period, up to \$831 per week for claims effective January 1, 2018 or later (maximum adjusted annually based on statewide average weekly wage)  <a href="http://www.dlt.ri.gov/tdi/tdifaqs.htm">http://www.dlt.ri.gov/tdi/tdifaqs.htm</a> ; <a href="http://www.dlt.ri.gov/lmi/news/quickref.htm">http://www.dlt.ri.gov/lmi/news/quickref.htm</a> )  In December 2017, the average weekly benefit was \$542 for family care and the average for own disability was \$492	For family care, in 2018, the weekly benefit rate is 50 percent of a worker's average weekly wage (AWW), not to exceed 50 percent of the state AWW; benefit amounts increase in 2019 to 55 percent of the worker's weekly wage up to 55 percent of the state AWW; in 2020 to 60 percent of the worker's weekly wage up to 60 percent of the state AWW; and in 2021, to 67 percent of the worker's weekly wage up to 67 percent of the state AWW (increases subject to delay)  For own disability, the weekly benefit rate is	For workers paid wages less than or equal to 150 percent of the D.C. minimum wage multiplied by 40, the weekly benefit rate is 90 percent of the worker's average weekly wage rate.  For workers paid more than 150 percent of the D.C. minimum wage multiplied by 40, the weekly benefit rate is 90 percent of 150 percent the D.C. minimum wage multiplied by 40 plus 50 percent of the amount by which the worker's average weekly wage exceeds 150 percent of the D.C. minimum wage	For workers paid 50 percent or less of the statewide average weekly wage (AWW), the weekly benefit rate is 90 percent of the worker's AWW.  For workers paid more than 50 percent of the statewide AWW, the weekly benefit rate is 90 percent of the employee's AWW up to 50 percent of the statewide AWW, plus 50 percent of the employee's AWW that is more than 50 percent of the statewide AWW.  The maximum weekly benefit is \$1,000 in the program's first year,	For workers paid 50 percent or less of the statewide average weekly wage (AWW), the weekly benefit rate is 80 percent of the worker's AWW.  For workers paid more than 50 percent of the statewide AWW, the weekly benefit rate is 80 percent of the employee's AWW up to 50 percent of the statewide AWW, plus 50 percent of the employee's AWW that is more than 50 percent of the statewide AWW.  The maximum weekly benefit is \$850 in the program's first year,

	<b>California</b>	<b>New Jersey</b>	<b>Rhode Island</b>	<b>New York</b>	<b>District of Columbia</b>	<b>Washington</b>	<b>Massachusetts</b>
	<p>benefit rate will be 23.3 percent of the state average weekly wage OR 60 percent of the worker's weekly wage, whichever is greater.</p> <p>The maximum weekly benefit is \$1,216 in 2018 (maximum adjusted annually based on statewide average weekly wage). Workers with quarterly earnings less than \$929 will receive a weekly benefit of \$50.</p> <p>(<a href="http://www.edd.ca.gov/Disability/About_PFL.htm">http://www.edd.ca.gov/Disability/About_PFL.htm</a>; A.B. 908, 2015-2016 Leg., Reg. Sess. (Cal. 2016) (enacted))</p> <p>Note: The San Francisco Board of Supervisors passed an ordinance requiring covered employers to provide supplemental compensation to</p>	<p>disability is not publicly available</p> <p>(<a href="http://lwd.dol.state.nj.us/labor/forms_pdfs/tdi/FLI%20Summary%20Report%20for%202016.pdf">http://lwd.dol.state.nj.us/labor/forms_pdfs/tdi/FLI%20Summary%20Report%20for%202016.pdf</a>)</p>	<p>(<a href="http://www.dlt.ri.gov/lmi/uiadmin.htm">http://www.dlt.ri.gov/lmi/uiadmin.htm</a>)</p>	<p>50 percent of the employee's weekly wage, with a maximum benefit of \$170; however, if the employee earns less than \$20 per week, the benefit will be their full average weekly wage</p> <p>(N.Y. Workers' Comp. Law §§ 204(2)(A), (B) (as amended by S. 6406C))</p>	<p>multiplied by 40, up to a maximum of \$1,000 per week (beginning in 2021, maximum will be increased annually to account for inflation)</p> <p>(D.C. Law 21-264 § 104(g) (D.C. 2016))</p>	<p>and will be adjusted annually to an amount equaling 90 percent of the state AWW.</p> <p>(S.B. 5975, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))</p>	<p>and will be adjusted annually to an amount equaling 64 percent of the state AWW.</p> <p>(H. 4640 § 29(3(b)), 30, 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted))</p>

	<b>California</b>	<b>New Jersey</b>	<b>Rhode Island</b>	<b>New York</b>	<b>District of Columbia</b>	<b>Washington</b>	<b>Massachusetts</b>
	<p>covered employees taking leave to care for a new child for up to six weeks such that the combined weekly benefit equals 100 percent of the employee's weekly wage. This requirement applies to employers with 50 or more employees starting in January 2017, expands to employers with 35 or more employees in July 2017 and to employers with 20 or more employees in January 2018.</p> <p>(San Francisco, Cal. Ordinance 160065)</p> <p>As of December 2017, the average weekly benefit in the state for family care was \$601 and the average for own disability was \$550</p> <p>(<a href="http://www.edd.ca.gov/about_edd/Quick_Statistics.htm">http://www.edd.ca.gov/about_edd/Quick_Statistics.htm</a>)</p>						

	<b>California</b>	<b>New Jersey</b>	<b>Rhode Island</b>	<b>New York</b>	<b>District of Columbia</b>	<b>Washington</b>	<b>Massachusetts</b>
<b>Job protection while on leave</b>	Not more than FMLA and CFRA	Not more than FMLA and NJ FLA	Leave for family care is job-protected but leave for own disability is no more protected than under FMLA or RI PFMLA  (R.I. Gen. Laws § 28-41-35(f))	Leave for family care is job-protected but leave for own disability is no more protected than under FMLA or NY PFMLA  (N.Y. Workers' Comp. Law § 203-b (as amended by S. 6406C))	Not more than FMLA and D.C. FMLA	Not more than FMLA and WA FMLA  (S.B. 5975, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))	Yes  (H. 4640 §§ 29(2)(e), 30, 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted))
<b>Waiting period</b>	Beginning on January 1, 2018, none  (Cal. Unemp. Ins. Code § 3303(b) (as amended by A.B. 908))	Seven days, but if disability lasts three weeks, the worker gets paid for those seven days; must be consecutive  (N.J. Stat. Ann. § 43:21-38)	Due to a legislative approved change, claims filed effective July 1, 2012, or later no longer need to serve a non-paid waiting period  Caregiver/bonding and own disability claims must be out of work for seven consecutive days as one of the eligibility requirements  (11-000-002 R.I. Code R. §§ 16(G), 37(D))	For family care, none  For own disability, seven days  (N.Y. Workers' Comp. Law § 204(1) (as amended by S. 6406C))	One week without pay from the insurance system; only one waiting period per year regardless of the number of qualifying events for which a worker takes leave  (D.C. Law 21-264 § 104(b) (D.C. 2016))	For family care and own serious health condition, seven calendar days  For bonding leave, none  (S.B. 5975, 65th Leg., 3rd Special Sess. (Wash. 2017) (enacted))	Seven calendar days; waiting period is not required for family leave taken immediately after a period of medical leave for pregnancy or childbirth recovery  (H. 4640 §§ 29(3)(a), 30, 190th Gen. Court, Reg. Sess. (Mass. 2018) (enacted))

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at [NationalPartnership.org](http://NationalPartnership.org).

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# Paid Leave Works in California, New Jersey and Rhode Island

JANUARY 2018

**Five U.S. states and the District of Columbia have laws guaranteeing paid family and medical leave. Evidence from the first three states to enact paid leave demonstrates how well these policies work – and this body of evidence will continue to grow** as new programs take effect in New York, Washington state and the District of Columbia. These programs provide workers with a share of their wages when they need time to care for a family member with a serious health condition, bond with a new child or deal with their own serious medical issue.

## Paid Leave Policies Have Helped Millions of Families

- ▶ **California** workers filed nearly 2.8 million paid family leave claims between the implementation of the state's paid family leave program in 2004 and November 2017. More than 2.4 million of these claims were by parents seeking time to care for new children.<sup>1</sup> In that same period (July 2004 – November 2017), more than 9.5 million claims were filed by workers for their own disability.<sup>2</sup> California families have experienced positive economic and health effects due to the program, and the vast majority of California employers perceive a positive effect on employee productivity, profitability and performance, or no effect, which means the fears some employers articulated when the policy was being considered never materialized.<sup>3</sup> The California program has been expanded multiple times since its adoption – to broaden the range of family members for whom caregiving leave can be taken, to increase benefit levels for lower- and middle-wage workers, and to make more workers eligible for job protection when they take parental leave.<sup>4</sup>
- ▶ In **New Jersey**, workers filed more than 255,000 leave claims between the family leave insurance program's implementation in 2009 and December 2016 – more than 205,000 filed by parents seeking time to bond with a new child.<sup>5</sup> Three out of four workers (76.4 percent) say they view the program favorably, and support crosses gender, race/ethnicity, age, marital status, union affiliation, employment status and income.<sup>6</sup> The majority of both small and large businesses say they have adjusted easily.<sup>7</sup>
- ▶ In **Rhode Island**, workers filed nearly 34,000 claims between the state's implementation of its paid family leave program in 2014 and the end of 2017 – more than three-quarters of approved claims were to bond with a new child.<sup>8</sup> Research among new parents, family caregivers and businesses suggests the law is working well.<sup>9</sup> Rhode Island's program improved upon the programs in California and New

Jersey by guaranteeing workers reinstatement to their jobs and offering protection from workplace retaliation for taking paid leave.

- ▶ In **New York**, legislators adopted a new paid family leave program with nearly unanimous bipartisan support.<sup>10</sup> The program took effect in 2018 and will be fully phased in by 2021.<sup>11</sup> Eighty percent of New York voters said they supported the proposal prior to enactment.<sup>12</sup> When fully implemented, New York will provide 12 weeks of job-protected paid family leave.<sup>13</sup>
- ▶ In the **District of Columbia**, a new paid family and medical leave law is scheduled to take effect in 2020. The program will provide up to eight weeks of leave for new parents, six weeks to care for a seriously ill family member and two weeks to care for one's own serious health condition. The program was the first paid leave program in the country to be enacted without an existing temporary disability insurance law.<sup>14</sup>
- ▶ Most recently, **Washington** state lawmakers enacted a paid family and medical leave law with strong bipartisan support. It will take effect in 2019 and 2020 and provide between 12 and 18 weeks of leave for workers to care for a new child, care for a family member's serious health condition or deal with their own serious health condition.<sup>15</sup>

## Proven Results for Workers and Families

- ▶ **Paid leave improves child health outcomes.** Paid leave gives parents time to establish a strong bond with a new child during the first months of life, which results in long-term health benefits for both children and parents. Breastfeeding duration increased substantially among California women who took paid leave, with significant increases in breastfeeding initiation among mothers in lower quality jobs.<sup>16</sup> For low-income families in New Jersey, researchers found that new mothers who use the paid leave program breastfeed, on average, one month longer than new mothers who do not use the program.<sup>17</sup> Preliminary research in California suggests that paid leave may also help prevent child maltreatment by reducing risk factors, such as family and maternal stress and depression.<sup>18</sup> A longitudinal study in California indicates many positive health outcomes for elementary school aged children following the implementation of paid leave, including lower probabilities of having ADHD, hearing problems or recurrent ear infections or being overweight – especially among children with lower socioeconomic status and with mothers who have lower educational attainment.<sup>19</sup>
- ▶ **Fathers and children benefit from paid leave.** Access to paid family leave encourages fathers to use leave for bonding and caregiving. And when fathers take leave after a child's birth, they are more likely to be involved in the direct care of their children long term.<sup>20</sup> In California, the number of fathers filing leave claims increased by more than 400 percent between 2005 and 2013, as the state's program became better established.<sup>21</sup> In the first year of Rhode Island's program, a greater proportion of new dads took leave to bond with a newborn or adopted child than did new dads in the first year of the California or New Jersey programs.<sup>22</sup> As a much newer program, this suggests a broader cultural shift around fathers taking leave and, potentially, greater knowledge of its benefits.
- ▶ **Paid leave helps caregivers arrange care for their families.** Studies in California and Rhode Island found that parents who use those states' paid family leave programs are much more likely than those who do not to report that leave has a positive effect on their ability to care for their new children and arrange child care.<sup>23</sup> Paid leave also helps people who care for older adults: A California study found that the



implementation of the state's paid leave program accounted for an 11-percent relative decline in elderly nursing home usage.<sup>24</sup>

- ▶ **Paid leave helps workers provide for their families.** An analysis of California's paid leave program found that the program increases the short-term and long-term labor force participation rates of family caregivers with an 8-percent increase in the short run and a 14-percent increase in the long run. The long-term increase in labor force participation was higher among workers in lower-income households.<sup>25</sup>
- ▶ **Paid leave means families are less likely to use public assistance.** An analysis of states with paid family leave or temporary disability insurance programs found that new mothers in those states are less likely than new mothers in other states to receive public assistance or food stamp income (now known as SNAP, the Supplemental Nutrition Assistance Program) following a child's birth, particularly when they use the paid leave programs.<sup>26</sup> New mothers in states without paid leave programs report participating in some type of public assistance program more than twice as often as those living in states with paid leave programs. And in the year following a child's birth, new mothers living in states with temporary disability insurance programs are 53 percent less likely than women in other states to report using SNAP.<sup>27</sup>

## Demonstrated Benefits for Businesses

- ▶ **Paid leave improves businesses' bottom lines.** Paid leave insurance programs are an affordable, sustainable way for businesses of all size to support their employees when serious family and medical needs arise. A recent survey conducted by the professional services firm EY found that the majority of large companies support the creation of paid family and medical leave programs on the state or federal level that are funded through tax contributions.<sup>28</sup> In New Jersey, about six in 10 medium- and large-sized businesses report no increased administrative costs as a result of the state's paid family leave program.<sup>29</sup> A survey of California employers revealed that 87 percent confirmed that the state program had *not* resulted in any increased costs, and 60 percent report coordinating their benefits with the state's paid family leave insurance system – which likely results in ongoing cost savings.<sup>30</sup>
- ▶ **Paid leave is good for small businesses.** Multiple surveys have found that the majority of small business owners support the creation of family and medical leave insurance programs at the state and federal levels, as these programs make the benefit affordable, reduce business costs, protect small business owners themselves and increase their competitiveness.<sup>31</sup> In California, although all employers report positive outcomes associated with paid leave, small businesses (those with fewer than 50 employees) report more positive or neutral outcomes than large businesses (500+ employees) in profitability, productivity, retention and employee morale.<sup>32</sup> A survey conducted for the New Jersey Business and Industry Association found that, regardless of size, New Jersey businesses say they have had little trouble adjusting to the state's law.<sup>33</sup>
- ▶ **Employee retention can also improve significantly with paid leave, especially among lower wage workers.** A report from Rutgers' Center for Women and Work found that women who take paid leave are 93 percent more likely to be in the workforce nine to 12 months after a child's birth than women who take no leave.<sup>34</sup> In California, workers in lower quality jobs who used the state paid leave program reported returning to work nearly 10 percent more than workers who did not use the program.<sup>35</sup>

- ▶ **Paid leave improves employee morale.** A recent EY survey found that more than 80 percent of businesses that offer paid family leave report a positive impact on employee morale, and more than 70 percent report an increase in employee productivity.<sup>36</sup> In California, virtually all employers (99 percent) report that the state’s program has positive or neutral effects on employee morale.<sup>37</sup> Several New Jersey employers interviewed as part of a small study note that the state’s paid leave program helps reduce stress among employees and helps improve morale among employees who took leave and their co-workers.<sup>38</sup>
- ▶ **Paid leave programs are used as intended by workers without burdening employers.** The California Society for Human Resource Management, a group of human resources professionals that opposed California’s paid family leave law, declared that the law is less onerous than expected,<sup>39</sup> and few businesses in their research reported challenges resulting from workers taking leave. In Rhode Island, a study of small- and medium-sized employers conducted after the state’s program came into effect found no negative effects on employee workflow, productivity or attendance; the majority of employers surveyed said they were in favor of the new program.<sup>40</sup>

## A Clear Case for a National Solution

All workers in the United States need to be able to take time away from their jobs when serious family and medical needs arise, without jeopardizing their financial stability. The success of the programs in California, New Jersey and Rhode Island demonstrates that progress is possible – and that there is an effective, affordable and proven model that works for families, businesses and economies.

**People’s access to paid leave shouldn’t depend on where they live, who they work for or what job they hold. It is past time for a national solution.** Gone should be the days when only 15 percent of workers in the United States have access to paid family leave, and fewer than 40 percent have paid medical leave.<sup>41</sup> Everyone needs and deserves time to care for their health and their families. Learn more at [NationalPartnership.org/PaidLeave](http://NationalPartnership.org/PaidLeave).

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The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at [NationalPartnership.org](http://NationalPartnership.org).

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