GO COMMITTEE #1
July 21, 2016
Briefing and Discussion

MEMORANDUM

TO: Government Operations and Fiscal Policy Committee

FROM: Justina J. Ferber, Legislative Analyst
Amanda Mihill, Legislative Attorney

SUBJECT: **Briefing** – Family Leave Policies

The following persons will be present for the briefing:

Shawn Stokes, Director, Office of Human Resources (OHR)
Stuart Weisberg, Labor Relations Advisor, OHR

Background

The GO Committee received a briefing on the general issue of family leave policies in February 2016. The Committee requested OHR to provide additional information on County government policies for County employees and suggestions for enhancing family leave.

Committee members were advised that Montgomery County employees have the ability to use accrued annual and sick leave for a new child or family member care. However, if leave has not been earned by the employee then they must use FMLA or request leave through the "sick leave donor program" or in the case of some union employees, submit a request to a "Leave Bank". A supplementary family leave policy could provide paid leave specifically for a new child or sick family member as an additional benefit to County employees.

The packet of materials of the February GO Committee Briefing is attached on ©5-56 as background for this meeting.

Information Provided by OHR

In response to the Committee's request, OHR provided the attached materials (©1-4). Director Stokes' statement on ©1-2 highlighted the following:

- County employees receive a wide range of leave, including annual leave, sick leave, personal leave days, and holiday leave.
- County employees may use up to 12 weeks of FMLA leave each year (using their own leave or leave without pay).

- County employees may use up to 18 weeks of parental leave in a 2-year period (using their own leave or leave without pay).
- OHR took a "leave snapshot" that showed that the average County employee has over 106 days (855 hours) of accrued leave available for use; employees under age 50 have on average 89 days (713) of accrued leave.
- A paid parental leave program would benefit only part of the workforce. Expanding the program to include caring for a family member with a serious health condition would be more equitable, but could raise the cost of the program "exponentially".

Director Stoke's statement provides some recommended parameters for a County paid parental leave program:

- The program should be part of the current 18 weeks of parental leave allows.
- The program should have an eligibility requirement of 6 months of continuous County employment.
- Paid parental leave should be requested at least 30 days before the birth or adoption of a child.
  Council staff note: exceptions to this 30-day timeline may be necessary if unexpected medical (or other) circumstances arise.
- Paid parental leave should be used within 12 weeks of the birth or adoption.
- Estimated costs for a paid parental leave are on ©4. Of course the more weeks of paid leave that is provided, the higher the cost. Providing 1 week of paid leave is anticipated to cost $381,683-$479,224 whereas providing 6 weeks of paid leave is anticipated to cost $2,040,096-$2,625,347.
  Council staff questions: How did OHR calculate the costs of the Parental Leave Program? What are the estimated costs for a Paid Family Leave Program?

Staff Comments

The following questions may be useful to guide today's discussion:

- Should the County adopt a family leave program for County employees? Does the County have sufficient leave opportunities for employees?
- What events should qualify for paid leave? Birth or adoption of a child? Caring for other family members?
- How many weeks is appropriate for a paid leave program? 1 week? 6 weeks? More than 6 weeks?
- Is 6 months of County employment an appropriate eligibility threshold?

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TESTIMONY ON BEHALF OF OFFICE OF HUMAN RESOURCES DIRECTOR SHAWN Y. STOKES

Family Leave Policies for County Government

Before the Government Operations & Fiscal Policy Committee

July 14, 2016

Good morning Council Members, it is a pleasure for me to appear before this committee to continue our dialogue on Family Leave Policies for County Government Employees.

First, let me say that that Montgomery County provides a wide range of leave options for its employees. Every year, employees earn between 15 and 26 days of annual leave (depending on years of service), 15 days of sick leave, 3 personal leave days, and 9 days of holiday leave. The County allows employees to use up to 15 days (120 hours) of accrued sick leave each year as family sick leave to care for an immediate family member. County employees may use up to 12 weeks (480 hours) of Family and Medical Leave Act (FMLA) leave each year to care for the employee's spouse or domestic partner, minor child, adult son or daughter incapable of self-care or parent with a serious health condition, or because of the employee's own serious health condition. FMLA leave may also be used for active duty military family leave and for injured service member family leave. Accrued annual leave, accrued sick leave or leave without pay can be used as FMLA leave. The County provides up to 18 weeks (720 hours) of parental leave during a 24-month period for employees (both moms and dads) to use to bond with a newborn or newly adopted child. 18 weeks of parental leave is among the highest of any jurisdiction in the nation. An employee may use any combination of accrued sick leave, annual leave, compensatory time, or leave without pay as parental leave. Beginning October 1, 2016, under the Earned Sick and Safe Leave Act, County Government employees will be able to use accrued sick leave as safe leave, where the absence from work is due to domestic violence, sexual assault, or stalking committed against the employee or the employee's family member.

Second, OHR took a leave snap shot on May 27, 2016 and it showed that the average Montgomery County employee has over 106 days (855 hours) of accrued leave (this includes annual, sick, compensatory, Paid Time Off, and personal leave) available to the employee. The County has approximately 5,300 employees under age 50 and this group has on average 89 days (713 hours) of accrued leave. Those employees who have exhausted all their leave (as of May 27th, 35 employees had zero leave balances and 262 employees had fewer than 40 hours of accrued leave) may receive sick leave donations from the MCGEO sick leave bank (up to 640 hours per year) or the sick leave donor

program for unrepresented employees (up to 1040 hours per year).

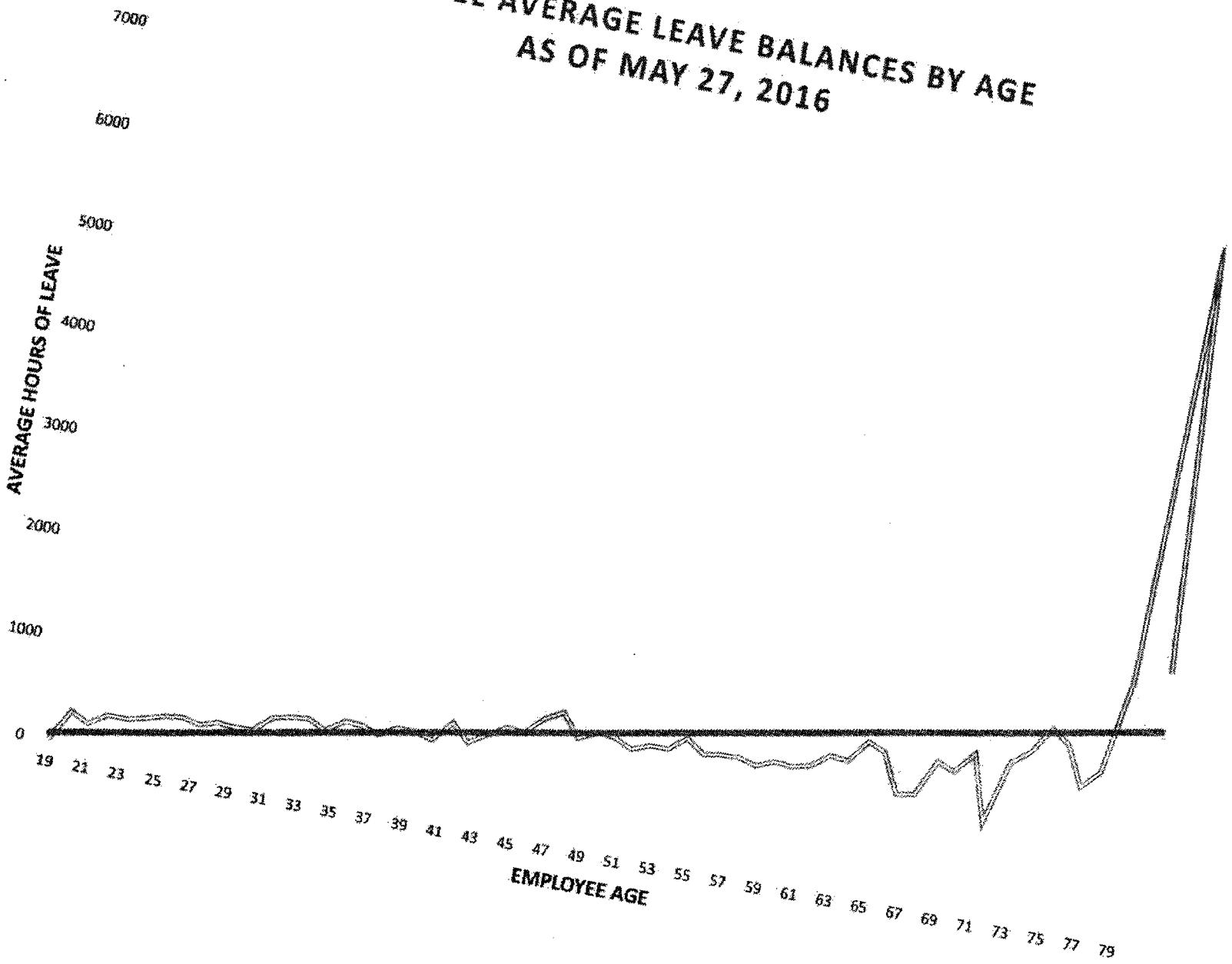
Third, we have examined and put together the parameters for a Paid Parental Leave Program as this committee requested. We recommend an eligibility requirement of 6 months of continuous County employment. This is consistent with the eligibility requirement for parental leave and for sick leave donations. We also recommend that the Paid Parental Leave Program be part of the current 18 weeks of parental leave but be paid separately from whatever accumulated leave the employee would've used otherwise. Paid Parental Leave would then have to be requested at least 30 days prior to the birth or adoption of a child. The existing request form requires documentation verifying the baby's anticipated date of birth and the employee's name (such as a hospital birth record or birth certificate) or proof that a petition for adoption has been filed with the court. The Paid Parental Leave would have to be used within 12 weeks of the qualifying event.

The attached chart estimates the cost for the County Government to implement a Paid Parental Leave Program for its employees. The estimated cost ranges from $381,683 to $479,224 for a one week (5 day) paid leave program to from $2,040,096 to $2,625,347 for a six week (30 day) paid leave program. A two week (10 day) Paid Parental Leave Program, like Fairfax County has, would cost between $713,365 and $908,449 during the initial year. These projected costs include an estimated one time ERP/MCtime charge of $50,000 to make changes in the Oracle system. The estimated costs in the out years would be less.

Finally, a Paid Parental Leave Program, whether it be for one, two or three weeks, would potentially benefit only half of the County workforce, those under 50 years of age. We project that it will benefit a little over 200 employees annually. Many County employees are part of the sandwich generation. They need to care for their aging parents as well as provide for their children. A Paid Family Leave Program which would provide paid leave to either bond with a newborn or newly adopted child or care for a family member with a serious health condition would be more equitable. However, it would also raise the cost of the program exponentially.

Thank you and I am pleased to engage in a dialogue with you on these issues.

EMPLOYEE AVERAGE LEAVE BALANCES BY AGE
AS OF MAY 27, 2016



Parental Leave Scenarios - Assumes a Six Month Employment Requirement

		Components			Estimated Cost			
					Initial Year		Outyears	
# Weeks	ERP/MCtime Estimate	Opportunity Cost Min[1]	OT Backfill Cost Max[1]	Usage Estimate: Birth/Adoption[2]	Min	Max	Min	Max
1	$50,000	$8,475,464	$10,967,946	3.9%	$381,683	$479,224	$331,683	$429,224
2	$50,000	$16,950,928	$21,935,892	3.9%	$713,365	$908,449	$663,365	$858,449
3	$50,000	$25,426,391	$32,903,838	3.9%	$1,045,048	$1,337,673	$995,048	$1,287,673
4	$50,000	$33,901,855	$43,871,783	3.9%	$1,376,730	$1,766,898	$1,326,730	$1,716,898
5	$50,000	$42,377,319	$54,839,729	3.9%	$1,708,413	$2,196,122	$1,658,413	$2,146,122
6	$50,000	$50,852,783	$65,807,675	3.9%	$2,040,096	$2,625,347	$1,990,096	$2,575,347

[1] Total cost for employees under 50 years of age.

[2] The average number of employees in 2014, 2015, 2016 (projected) using FMLA for the birth or adoption of a child (138), with a .5 factor added to account for employees not using FMLA, for a total of 207 employees, divided by the total number of County employees under 50 years of age (5,281, as of 6.13.16).

Please note that the ERP/MCtime estimate is a placeholder.

GO COMMITTEE #2
February 11, 2016

Briefing

MEMORANDUM

TO: Government Operations and Fiscal Policy Committee

FROM: Justina J. Ferber, Legislative Analyst
Amanda Mihill, Legislative Attorney

SUBJECT: **Briefing** – Family Leave Policies

The following persons will be present for the briefing:

Sarah Fleisch Fink, Senior Policy Counsel, National Partnership for Women and Families
Shawn Stokes, Director, Office of Human Resources (OHR)
Stuart Weisberg, Labor Relations Advisor, OHR

Committee Chair Navarro requested Council staff to prepare a briefing on the issue of family leave policies including a discussion of County government policies for County employees. Sarah Fleisch Fink, Senior Policy Counsel, National Partnership for Women and Families, has been invited to provide an overview on family leave and brief the Committee on what is taking place nationally. Shawn Stokes, the Director of the Office of Human Resources (OHR) has been asked to brief the Committee on County government family leave policies.

Background

Studies have been published that show when workers have access to paid leave to care for a new child or sick family members there are benefits for workers, families, and businesses resulting in decreased health care costs, increased productivity, improved employee loyalty and morale, and in the economic security and independence of families. The current Federal Family and Medical Leave Act (FMLA) provides up to 12 weeks of unpaid, job-protected leave annually for family and medical reasons for some businesses including Montgomery County government.

There is no Federal law requiring "paid" family and medical leave, leading some states and municipalities to adopt legislation. Parental leave is generally limited to birth, adoption and sometimes foster care placement while family and medical leave typically includes parental leave, serious medical conditions, the care of elderly parents and other family members who require care. Each jurisdiction has its own definition of parental, family and medical leave and some are establishing temporary disability insurance programs.

National Picture

Ms. Fink will provide information on municipalities that provide or are considering paid family leave or paid parental leave for employees. Below are some of the questions we have asked her to address:

- What is Paid Family Leave?
- Why is Paid Family Leave important?
- What other similar sized jurisdictions have implemented Paid Family Leave?
- What has been the fiscal impact on those jurisdictions and are there any other implications of which we should be aware?

The National Partnership for Women and Families website contains information about family and medical leave issues. The website fact sheets described below are attached to this packet.

National Partnership for Women and Families Fact Sheets

1. Paid Family and Medical Leave: An Overview ©8
2. Paid Family and Medical Leave: Good for Business ©10
3. Key Features of Paid Family and Medical Leave Program that meets the needs of Working Families ©13

Other informative materials attached to the packet are a study from the Council of Economic Advisers titled *The Economics of Paid and Unpaid Leave* and the District of Columbia Code, §1-612.03c. Family Leave. (See ©15-22) The Council of Economic Advisers study discusses the changed composition of the U.S. workforce and the economic implications of leave policies. (See ©23-48)

Current Events

The Department of Defense announced in January that women in the military would receive 12 paid weeks of maternity leave in all services, twice the amount most were previously entitled. The Secretary of Defense's decision was based on talks with private businesses about their parental leave policies and the Department's research which showed that more flexible policies made good business sense. In an effort to make the Pentagon, which employs roughly 1.3 million troops on active duty, more family-friendly the Secretary advised that the Department will also aim to be more flexible with employees who have compelling, family-related medical issues.

In 2015, the District of Columbia adopted Family Leave legislation which provides an eligible employee with pay for family leave of not more than 8 work weeks within a 12-month period for a single qualifying event.

County Government

Montgomery County employees have the ability to use accrued annual and sick leave for a new child or family member care. However, if leave has not been earned by the employee then they must use FMLA or request leave through the "sick leave donor program" or in the case of some union employees, submit a request to a "Leave Bank". A supplementary family leave policy could provide paid leave specifically for a new child or sick family member as an additional benefit to County employees.

OHR will provide more detailed information on County leave policies. Council staff has asked OHR to address the following issues:

- What are the current family leave and FMLA leave policies for County employees?
- Have discussions taken place with County unions on Paid Family Sick Leave and what is the outcome of these discussions?
- Based on experience in other jurisdictions, please provide general estimates of the number of employees who might use Paid Family Sick Leave annually including estimates on the annual cost.
- Please provide statistics on County employees who have used FMLA leave in the last 5 years.
- Please provide information on Paid Family Sick Leave policies and experiences in other jurisdictions including the District of Columbia, if you have such information.
- Please present the pros and cons of providing 6 to 8 weeks of Paid Family Leave for County employees.
- Are there any other implications or issues for a Paid Family Leave program that Councilmembers should be aware?

OHR responses to these questions and materials for the meeting are attached at ©1-7.

Separate Outstanding Issue – Personnel Regs – Parental Leave and Donated Leave

After adoption of the Comprehensive Amendments to the Personnel Regulations last June, an issue related to Parental Leave and Donated Leave was brought to the attention of GO Committee members. On behalf of Committee members, Council staff met with Executive staff who agreed to clarify the issue related to the ability of employees to use Donated Leave when they are on Parental Leave recovering from childbirth (recovering mothers with "complications of recovery from childbirth" are allowed to request Donated Leave). Council staff recommended amending the Personnel Regulations and have assumed an amendment would be forthcoming to allow employees to use Donated Leave when they are on doctor recommended time off recovering from childbirth.

Federal Civil Rights law requires that the same benefits be extended for women recovering from childbirth as other employees with medical conditions. An example of the issue is: Employee X

who has only been with the County a short time but not long enough to accrue sufficient Sick Leave or Annual Leave for the X number of weeks her doctor has recommended for child birth recovery is not eligible for Donated Leave without demonstration of "complications of recovery from childbirth". She may use all her Sick and Annual Leave but then must use Leave Without Pay for the remainder of her recovery. Employee Y who has only been with the County a short time but not long enough to accrue sufficient Sick Leave and Annual Leave for the X number of weeks that her doctor recommends for her recovery from a fractured leg is eligible to request Donated Leave. She does not have to use Leave Without Pay.

Council staff believes that by not allowing the use of Donated Leave to women who, on recommendation of their physician are recovering from child birth, is denying them equal benefits, and the Personnel Regulations should be amended to remove this inequity.

This packet contains: ©

Response to Questions from OHR 1
National Partnership for Women and Families Fact Sheets
Paid Family and Medical Leave: An Overview 8
Paid Family and Medical Leave: Good for Business 10
Key Features of Paid Family and Medical Leave Program 13
District of Columbia Code §1-612.03c. Family leave 15
Council of Economic Advisers study, *The Economics of Paid and Unpaid Leave* 23

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OFFICE OF HUMAN RESOURCES RESPONSE
QUESTIONS FROM COUNCIL STAFF ON PAID FAMILY LEAVE

(1) What are the current Family Leave and FMLA leave policies for County employees?

FMLA

The federal Family and Medical Leave Act, enacted in 1993 and amended in 2008, requires both public and private sector employers of 50+ employees to provide 12 weeks of job protected leave for certain family members and medical purposes. While the federal law provides for unpaid leave, the County Government allows eligible employees to use accrued paid leave. County employees may use any combination of accrued annual leave, accrued sick leave (and in some instances sick leave donations), or leave without pay as FMLA leave.[1] It is the employee's choice what type of leave to use for FMLA and the employee can "mix and match."

County employees may use up to 12 workweeks (480 hours) of FMLA leave in a leave year (calendar year) to care for the employee's spouse or domestic partner, minor child, adult son or daughter incapable of self-care, or parent with a serious health condition, or because of the employee's own serious health condition. FMLA may also be used for active duty military family leave and for injured service member family leave.

Beginning in 2012, in an effort to provide uniformity and consistency as well as greater knowledge and expertise in handling FMLA requests, FMLA was centralized in the Office of Human Resources. All FMLA requests are submitted directly to the OHR FMLA Program Manager in Occupational Medical Services (OMS) rather than to the employee's supervisor. Recently, the process for employees to request FMLA leave (applications and medical certifications) has been modernized and now may be submitted by employees on-line.

Parental Leave

The County provides up to 18 workweeks (720 hours) of parental leave during a 24-month period for employees (both moms and dads) to use to bond with a newborn or newly adopted child. 18 weeks of parental leave is among the highest of any jurisdiction nationally. An employee may use any combination of accrued sick leave, annual leave, compensatory time, or leave without pay as parental leave. However, an employee may not use donated sick leave for parental leave. Noting the Government Operations and Fiscal Policy Committee's interest in this subject, it is discussed in detail at the end of this response. Parental leave and FMLA generally overlap in that the first 12 weeks of 18

[1] Under U.S. Department of Labor Regulations compensatory time may not be used as FMLA leave because under the Fair Labor Standards Act compensatory time is regarded as a substitute for overtime pay rather than leave time.

weeks of parental leave count toward the employee's annual entitlement of 12 weeks of FMLA.

Family Sick Leave

Family sick leave is sick leave that the employee uses to care for a member of the employee's immediate family who is ill or injured or who has a medical, dental, or optical examination or treatment. Unlike FMLA, family sick leave does not require a serious health condition. "Immediate family" is defined in the Personnel Regulations as the employee's spouse or domestic partner, parent or stepparent, spouse or domestic partner's parent, brother or sister, daughter or son, stepdaughter, stepson, or domestic partner's daughter or son, grandparent, spouse's or domestic partner's grandparent, granddaughter or grandson, and legal guardian. Also, the OHR Director may approve an employee's use of family sick leave to care for an individual who lives with the employee in the employee's residence and who either is related to the employee by blood or marriage or has a close association with the employee that is the equivalent of a family relationship.

The County allows employees to use up to 15 days (120 hours) of accrued sick leave each calendar year as family sick leave to care for an immediate family member. An employee may request a waiver of this limitation from the OHR Director.

Earned Sick and Safe Leave

In 2015, the County enacted Bill No. 60-14, effective October 1, 2016, which requires employers in the County with 5 or more employees to provide earned sick and safe leave to certain employees working in the county. This new law also applies to County Government and will directly impact temporary and seasonal employees working for the County who will earn 1 hour of sick and safe leave for every 30 hours worked up to a maximum of 56 hours in a calendar year. The law will provide another type of leave for County Government employees, safe leave, where the absence from work is due to domestic violence, sexual assault, or stalking committed against the employee or the employee's family member.

(2) Have discussions taken place with County unions on Paid Family Sick leave and what is the outcome of these discussions?

The County is currently engaged in term collective bargaining negotiations with MCGEO, IAFF, and the FOP. While there are several leave proposals on the table, we cannot discuss any of them because of confidentiality restrictions in the collective bargaining ground rules.

(3) Based on experience in other jurisdictions, please provide general estimates of the number of employees who might use Paid Family Sick Leave annually including estimates on the annual cost.

As noted below, CountyStat has not done any studies or collected benchmark information from other jurisdictions on Paid Family Sick Leave. The annual cost of a Paid Family Sick Leave program for County employees is discussed in answer (6) CONS (ii) below and is dependent on the parameters of the program.

(4) Please provide statistics on County employees who have used FMLA leave in the last 5 years.

The following chart shows the total number of employees who used FMLA leave and the total hours utilized for each of the past 5 years. Please note that years 2013 to 2015 are based on the FMLA Intake Log (which was created after the FMLA process was centralized in OHR) and MC Time data. 2011 and 2012 are based on data from MC Time.

Year	# Employees	# Hours
2011	1123	106521
2012	1141	132903
2013	1160	158906
2014	1151	189366
2015	1262	247628

(5) Please provide information on Paid Family Sick Leave policies and experiences in other jurisdictions including the District of Columbia, if you have such information.

CountyStat has not done any studies or collected benchmark information from other jurisdictions on Paid Family Sick Leave. Based on a recent survey conducted by the Council of Governments (COG) at OHR's request, with the exception of the District of Columbia which provides 8 weeks of Paid Family Leave, it does not appear that any other local jurisdiction provides Paid Family Sick Leave. Four states - California, New Jersey, Rhode Island and Washington - provide Paid Family Leave for employees who need time off to care for sick family members or a new child or to bond with a newborn or newly adopted child. While these state laws are often referred to as Paid Family Leave laws, they are more of an insurance or temporary disability or wage replacement law administered by a state insurance fund and funded by employee paycheck withholding (with no employer contribution) rather than an employer leave program. In California employees can receive about 55% of their pay for up to 6 weeks. New Jersey provides employees with 6 weeks of family leave at about two-thirds of their usual salary up to a $524 per week maximum.

(6) Please present the pros and cons of providing 6 to 8 weeks of Paid Family Leave for County employees.

PROS

(i) Providing 6 to 8 weeks of "guaranteed" Paid Family Leave for County employees (without employees having to use accrued leave) would be a major boon for recruiting applicants for County employment.

(ii) A Paid Family Leave Program would provide needed assistance to employees of the "sandwich generation" who frequently find themselves caring for their own health needs, those of their children, and of their aging parents.

CONS

(i) The biggest obstacle to creating a Paid Family Leave program for County employees is its operational impact on County business operations. In the Office of Legislative Oversight's (OLO) Report 2013-3, Employee Work Hours and Leave in Montgomery County Government, OLO noted that Montgomery County generally offers more annual and personal leave in the first years of service compared to other local jurisdictions. OLO found that employee availability, or the percentage of time that employees were working regular hours as opposed to using leave, averaged 81 percent among full-time Executive Branch employees. Establishing a Paid Family Leave Program would further decrease employee availability. 6 to 8 weeks of Paid Family Leave for County employees could become a floor. After an employee has exhausted the 6 to 8 weeks of Paid Family Leave, the employee would then be able to use accrued leave, donated leave, or even leave without pay for additional periods of job protected leave under FMLA, Parental Leave, Family Sick Leave, and Safe Leave.

(ii) The fiscal impact for a Paid Family Leave program depends on the parameters of the program. For example, is the 6 to 8 weeks of Paid Family Leave for County employees a one-time occurrence or an annual benefit or somewhere in-between? Is it use it or lose it leave or does it carryover? Who is covered under the definition of "family"? In other words, is it limited to spouse or domestic partner, child, and parents or is it more expansive such as the definition of "immediate family" under the Personnel Regulations? The costs are also dependent on whether a department, such as public safety or transit services, needs to employ a substitute employee (thus paying two employees at the same time), often

with overtime implications. How long does an employee need to work for the County to be eligible for Paid Family Leave?

(iii) A guaranteed Paid Family Leave Program would encourage employees to use it even in marginal or questionable instances. If sick leave abuse is a problem now in some departments, additional leave will only compound the problem.

(iv) While providing 6 to 8 weeks of "guaranteed" Paid Family Leave for County employees would be a boon for recruiting applicants for County employment, there are only a limited number of job classes that the County has difficulty in recruiting. In general the County does not lack for job applicants for most positions. Last year the County received over 50,000 job applications.

(7) Are there any other implications or issues for a Paid Family Leave program that Councilmembers should be aware?

Councilmembers should consider the impact that a Paid Family Leave program would have on employees accruing and choosing to save their leave rather than using it. In OLO Report 2013-3, OLO identified the problem of accumulated sick leave at separation from the County Government. Employees in the County Government Retirement System (pension system) can apply up to two years of accrued sick leave toward the calculation of their years of service for retirement purposes. However, under the Personnel Regulations, non-pension employees (non-public safety employees who began their County Government employment post 1994, a number that continues to increase as a percentage of the County's workforce) forfeit unused sick leave when the employee leaves County Government service. In addition to creating equity and morale issues, the OLO Report notes, "No monetary incentive exists for non-pension employees to refrain from abusing their sick leave." While some local jurisdictions have partial sick leave pay out programs (e.g. Arlington County pays employees for 30 percent of the employee's sick leave balance in excess of 100 hours at time of separation; Prince George's County provides a cash payment for unused sick leave at separation at a rate of 2½ percent for each year of service), the County has no such program for its employees.

As noted above, the County already has a program of Paid Family Leave, albeit based on use of accrued leave and in some instances sick leave donations rather than "guaranteed paid leave," that encompasses wide ranging needs by employees to attend to or care for family. While the County's current programs can be improved by tweaking, there does not appear to be a need for a new Paid Family Leave Program. The establishment of a Paid Family Leave program would exacerbate the morale issue

between those employees who continually use sick leave and those who save and accumulate sick leave.

DONATED SICK LEAVE AND FMLA

Under Section 20-6(b) of the Personnel Regulations an employee may not use donated sick leave or donated paid time off (PTO) for an absence taken as parental leave. Also, Section 17-10(d)(8)(C), *Sick Leave Donor Program,* provides that an employee may not use donated sick leave to care for a well child after the child is born or adopted. These provisions have been in existence for at least 15 years.

Donated sick leave **can be used** during pregnancy. Under FMLA it can be used for medical appointments, medical tests and procedures, even bed rest, through the delivery of the newborn and normal recovery period for the mother. Furthermore, upon presentation of medical certification that the mother is not doing well (e.g. complications from pregnancy) or that the baby is not doing well, FMLA would continue to apply and donated sick leave may continue to be used. It is only at the time mother and baby are doing fine and the mother (or father) wants to stay home for up to 18 weeks of parental leave to bond with the newborn that the prohibition on using donated sick leave kicks in. In Executive Regulation 16-13AM II, Comprehensive Amendments to the 2001 Montgomery County Personnel Regulations, approved by the County Council on June 30, 2015, Section 20-4(b) of the Personnel Regulations clarified that "[p]arental leave generally commences after the birth of a child at a time when the mother and child are doing well or immediately following the adoption of a child."

Arguably, there is a need to revisit the entire subject of donated sick leave. For example, under Section 17-10(d)(8)(B) of the Personnel Regulations an employee cannot use donated sick leave to care for an ill or dying parent. How can one justify allowing employees to use 18 weeks of donated sick leave to bond with a well new child while at the same time not allowing employees to use donated sick leave to care for a seriously ill or dying parent? Also, there is a 7-day waiting period before an employee can use donated sick leave (Section 17-10(a)(1)(B)).

Another issue that we are looking at is that an employee who receives and uses donated sick accrues both annual leave and sick leave. For example, an employee who uses 18 weeks of donated sick leave will accrue during that period over 41 hours of sick leave and between 41 and 72 hours of annual leave, depending on years of County service.

Having a sick leave bank creates a new dimension. MCGEO has a sick leave bank in place and the County is expected to move to a sick leave bank for unrepresented employees. If an employee has a right to use 18 weeks of donated sick leave to care for a

well newborn, this could result in a run on the bank. The donated sick leave deposited in the bank is not unlimited. If a bank gives an employee 18 weeks of donated sick leave to bond with a new baby, it might limit the donated sick leave available in the bank for an employee battling a deadly disease.

Paid Family and Medical Leave: An Overview

MARCH 2015

Nearly all workers need to take time away from work at some point to deal with a serious personal or family illness or to care for a new child. **Laws providing paid family and medical leave allow workers to meet these needs without jeopardizing their economic security.**

The Nuts and Bolts of "Paid Leave" Laws

Paid leave laws allow workers to continue to earn a portion of their pay while they take time away from work to:

- Address a **serious health condition** (including pregnancy);
- Care for a **family member** with a serious health condition; or
- Care for a **newborn, newly-adopted child or newly-placed foster child**.

Only 13 percent of workers in the United States have access to paid family leave through their employers.

A **serious health condition** is one requiring either inpatient care or continuing treatment by a health care provider. For example, serious conditions like cancer and Alzheimer's, as well as chronic conditions like diabetes and asthma, may all be serious health conditions. Pregnancy-related complications and recovery and the need for prenatal care also qualify as serious health conditions.

The definition of a **family member** varies under different proposals, but parents, spouses, domestic partners and children are typically covered. Under some proposals, grandparents, siblings, in-laws and the parents of domestic partners may also qualify.

The **length of the leave** also varies by proposal. In the three states with paid family leave laws, one (Rhode Island) allows family caregivers to take leave from work for up to four weeks while the other two (California and New Jersey) allow family caregivers to take **up to six weeks**. In some of the five states with Temporary Disability Insurance (TDI) programs that allow workers to take time away from work to attend to their own serious health conditions, workers may take substantially longer periods of time if their conditions require it.

The **amount of pay** a worker receives varies by proposal, but a worker can typically expect to receive a portion of his or her current wages while on leave. Depending on the system, workers

1875 Connecticut Avenue, NW | Suite 650 | Washington, DC 20009
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either receive a percentage of their wages (up to a maximum cap) or all workers receive a flat benefit amount regardless of their current wage level.

Programs are **funded** either by joint employer-employee contributions or solely by employee contributions. Under most systems and proposals, special insurance systems are created and workers' wage replacement is paid from these funds.

Where in the United States Do Paid Leave Laws Exist Now?

- California (passed in 2002, implemented in 2004), New Jersey (passed in 2008, implemented in 2009) and Rhode Island (passed in 2013, implemented in 2014) have enacted paid family leave laws that allow workers to take paid leave to care for an ill family member or bond with a new child. These laws complement the states' TDI programs, which provide paid medical leave for a worker's own serious illness.
- TDI programs are also in place in Hawaii, New York and Puerto Rico.

These state programs show that progress is possible, but too many working families still struggle without paid leave.

All Working Families Need Access to Paid Leave

Only 13 percent of workers in the United States have access to paid family leave through their employers, and fewer than 40 percent have access to personal medical leave through employer TDI programs.[1] The Family and Medical Leave Act (FMLA) has kept millions of people from losing their jobs when serious medical needs arise. But the FMLA only covers 60 percent of the workforce, and it guarantees only *unpaid* leave, which millions cannot afford to take.[2]

Nationwide or statewide paid family and medical leave laws would give more workers access to the paid time they need to recover from a serious illness or care for a sick family member or new child. Federal initiatives in support of paid family and medical leave include:

- The Family And Medical Insurance Leave (FAMILY) Act, which would create a national paid family and medical leave insurance program that would provide up to 12 weeks of partially-paid leave for reasons covered by the FMLA.
- More than $2.2 billion proposed in the Department of Labor's Fiscal Year 2016 budget that would help states fund and implement new paid family and medical leave programs, and $35 million proposed for states to create the infrastructure needed to develop new state paid leave programs.
- The Federal Employees Paid Parental Leave Act, which would provide six weeks of paid parental leave to federal workers.

Join us in supporting paid family and medical leave proposals like these. Working families can't wait any longer. Learn more at **www.NationalPartnership.org**.

1 U.S. Department of Labor, Bureau of Labor Statistics. (2014, September). *Employee Benefits in the United States National Compensation Survey: Employee Benefits in the United States, March 2014* (Tables 16 and 32). Retrieved 4 March 2015, from http://www.bls.gov/ncs/ebs/benefits/2014/ebbl0055.pdf

2 Abt Associates. (2012, September). *Family and Medical Leave in 2012: Technical Report*. Retrieved 3 March 2015, from http://www.dol.gov/asp/evaluation/fmla/fmla2012.htm

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Paid Family and Medical Leave: Good for Business

MARCH 2015

Leading business owners and managers recognize that workers inevitably need time away from work to attend to health or family issues. Yet too many other employers do not provide workers paid time off for serious family and medical needs. **Paid family and medical leave ("paid leave") public policy standards would help businesses reduce costs and level the playing field for employers while allowing workers to meet their health needs and caregiving responsibilities.**

Paid Leave Policies Benefit Businesses' Bottom Lines

- **Paid leave improves worker retention, which saves employers money through reduced turnover costs.** Replacing workers is expensive: Turnover costs are estimated to average one-fifth of an employee's annual salary.[1] And when workers don't have access to paid leave, they are more likely to need to leave their jobs. Paid leave reduces these turnover costs and encourages valued workers to stay in the labor force and with the same employer.
  - New mothers who take paid leave are more likely than mothers who do not take any leave to be working again nine to 12 months after childbirth,[2] and first-time mothers who take paid leave are more likely than those who take unpaid leave or no leave to return to the same employer.[3]
  - In California, which has had a state paid leave program for more than a decade, 83 percent of workers in "lower-quality" jobs who used the program returned to their previous employer – a 10-point improvement compared to workers who did not use the program.[4]
  - A majority of businesses in California (87 percent) had no increased costs as a result of the program and nine percent indicated that the program had generated cost *savings* for their businesses by reducing employee turnover and/or reducing their own benefit costs.[5]

"After California established the law, we began to notice that our employees who took time off when a new baby arrived or when a serious illness struck were less stressed than [other employees]. Less stressed workers mean more productive workers. We want to see all of our employees thriving in the same way as their Californian counterparts."

— Annette Bonilla, Vice President and Director of Human Resources, Environmental Science Associates (California)

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- **Paid leave increases worker productivity.** Employers know that providing supportive programs like paid leave promotes the retention and recruitment of employees and increases worker productivity.[6] Nearly 90 percent of businesses surveyed about the effects of the California paid leave program said that the program had either a positive effect on productivity or no noticeable effect.[7] These factors correlate with a better bottom line.
- **Paid leave improves employee loyalty and morale.** According to *Harvard Business Review*, a majority of the most successful companies report that exemplary benefit programs strengthen employee loyalty and morale.[8] In California, virtually all employers (99 percent) reported that the state's program had positive or neutral effects on employee morale.[9] Likewise, several New Jersey employers noted that the state's paid leave program helped reduce stress among employees and improve morale among employees who took leave and their co-workers.[10]
- **Paid leave allows smaller businesses to compete better with larger businesses.** Small businesses often have trouble matching the more generous leave benefits offered by larger employers – potentially resulting in a hiring disadvantage. When all employers must abide by the same rules, the playing field is more level. When paid leave is administered through a paid leave insurance program, small businesses benefit in particular because the cost of leave is shared. In California, although all employers reported positive outcomes overall, small- and medium-sized businesses (those with fewer than 50 employees and those with 50 to 99 employees) reported more positive outcomes than large businesses (100+ employees).[11]
- **Paid leave heightens American businesses' competitiveness in the global economy.** Out of 185 countries and territories in the world surveyed by the International Labor Organization, the United States is one of only two countries to offer no paid maternity leave.[12] Among all developed economies, the United States is the only country that does not guarantee paid maternity leave.[13] Other countries have recognized that providing leave is a matter of economic competitiveness and, in fact, the most competitive countries in the world offer paid leave to workers. It's past time for the United States to catch up.

Proven Results for Businesses and Workers

Paid family leave insurance programs are already working well in California (passed in 2002, effective in 2004), New Jersey (passed in 2008, effective in 2009) and Rhode Island (passed in 2013, effective in 2014). These state programs insure workers for a share of their wages while they care for a family member with a serious health condition or bond with a new child. The result has been positive for both employers and workers:

- **California** workers have filed about 1.7 million leave claims since the program's implementation in 2004, 1.5 million of them from parents seeking to take time to care for new children.[14] A survey of California employers revealed that 60 percent reported coordinating their own benefits with the state's paid family leave insurance system, which likely resulted in cost savings for those that previously permitted employees to use vacation, sick leave, family leave or personal time during maternity or parental leave, and thus shouldered the entire cost of providing that time off.[15]

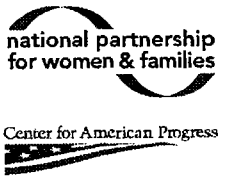
- In **New Jersey**, more than 162,000 claims have been filed since the state implemented its paid family leave program in 2009; 133,000 claims have been filed for bonding with a child.[16] In New Jersey, program costs are lower than expected, leading to a payroll tax cut for workers.[17] The majority of New Jersey workers view the program favorably across gender, race/ethnicity, age, marital status, union affiliation, employment status and income.[18] And small and large businesses have adjusted easily.[19]
- In **Rhode Island**, business supporters were critically important to passing the nation's third and – in some ways – strongest paid family leave insurance law in 2013.[20] So far, nearly 4,000 workers have filed paid leave claims, nearly three-quarters of them for bonding with a child.[21] And early indications suggest that the law is working well.[22]
- **Evidence from states with paid family and medical insurance programs should dispel employer concerns.** Very few employers suspect abuse and even fewer have confirmed abuse;[23] program administration is not challenging; employees don't resent absent co-workers[24]; and programs often result in cost-savings for employers rather than a financial drain.[25]
    - The California Society for Human Resource Management, a group of human resources professionals, declared that California's law is less onerous than expected.[26] Few businesses have reported challenges resulting from workers taking leave.[27]
    - A consultant for the New Jersey Business and Industry Association found that, regardless of business size, New Jersey businesses have had little trouble adjusting to the requirements of the state's paid leave law.[28] A majority of medium and large businesses reported no increased administrative costs as a result of the program (64 percent and 59 percent, respectively). And nearly two-thirds of small businesses (65 percent) – which might have been concerned about stretching other employees too thin or relying too heavily on employees to work more hours – reported no increased overtime pay costs because of the law.[29]

Business Owners Support Paid Leave Expansions

Business owners nationwide know it makes good business sense to take care of their employees. According to a 2013 Small Business Majority survey of business owners with fewer than 100 workers, a plurality (45 percent) said they strongly or somewhat supported an insurance program funded through employer and employee payroll contributions.[30] And a growing list of business owners in smaller and larger businesses and from states ranging from Texas to Massachusetts have offered testimonials in support of paid leave and urging the adoption of a national paid family and medical leave insurance program.[31]

Evidence shows that paid family and medical leave can help meet the needs of both employers and employees. **Public paid family and medical leave programs would provide income to workers who need to take a limited amount of time away from work while also benefitting employers significantly.** It's time for public policies to reflect this reality. Learn more at **www.NationalPartnership.org**.

Key Features of a Paid Family and Medical Leave Program that Meets the Needs of Working Families



By the Center for American Progress and the National Partnership for Women & Families
December 2014

Working people's need for family and medical leave is nearly universal. But unfortunately, only 12 percent of workers in the United States have access to paid family leave through their employers to care for a new child or seriously ill family member, and fewer than 40 percent have access to personal medical leave through short-term disability insurance provided through their jobs.[1]

In order to update our nation's public policies to effectively meet the needs of workers and their families, and to bring the country in line with virtually every other nation in the world,[2] the United States should adopt a paid family and medical leave policy that covers all workers and is accessible, comprehensive, affordable, and inclusive.

1. Available to all workers

The United States needs to move beyond the current patchwork of workplace leave protections to ensure that all workers have the ability to access leave. In order to meet the needs of workers, families, businesses, and the nation overall, any proposal must provide all workers with the ability to earn paid time away from work to care for themselves or a family member. Paid family and medical leave should be available to people regardless of the size or sector of their employers and whether they work full time, part time, or are self-employed. And any proposal should give people the freedom to relocate to another state or switch jobs without losing access to leave. It must also offer women and men equal amounts of leave time. Caring for a new child or seriously ill loved one is no longer "women's" work. Men experience higher rates of conflict between work and family than women do, and men increasingly want to be caregivers.[3]

2. Comprehensive and specific in addressing serious family and medical needs

To ensure leave is available for the key reasons people need time away from their jobs, a paid family and medical leave proposal must be comprehensive. It should be sufficient in length and include specific language to cover the range of well-established reasons people need time away from work, such as those established under the Family and Medical Leave Act.[4] These reasons include: addressing a personal serious health condition or the serious health condition of a parent or other family member; caring for a new baby, a newly adopted child, or a newly placed foster child; or addressing the exigencies arising from a military family member's deployment.

3. Affordable and cost-effective

It is important for any paid family and medical leave proposal to be affordable and cost-effective for employees, employers, and the government. It should replace a significant portion of a worker's usual wages—enough to allow workers to take the time they need without jeopardizing their ability to afford the basics. It should also be affordable for employers and should coordinate with existing benefits offered by employers and state and federal programs.

4. Inclusive

A paid family and medical leave proposal should include a definition of "family" that recognizes diverse families and care responsibilities today. As family demographics shift, parents of young children are not the only types of workers with significant caregiving responsibilities. Thus any proposal should also cover care for elders and recognize same-sex families.

5. Available without adverse employment consequences

Paid family and medical leave needs to be available without any adverse employment consequences. Any proposal should include provisions that protect workers against discrimination or retaliation for needing or taking leave. Furthermore, employees should not be forced to give up important workplace rights or labor protections in order to gain access to paid leave.

Conclusion

Regardless of how a national paid family and medical leave program is financed, structured, and implemented, any program must meet the principles outlined here in order to adequately address the needs of working families today.

Endnotes

1 Bureau of Labor Statistics, *Table 16. Insurance benefits: Access, participation, and take-up rates, private industry workers, National Compensation Survey, March 2013* (U.S. Department of Labor, 2013), available at http://www.bls.gov/ncs/ebs/benefits/2013/ebbl0052.pdf.

2 Organisation for Economic Co-operation and Development, "PF2.1: Key Characteristics of Parental Leave Systems" (2014), available at http://www.oecd.org/els/soc/PF2_1_Parental_leave_systems_1May2014.pdf.

3 Ellen Galinsky, Kerstin Aumann, and James T. Bond, "Times Are Changing: Gender and Generation at Work and Home" (New York: Families and Work Institute, 2011), available at http://familiesandwork.org/site/research/reports/Times_Are_Changing.pdf.

4 *Family and Medical Leave Act of 1993*, Public Law 103–3, 103rd Cong., 1st sess. (February 5, 1993).

D.C. Code § 1-612.03c

District of Columbia Official Code
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Current through laws in effect as of April 23, 2015 and through DC Act 20-592.

Division I. Government of District.
Title 1. Government Organization.
Chapter 6. Merit Personnel System.
Subchapter XII. Hours of Work; Legal Holidays; Leave.

D.C. Code § 1-612.03c (2015)

§ 1-612.03c. Family leave.

(a) An eligible employee shall receive leave with pay for family leave of not more than 8 workweeks within a 12-month period for a single qualifying event.

(b) Leave authorized by this section for a single qualifying event:

(1) May be exercised by an eligible employee only within the 12-month period following the qualifying event;

(2) May be used in no less than one-day increments, either consecutively or intermittently; and

(3) Shall count against the 16 workweeks of family leave provided under § 32-502.

(c) If an employee using leave under this section is serving in a probationary capacity, the employee's probationary period shall be extended by the duration of the leave used.

(d) An eligible employee using leave under this section shall enjoy the same employment and benefit protections afforded to an employee under § 32-505; provided, that § 32-505(f) shall not apply under this section.

(e) An agency may require that a request for leave under this section be supported by appropriate certification or other supporting documentation. An agency shall keep any information regarding the family relationship confidential.

(f) Each agency shall maintain an accounting of leave used under this section and any records related to its use.

(g) For the purposes of this section, the term:

(1) "Child" means:

(A) A person under 21 years of age;

(B) A person, regardless of age, who is substantially dependent upon the employee by reason of physical or mental disability; or

(C) A person who is under 23 years of age who is a full-time student at an accredited college or university.

(2) "Eligible employee" means a District government employee eligible to accrue annual leave who has experienced a qualifying event.

(3) "Family member" means:

(A) A person to whom the employee is related by blood, legal custody, domestic partnership, or marriage;

(B) A foster child;

(C) A child who lives with the employee and for whom the employee permanently assumes and discharges parental responsibility; or

(D) A person with whom the employee shares or has shared, within the last year, a mutual residence and with whom the employee maintains a committed relationship.

(4) "Qualifying event" means one of the following:

(A) The birth of a child of the employee;

(B) The legal placement of a child with the employee (such as through adoption, guardianship, or foster care);

(C) The placement with the employee of a child for whom the employee permanently assumes and discharges parental responsibilities; or

(D) The care of a family member of the employee who has a serious health condition.

HISTORY: (March 3, 1979, D.C. Law 2-139, § 1203c, as added Feb. 26, 2015, D.C. Law 20-155, § 1052(b), 61 DCR 9990.)

NOTES:

Temporary legislation. --

For temporary (225 days) amendment of this section, see § 2(b) of the Fiscal Year 2015 Budget Support Clarification Temporary Amendment Act of 2014 (D.C. Law 20-179, March 7, 2015, 62 DCR 424).

For temporary (225 days) repeal of D.C. Law 20-155, § 1053, see § 2(f)(1) of the Fiscal Year 2015 Budget Support Clarification Temporary Amendment Act of 2014 (D.C. Law 20-179, March 7, 2015, 62 DCR 424).

Emergency legislation. --

For temporary (90 days) addition of D.C. Law 2-139, § 1203c, concerning family leave, see §§ 1052(b) and 1053 of the Fiscal Year 2015 Budget Support Emergency Act of 2014 (D.C. Act 20-377, July 14, 2014, 61 DCR 7598).

For temporary (90 days) addition of D.C. Law 2-139, § 1203c, concerning family leave, see §§ 1052(b) and 1053 of the Fiscal Year 2015 Budget Support Congressional Review Emergency Act of 2014 (D.C. Act 20-449, October 10, 2014, 61 DCR 10915, 20 STAT 4188).

For temporary (90 days) amendment of this section, as enacted by D.C. Law 20-155, § 1052(b), see § 2(b) of the Fiscal Year 2015 Budget Support Clarification Emergency Act of 2014 (D.C. Act 20-461, November 6, 2014, 61 DCR 11784, 20 STAT 4368).

For temporary (90 days) repeal of D.C. Law 20-155, § 1053, see § 2(c) of the Fiscal Year 2015 Budget Support Clarification Emergency Act of 2014 (D.C. Act 20-461, November 6, 2014, 61 DCR 11784, 20 STAT 4368).

For temporary (90 days) addition of D.C. Law 2-139, § 1203c, concerning family leave, see §§ 1052(b) and 1053 of the Fiscal Year 2015 Budget Support Second Congressional Review Emergency Act of 2014 (D.C. Act 20-566, January 9, 2015, 62 DCR 884, 21 STAT 541).

For temporary (90 days) amendment of this section, see § 2(b) of the Fiscal Year 2015 Budget Support Clarification Congressional Review Emergency Amendment Act of 2014 (D.C. Act 20-587, January 13, 2015, 62 DCR 1294, 21 STAT 758).

For temporary (90 days) repeal of D.C. Law 20-155, § 1053, see § 2(c) of the Fiscal Year 2015 Budget Support Clarification Congressional Review Emergency Amendment Act of

2014 (D.C. Act 20-587, January 13, 2015, 62 DCR 1294, 21 STAT 758).

Legislative history of Law 20-155. --

See note to § 1-608.51a.

Editor's notes. --

Section 1053 of D.C. Law 20-155 provided that an employee may exercise leave under § 1-612.03c for a qualifying event that occurred before Feb. 26, 2015; provided, that the employee otherwise meets the requirements of § 1-612.03c.

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-377

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 14, 2014

To enact and amend, on an emergency basis, provisions of law necessary to support the Fiscal Year 2015 budget.

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"(4) If at the close of fiscal year, the District has fully funded the Emergency, Contingency, Fiscal Stabilization, and Cash Flow Reserves, all additional uncommitted amounts in the unrestricted fund balance of the General Fund of the District of Columbia as certified by the Comprehensive Annual Financial Report shall be used for the following purposes:

"(A) 50% shall be deposited in the Housing Production Trust Fund; and

"(B) 50% shall be reserved for Pay-as-you-go capital projects.".

Sec. 1043. Chapter 3 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-308.04. Replacement schedule for capital assets.".

(b) A new section 47-308.04 is added to read as follows:

"§ 47-308.04. Replacement schedule for capital assets.

"The Chief Financial Officer of the District of Columbia shall develop a 15-year replacement schedule for the capital assets of the District government. The schedule shall be prepared in a form that reflects both the adopted capital improvements plan and a replacement schedule for District capital assets. The Chief Financial Officer shall report to the Council and the Mayor on the replacement schedule on an annual basis, with the initial report due on October 1, 2015. All agencies shall cooperate with any requests made by the Chief Financial Officer related to this section.".

(c) Section 47-335.01 is amended by striking the word "borrowings." and inserting the phrase "borrowings. In determining the amounts to be financed, the Mayor shall consult with the Chief Financial Officer to determine if any funds appropriated for Debt Service, as defined in § 47-334(1), in excess of Debt Service requirements are available to reduce the amount of borrowing for the next bond issuance." in its place.

(d) Section 47-362 is amended by adding a new subsection (f) to read as follows:

"(f) Notwithstanding § 47-363, any funds appropriated for Debt Service, as defined in § 47-334(1), in excess of Debt Service requirements:

"(1) May not be reprogrammed, unless the Council approves the reprogramming request by resolution; and

"(2) At the end of a fiscal year, any excess shall be transferred to the Capital Fund as Paygo.".

SUBTITLE F. GOVERNMENT FAMILY LEAVE PROGRAM

Sec. 1051. Short title.

This subtitle may be cited as the "Government Family Leave Program Emergency Amendment Act of 2014".

Sec. 1052. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) The table of contents is amended by adding new section designations to read as follows:

"SEC. 1203a. UNIVERSAL LEAVE PROGRAM

"SEC. 1203b. DONOR LEAVE

"SEC. 1203c. FAMILY LEAVE".

(b) A new section 1203c is added to read as follows:

"Sec. 1203c. Family leave.

"(a) An eligible employee shall receive leave with pay for family leave of not more than 8 workweeks within a 12-month period for a single qualifying event.

"(b) Leave authorized by this section for a single qualifying event:

"(1) May be exercised by an eligible employee only within the 12-month period following the qualifying event;

"(2) May be used in no less than one-day increments, either consecutively or intermittently; and

"(3) Shall count against the 16 workweeks of family leave provided under section 3 of the District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-502) ("D.C. FMLA").

"(c) If an employee using leave under this section is serving in a probationary capacity, the employee's probationary period shall be extended by the duration of the leave used.

"(d) An eligible employee using leave under this section shall enjoy the same employment and benefit protections afforded to an employee under section 6 of the D.C. FMLA; provided, that section 6(f) of the D.C. FMLA shall not apply under this section.

"(e) An agency may require that a request for leave under this section be supported by appropriate certification or other supporting documentation. An agency shall keep any information regarding the family relationship confidential.

"(f) Each agency shall maintain an accounting of leave used under this section and any records related to its use.

"(g) For the purposes of this section, the term:

"(1) "Child" means:

"(A) A person under 21 years of age;

"(B) A person, regardless of age, who is substantially dependent upon the employee by reason of physical or mental disability; or

"(C) A person who is under 23 years of age who is a full-time student at an accredited college or university.

"(2) "Eligible employee" means a District government employee eligible to accrue annual leave who has experienced a qualifying event.

"(3) "Family member" means:

"(A) A person to whom the employee is related by blood, legal custody, domestic partnership, or marriage;

"(B) A foster child;

"(C) A child who lives with the employee and for whom the employee permanently assumes and discharges parental responsibility; or

"(D) A person with whom the employee shares or has shared, within the last year, a mutual residence and with whom the employee maintains a committed relationship.

"(4) "Qualifying event" means one of the following:

"(A) The birth of a child of the employee;

"(B) The legal placement of a child with the employee (such as through adoption, guardianship, or foster care);

"(C) The placement with the employee of a child for whom the employee permanently assumes and discharges parental responsibilities; or

"(D) The care of a family member of the employee who has a serious health condition.".

Sec. 1053. Applicability.

An employee may exercise leave under this subtitle for a qualifying event that occurred before the effective date of this act; provided, that the employee otherwise meets the requirements of this subtitle.

SUBTITLE G. OFFICE OF CONTRACTING AND PROCUREMENT SURPLUS PERSONAL PROPERTY SALES FUND ESTABLISHMENT

Sec. 1061. Short title.

This subtitle may be cited as the "Office of Contracting and Procurement Surplus Personal Property Fund Establishment Emergency Act of 2014".

Sec. 1062. Surplus Personal Property Sales Fund.

(a) There is established as a special fund the Surplus Personal Property Sales Fund ("Fund"), which shall be administered by the Chief Procurement Officer in accordance with subsection (c) of this section:

(b) Except as provided in subsection (d) of this section, proceeds from the sale of surplus personal property shall be deposited into the Fund.

(c) Money in the Fund shall be used to pay for the cost of online auction contracts for surplus personal property.

(d) Amounts in excess of the money needed to pay for the cost of online auction contracts for surplus personal property shall be deposited into the unrestricted fund balance of the General Fund of the District of Columbia.

THE ECONOMICS OF PAID AND UNPAID LEAVE

The Council of Economic Advisers

June 2014

Executive Summary

Since the beginning of his Administration, President Obama has focused on creating real, lasting security for the middle class by encouraging our nation's workplaces to better support working families. As part of this commitment to an economy that works for everyone, including those balancing work and family, the President has included funding for the Department of Labor to create a State Paid Leave Fund to help states with start-up costs of establishing paid leave programs in his budget every year since taking office. In addition, the Department of Labor worked with the Bureau of Labor Statistics to better understand who has access to paid and unpaid leave in the workplace and commissioned an additional survey that focused on those who have taken, took, or had unmet need for leave. We report the findings of that data collection and summarize research that shows that paid and unpaid leave can help workers balance obligations at home and in the workplace—and help parents and those with medical needs remain in the workforce.

The latest data demonstrate that a significant fraction of the population lacks access to leave policies, especially paid leave:

- According to the latest survey of employees, 77 percent of workers report having some ability to take unpaid leave. Nearly three-quarters (73 percent) can take unpaid leave if they have an illness, and 60 percent can do so for the birth of a child.

- Only 53 percent of workers report being able to take some type of paid leave for their own illness and only 39 percent report being able to take some type of paid family leave for the birth of a child. More workers report access to paid leave then employers report providing it—only 11 percent of workers are covered by formal paid family leave policies according to employers. The gap between workers' and employers' reports suggests that informal arrangements with managers and the use of other forms of leave, like paid vacation, may currently be playing an important role.

- There are large disparities in access to paid leave across groups, with access to paid leave being particularly low among Hispanics, less educated workers, and low wage workers. Taking into account this "benefits gap," inequality in total compensation between more and less advantaged groups is even greater than inequality in income alone.

- In addition to paid leave, workers also use the equivalent of about five days of unpaid leave per year, including low-wage workers who are the least able to afford unpaid leave.

- There is widespread need for more leave, both paid and unpaid. For every 5 workers who used leave in a typical week, one additional worker reported that he or she "needed to take leave but could not do so" in 2011. High wage workers reported "too much work" as the principal reason while low wage workers were more likely to report that they "could not afford loss of income."

There is growing evidence that policies that support working families can benefit families without imposing a cost on businesses:

- This report examines the cost and benefits of family leave programs from an employer's perspective and finds that leave, whether paid or unpaid, can have a positive effect on long-term productivity by improving recruitment, retention, and employee motivation.

- Three states have adopted and implemented paid family leave and a number of state and local governments have introduced paid sick leave. We review the effects of these policies on both working families and businesses. A survey of 253 employers affected by California's paid family leave initiative found that the vast majority – over ninety percent – reported either positive or no noticeable effect on profitability, turnover, and morale.[1]

[1] Appelbaum and Milkman (2011).
[2] Klerman, et al. (2013). In order to be eligible for FMLA leave, an employee must have worked at an employer for at least a year, worked at least 1,250 hours over the prior year, and work at a location with 50 or more

I. Introduction

The composition of the workforce has drastically changed over the last half-century. Almost half of the workforce is now women, married couples are increasingly sharing childcare responsibilities, and people are living—and working—longer than in the past. Given the growing number of dual-earner families, today's workers are trying to balance work, childcare, and eldercare, as well as other responsibilities. In particular, families increasingly need to take time off around the birth or adoption of a child, for their own medical needs, or when a family member becomes ill.

This evolving need for caregiving, whether for self or family, requires the ability to take time off from work. Formal sick leave policies allow workers to take a leave, usually for a short period, to recover from an illness, attend a doctor's appointment, or care for sick family members. Formal family leave policies—both maternity leave and paternity leave—allow recent mothers and fathers to take an extended absence from work while guaranteeing that they can return to their job and continue progressing in their careers.

Even when unpaid leave is available, workers may be unable or unwilling to forego lost wages. Paid family leave allows mothers and fathers to take extended periods off work while receiving replacement wages, an important distinction, especially for lower income parents who would not be able to take time off otherwise.

Despite the increasing need for leave policies, many American workers still lack access to unpaid and paid leave. The Family and Medical Leave Act (FMLA) of 1993 guarantees up to twelve weeks of unpaid leave with employer benefits for qualified medical and family reasons. Moreover, due to a number of exemptions, the FMLA only covers about 60 percent of American workers and less than a fifth of all new mothers.[2] However, even if workers are covered, many cannot afford to take advantage of the FMLA's guarantee of 12 weeks unpaid leave given the large loss of income it entails. The United States is currently the only developed country that does not offer government-sponsored paid maternity leave. Many of these countries also provide paid paternity leave, elder care benefits, and generous paid sick leave. In the United States some businesses have voluntarily adopted leave policies, and three state governments – California, New Jersey, and Rhode Island – have enacted legislation implementing paid family leave. As this report documents, however, far too many Americans lack access to the kind of leave policies that meet the evolving needs of today's families.

This report examines the composition of workers with access to paid and unpaid leave using the 2011 American Time Use Survey (ATUS), the best available source for detailed data on workers' access to and experience with leave. The survey confirms, that a large fraction of American workers lack access to paid leave, including paid leave for an illness or for the birth of a child. Use of unpaid leave is more common, even among low wage workers who may be least able to afford such an interruption of income. The time use data also demonstrate that the unmet need for paid leave is particularly acute among the most disadvantaged

[2] Klerman, et al. (2013). In order to be eligible for FMLA leave, an employee must have worked at an employer for at least a year, worked at least 1,250 hours over the prior year, and work at a location with 50 or more employees.

populations. In addition, we find large disparities among workers with different educational attainment and between Hispanics and non-Hispanics, even after controlling for differences in wages.

The National Compensation Survey, a survey of employers, also provides information on workers' access to leave policies. While the employee survey asks about access to leave for the birth of a child, which may include a variety of ad hoc policies or the ability to use other forms of leave, this survey asks specifically about formal family leave programs, as well as other types of paid leave. The survey finds that a small minority of private-sector workers—only 11 percent—have paid family leave at their job while 61 percent have access to paid sick leave. Overall, results from this employer survey confirm that many individuals lack access to paid leave.

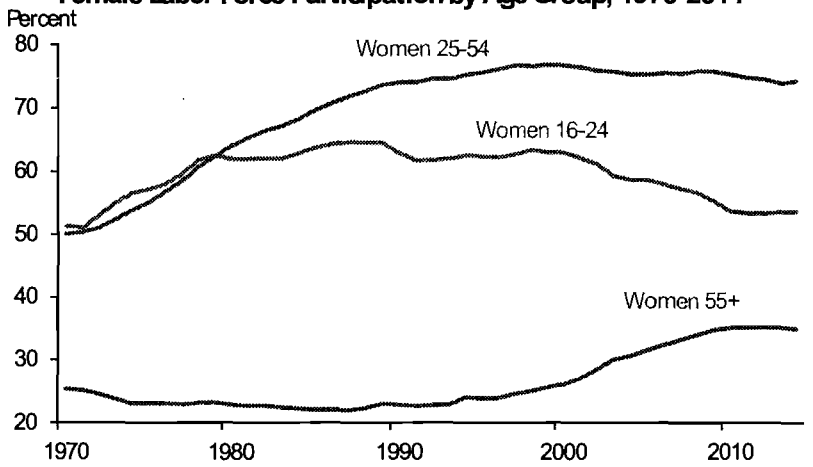
This report also examines the economic implications of leave policies, and the effect on businesses in particular. By enabling workers who would have otherwise dropped out of the labor force to instead take short-term leave, such policies could benefit their employer's long-term productivity by improving recruitment, retention, and worker motivation. There is also increasing evidence that employers can offer greater flexibility to their workers, in terms of leave provisions and alternative work arrangements, without negative impacts on profitability.

In addition to examining the current state of paid and unpaid leave, this report sheds light on the role of state and local governments in expanding access to leave when businesses have not. In 2004, California became the first state to implement a paid family leave policy. Since then several other states have created similar programs and a number of state and local governments have introduced paid sick leave. Currently, even more state and local governments are currently considering ways in which they can ensure that all of their citizens have access to needed paid leave policies.

II. Changing American Family and the Need for Family Leave

Over the last few decades, the composition of the workforce and the composition of families have changed in important ways. Whereas about half of prime-aged women (age 25-54) were in the workforce in 1970, about three-quarters were in the labor force by the early 1990s. At the same time, the labor force participation rate for prime-age men fell slightly (from about 96 to 93 percent), but remains high. As a result, the number of dual-earner couples increased over this period.[3] Since the 1990s, female participation in the labor force has stalled, but due in part to their increasing educational attainment and increasing hours worked, women's earnings have become an increasingly significant share of total household earnings: currently, women are breadwinners or co-breadwinners in two-thirds of families with children.[4]

Female Labor Force Participation by Age Group, 1970-2014



Source: Bureau of Labor Statistics, shown in the Council of Economic Advisers' "Women's Participation in Education and the Workforce" March 12,2014.

Over the same period that women were entering the workforce, the fraction of children living in a family with married parents fell from 77 percent in 1970 to 69 percent by 2013, while the fraction of children living with a single mother or single father increased. This trend, combined with the rise of dual-earner households, has resulted in 63 percent of children living in a family where all parents work.

The challenges of juggling work and family are particularly acute in single parent households. Not only have these types of households become more prevalent as marriage rates have fallen, single mothers today are more likely to be working relative to twenty years earlier. In 2013, 56 percent of single mothers with children younger than 3, and 65 percent of all single mothers, had a job.[5] Balancing these two jobs – work for her employer and work for her family – often requires the type of flexibility that leave offers.

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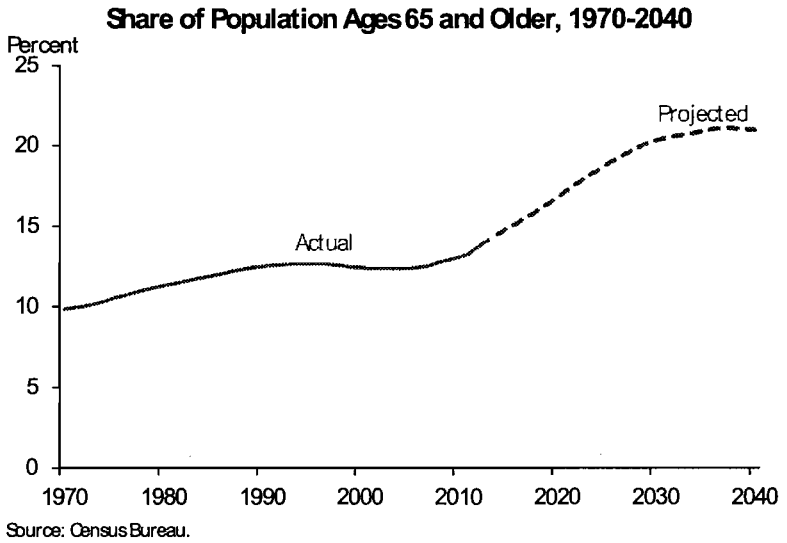
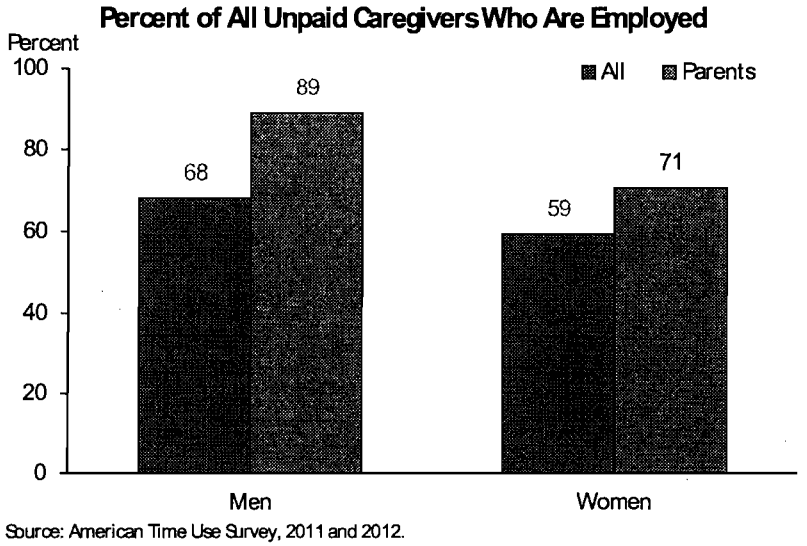
[3] Waldfogel (2001).

[4] Boushey, O'Leary, and Glynn (2013). Breadwinners are defined as single working mothers or married working mothers who earn at least as much as their spouse. Co-breadwinners are married mothers who earn at least 25 percent of the couple's earnings.

[5] BLS (2014).



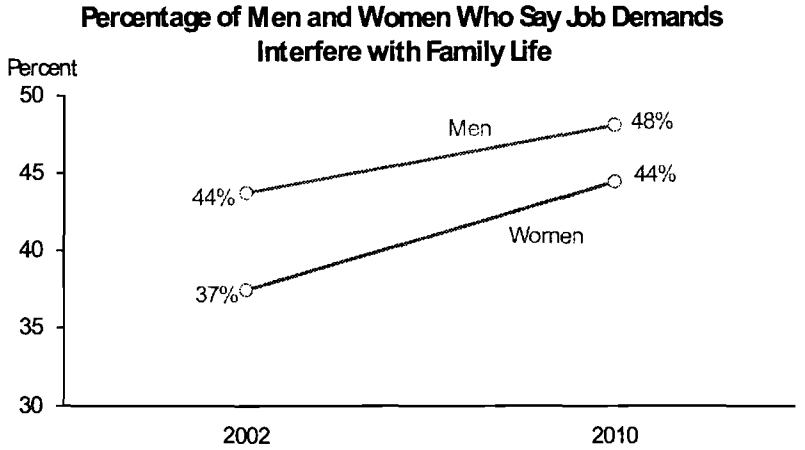
Caregiving extends beyond just children—eldercare is a growing responsibility of workers due to the fact that the American population is getting older. The share of the population age 65 and older is larger today than it was at any point during the 20th century. For people at advanced ages, unpaid family caregiving is the most common source of long-term care.[6] Each year in 2011-2012, about 16 percent of the population ages 15 and older provided unpaid eldercare.[7]



Almost half (45 percent) of individuals who provided eldercare are part of the "sandwich generation"—meaning that they care for both their elderly parents and their young children. Members of the sandwich generation are often employed and work full-time: more than three-quarters (78 percent) were employed, and 62 percent worked full-time.[8] As Americans live

[6] Houser, Gibson, and Redfoot (2010).
[7] BLS (2013a)
[8] BLS (2013b)

longer and the number of elderly family members increases, more episodic events that require time away from work to care for loved ones will occur, further necessitating policies that help the working-age population more effectively balance family and career demands.



Note: Full-time, non-self-employed General Social Survey respondents who job demands interfere with family life "sometimes" or often".
Source: General Social Survey.

Surveys confirm that the changing nature of the American family means that workplace flexibility, and the ability to take leave in particular, is increasingly important. The percent of non-self-employed full-time men and women who said that their job was interfering with family life increased between 2002 and 2010. In 2010, 44 percent of women and 48 percent of men said that work interferes with family "sometimes" or "often."[9] This is larger than the percent that say family interferes with work: less than one-third of women and less than one-fourth of men say it is difficult to take time off for personal or family matters. Moreover, 9 out of 10 Americans believe that employers should try to offer workers flexibility to meet their families' needs, so long as the work gets done.[10] Moreover, more than half of workers think that they could do their job better if they were allowed a more flexible schedule. [11]

The ability to take paid or unpaid leave has important implications for both families and employers, especially for new mothers and fathers. There is increasing evidence that having access to maternity leave increases the likelihood that mothers return to work and continue progressing in their careers. Recent research has examined the implementation of California's paid family leave and found that it increased the weekly hours and pay of employed mothers of 1- to 3-year-old children by almost 10 percent.[12] Similarly, researchers have found that access to paid leave increased the likelihood of a new mother returning to her employer in the US, Britain, and Japan.[13] This research demonstrates that maternity leave, particularly when there is job protection required by law, can positively impact mothers' wages and employment in the long-run by encouraging them to return to their prior job and by

[9] CEA analysis of General Social Survey
[10] Harris Poll of 4,096 U.S. adults (aged 18+), conducted online May 27-30, 2014.
[11] Harris Poll of 4,096 U.S. adults (aged 18+), conducted online May 27-30, 2014.
[12] Rossin-Slater, Ruhm, and Waldfogel (2011).
[13] Waldfogel, Higuchi, and Abe (1999).

protecting against the loss of specific human capital. It also highlights how paid leave contributes to higher labor force participation and a stronger economy.

The Impact of Leave on Health

The benefits of leave also extend to workers' children and a number of researchers have identified a positive impact of maternity leave on infant outcomes such as birth weight and infant mortality. In particular, for college educated mothers able to take advantage of it, an expansion of unpaid leave has been found to increase birth weight, decrease premature birth, and lead to a substantial decrease in infant mortality.[14] An examination of European leave policies found that paid leave programs are a relatively cost-effective way to reduce infant mortality because family leave allows parents to better care for their child and monitor their child's health.[15] Moreover policies supporting parents often work together to benefit children. For instance, as part of the Affordable Care Act, employers must now provide a reasonable break time, as well as a private place for nursing mothers to express breast milk.[16] This both helps nursing mothers go back to work and makes it easier for mothers to continue nursing. Other studies have found that maternity leave increases women's likelihood of successfully nursing their infants.[17] There is also evidence that children have shorter hospital stays when their parents are able to stay home and care for them.[18] The current evidence on children's outcomes emphasizes the importance of the early childhood and prenatal environment, so there are likely large long-term benefits of polices that improve infant health.[19] One study found higher educational attainment, lower teen pregnancy rates, higher IQ scores, and higher earnings in adulthood for children whose mothers used maternity leave, suggesting paid leave policies can have long-term benefits as well.[20]

Children who do not have adequate parental care are more likely to show up sick to school and infect others. Studies also suggest that those with paid sick leave are more likely to utilize preventative health care such as cancer screening.[21] Researchers have also examined the impact of sick leave policies and found a number of health benefits. This implies that these policies provide wider benefits to society since workers with access to paid sick leave are more likely to utilize cost-effective methods to keep themselves (and those around them) healthy.

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[14] Rossin (2011).
[15] Ruhm (2000).
[16] Department of Labor
[17] For instance, see Roe et al. (1999) and Baker and Milligan (2008).
[18] Heymann (2001).
[19] Almond and Currie (2012).
[20] Carneiro, Loken, and Salvanes. (2011).
[21] Peipins et al. (2012).

III. The State of Leave Access and Leave Use in the United States

The 2011 American Time Use Survey (ATUS) included a module providing detailed information on leave access, leave use, and unmet need for leave.[22] Workers were also asked whether they could adjust their work schedule or location instead of taking leave. Because the American Time Use Survey is linked to the Current Population Survey, it contains rich data on the characteristics of people surveyed. Previously, the best information on leave came from the National Compensation Survey (NCS), a survey of employers. While the NCS survey is informative about the total number of people with access to formal leave policies provided by their employer, it does not provide comprehensive information on the characteristics of people who lack access to leave or information on actual use of leave. The ATUS survey also provides unique data on workers' ability to adjust their schedules or location, each of which could help in balancing work and family obligations.

Access to Paid and Unpaid Leave

The ATUS leave module asked workers whether they could take paid or unpaid leave for any the following reasons: own illness or medical care, illness or medical care of a family member, childcare other than illness, eldercare other than illness, vacation, errands or personal reasons, or the birth or adoption of a child. Although workers may have access to general leave, it cannot always be used for all purposes. For instance, paid vacation days may be impractical to use for illness because an employer might require scheduling the time in advance. In the case of unpaid leave, the survey asks respondents whether they believe that they can take leave assuming they receive their employer's approval. To the extent that employers do not approve of unpaid leave, these statistics overstate the availability of unpaid leave.

Table 1
Access to Leave

Reason	% Paid	% Unpaid
Family	48%	71%
Own Illness	53%	73%
Vacation	56%	60%

Source: ATUS 2011, CEA calculations. Family leaves refers to the abililty to take leave for a family illness, eldercare, childcare, or the birth of a child.

For all types of leave, paid leave is less common than unpaid leave. After vacation, sick leave is the most common type of paid leave provided –approximately 53 percent of workers report having access to paid sick leave to cover their own illness, but only 43 percent said they thought that they would be able to use paid leave to take care of family members who were ill. Even fewer workers reported being able to use paid leave to care for young or elderly family members – approximately 28 percent of workers reported being able to use paid leave

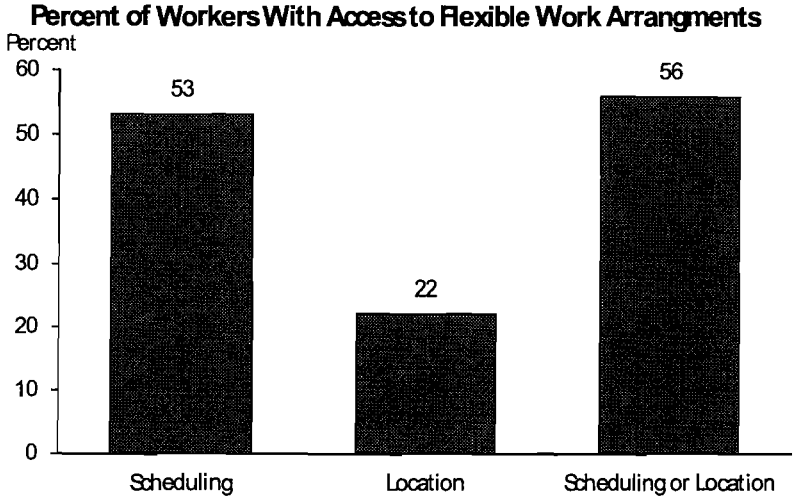
[22] In the survey, workers were asked whether they could take leave for a variety of reasons. If respondents answered "yes" they were assumed to have access to leave. A number of workers did not answer survey questions related to access to leave and were assumed to not have access, however it is possible some workers learn about access to leave when they need to take it.

for childcare, while 26 percent reported being able to use paid leave for eldercare. Overall, less than half of workers (48%) reported being able to take paid leave for any family-related reason.

The Family Medical Leave Act (FMLA), passed in 1993, made significant progress by requiring unpaid leave for covered workers. Under FMLA, employers are required to give 12 weeks of unpaid leave for qualifying reasons, including the birth of a child. The FMLA exempts many workers from coverage, however, including those at private businesses with fewer than 50 employees and those that work part-time. Due to the FMLA requirement, as well as businesses that voluntarily provide unpaid leave, 60 percent of workers in the survey reported that they could take unpaid leave for the birth of a child.

Fewer workers – only 39 percent – reported access to paid family leave for the birth of a child. Mothers reported only slightly more access to paid family leave than fathers. Overall, 38 percent of working men reported access to paid leave they could take for the birth of a child while 40 percent of working women reported such access. At the time of the survey, only residents of California and New Jersey, covering about 15 percent of the U.S. population, had state-implemented paid leave policies. The remainder of those with access to paid leave either had employers that voluntarily provided paid family leave, or could utilize other forms of paid leave such as vacation time or comp time for the birth of a child. Some of those who reported access to paid family leave likely take only minimal time off—in some cases access to paid leave for the birth of a child might mean using only a few paid vacation days.

Access to Scheduling and Location Adjustments



Source: ATUS2011.

Scheduling adjustments and ability to change location of work may be another important tool to help workers balance work and family responsibilities. Often leave has to be planned in advance, which limits its usefulness in coping with unexpected emergencies. Scheduling adjustments can be an important tool to address unexpected issues outside of work. For instance, if a family member is sick, location flexibility—allowing workers to work from home—can be a good alternative to taking paid leave. Currently, about 56 percent of the workers reported that they could adjust their schedule or location, with the ability to adjust

schedules being far more common (53 percent) than the ability to change location (22 percent) (Figure 1).[23]

Unequal Access to Paid Leave

Table 2 Access to Leave by Selected Worker Characteristics			
Leave Type	Access to Paid Leave	Access to Unpaid Leave	Schedule Adjustment for Location
Total	59%	77%	56%
Demographic Characteristics			
Male	60%	75%	56%
Female	57%	78%	56%
White, non-Hispanic	62%	78%	58%
Black, non-Hispanic	61%	77%	50%
Asian, non-Hispanic	62%	72%	60%
Hispanic	43%	71%	48%
Educational Attainment (Workers 25 and Older)			
Less than high school	35%	70%	37%
High school	61%	76%	48%
Some college	66%	78%	56%
Bachelor's degree or higher	72%	75%	60%
Weekly Earnings			
$0-$540	50%	78%	48%
$541-$830	77%	79%	49%
$831-$1230	81%	75%	51%
$1230+	83%	75%	60%
All Workers			
Paid hourly	56%	80%	52%
Salaried	62%	73%	59%
Source: ATUS 2011; CEA calculations.			

The distinction between paid and unpaid leave is important, especially for low wage workers, since although unpaid leave may provide some flexibility, it is not a realistic option if workers

[23] The fraction of workers who report they have the ability to adjust their schedule is considerably higher than the share of workers who report having flexible schedules in the special supplement of May 2004 Current Population Survey (Council of Economic Advisers, 2010, "Work-Life Balance and the Economics of Workplace Flexibility" http://www.whitehouse.gov/files/documents/100331-cea-economics-workplace-flexibility.pdf). In the May 2004 supplement, 28 percent of full time workers reported having flexible schedules that allowed them to vary the start and end time of work. The difference is likely due to conceptual differences between the two surveys. The CPS question is more geared towards finding people with regular flextime schedules while the ATUS survey specifically asks respondents if they could adjust their schedules instead of taking leave (for those with access to leave) or because they need to take time away from work (for those without access to leave).

cannot afford to take it. The extension of paid family leave in California illustrates this point. While unpaid leave guaranteed by FMLA induced some educated mothers to take leave, the extension of paid maternity benefits especially increased leave taking among less advantaged mothers.[24]

The rich detail on worker characteristics available in the ATUS survey allows us to assess the extent to which unequal access to benefits further amplifies the inequality in wages and income. Using the National Compensation Survey, one study found that higher wage workers were significantly more likely to have access to leave. Total compensation inequality was about 10 percent higher than wage inequality alone and unequal leave access accounted for roughly one-third of this additional gap.[25] Using ATUS, we can examine disparities across gender, race, ethnicity, and education, in addition to wages. Table 2 examines access to paid leave, unpaid leave, and scheduling adjustments by various worker characteristics.

The analysis shows little disparity in access to unpaid leave. However, there are pronounced disparities in access to paid leave. Interestingly, according to ATUS, there is little difference in access to paid leave across gender, but there is big gap in access to paid leave, across Hispanics and non-Hispanics, with only 43 percent of Hispanics having access to paid leave in comparison to 61 percent among non-Hispanics. One question is to what extent these differences can be explained by differences in pay levels or by the concentration of Hispanic workers in particular occupations or industries. If Hispanics were in the same wage categories as non-Hispanics, approximately 53 percent would be predicted to have access to paid leave. In other words, wages can account for a great deal (54 percent) but not all of the difference. Controlling for differences in industries and occupations, 56 percent of the difference can be explained.

Approximately 50 percent of black workers have access to scheduling adjustments in comparison to 58 percent of white workers.[26] Again, this analysis demonstrates that total compensation inequality is greater than the inequality implied by take-home pay.

The most pronounced disparities in access to paid leave exist across education and wage levels. College-educated workers are twice as likely to have access to paid leave as workers without a high school degree (72 percent versus 35 percent). Comparing wage levels, full-times workers in the top income quartile are 1.7 times as likely to have access to paid leave as the workers in the bottom quartile (83 percent versus 50 percent). Access to scheduling adjustments also differ across education groups, again with the least educated having the least flexibility.

With child care-costs rising,[27] it is becoming harder for low-income parents to coordinate care for their children while working. Low-income parents are also less likely than other workers to

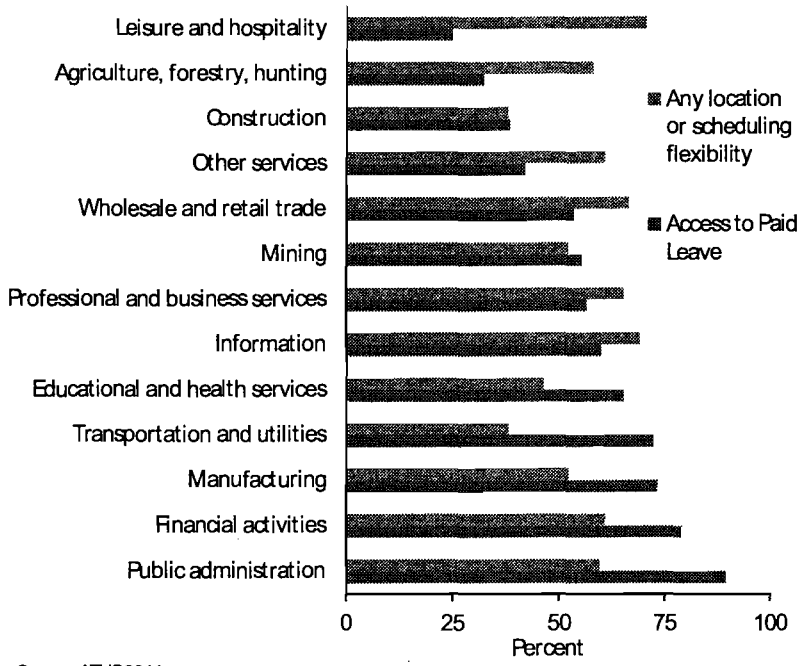
[24] Rossin-Slater, Ruhm, and Waldfogel (2011)

[25] Pierce (2001). The data refer to 1995-1997. According to the paper the 90-10 log differential in wages was 1.55 while the 90-10 log differential in total compensation was 1.71 with leave contributing .061 points to the difference. Unlike voluntary contributions to benefits such as leave, pensions, and health insurance, legally contributed benefits such as unemployment insurance and workmen's compensation tended to *reduce* inequality.

[26] Black, White, and Asian categories include only non-Hispanic individuals.

have access to either paid leave or scheduling adjustments, making it even harder to care for children while working. The lack of access to arrangements that help parents care for children while maintaining a connection to the labor force may ultimately have a negative effect on the health and education of children with low-income working parents, as well as increase the cost of social services.

Access to Paid Leave and Flexible Scheduling by Industry



Source: ATUS2011.

Across industries, there is substantial variation in access to paid leave and flexible scheduling arrangements (Figure 2). Certain jobs, such as manufacturing production or construction jobs, require workers to be physically present at certain times. In such cases, workplace flexibility resulting in employee absences may be especially costly to employers. Construction is one industry that has both low levels of paid leave and low levels of scheduling flexibility. Other industries, such as leisure and hospitality, which includes food service workers, have low access to paid leave but offer relatively high levels of flexibility. Finally, some industries have substantial access to paid leave but little flexibility. Manufacturing, transportation and utilities, and education and health services fall into this category. Paid leave access appears to be predominantly related to the pay level of the industry, with high wage industries offering more benefits. For example, in the leisure and hospitality sector where average hourly wage is about $14, less than 25 percent of workers report having paid leave, compared to almost 80 percent of workers in the financial activities sector.

It is important to note that the characteristics of these jobs are not fixed. Certain sectors have found ways to allow workers to have more flexible schedules by making better use of

[27] Census Bureau (2012).

technology and innovative business practices.[28] In some cases, there may be a cultural stigma around taking significant leave in certain industries.

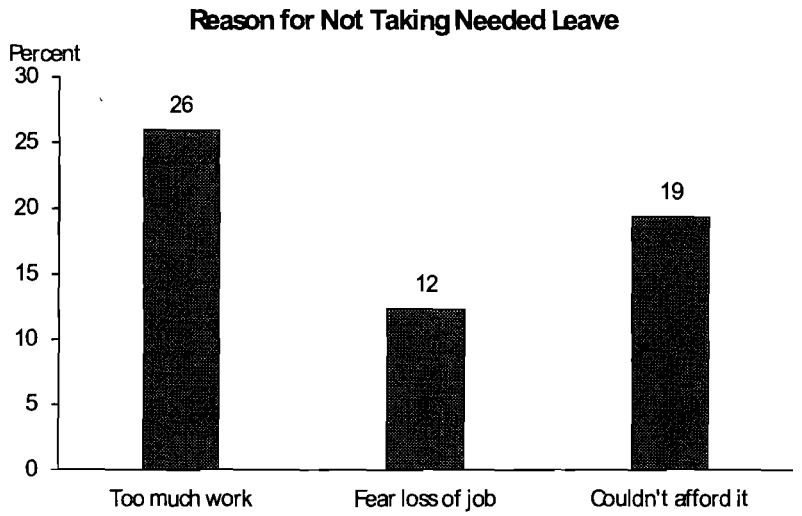
Use of Leave and Scheduling Adjustments

Table 3 Lease Use and Hours		
Utilization	% Who use Leave	Hours of Leave Taken Among Those Using Leave
Overall		
Access to Paid or Unpaid Leave	23%	15.1
Access to Paid Leave	25%	15.8
Access to Unpaid Leave	23%	15.3
Access to Schedule/Location Changes	21%	
Leave Use with No Access to Schedule/Location Adjustments		
Access to Paid or Unpaid Leave	23 %	16.6
Access to Paid Leave	26%	17.4
Access to Unpaid Leave	23%	17.3
Leave Use with Access to Schedule/Location Adjustments		
Access to Paid or Unpaid Leave	23%	13.9
Access to Paid Leave	24%	14.3
Access to Unpaid Leave	23%	13.9
Source: ATUS 2011.		

Even though workers may have access to leave, they may not be able to take it. Some workers, especially lower-income workers and those who are their family's primary breadwinner, cannot forego wages from taking unpaid leave. Other workers may be pressured by their employer not to take leave. For these reasons, it is important to also examine the actual use of leave. Approximately 23 percent of workers took either paid or unpaid leave during a typical week. While fewer workers took unpaid leave, the average hours among those who took unpaid leave were slightly higher than those who took paid leave.

While 23 percent of workers took paid or unpaid leave during a typical week, an additional 4.1 percent reported they wanted to take leave but could not do so. The most common reasons for not being able to take leave included "too much work" (26 percent) and "could not afford loss in income" (19 percent). An additional 12 percent reported not taking leave because they feared losing their job. Less educated and low wage workers were much more likely to cite "could not afford loss of income" as a reason they did not take desired leave while college educated and high wage workers were more likely to cite "too much work." Again, this demonstrates that there is unmet demand for leave policies, especially paid leave for low-income workers.

[28] Goldin and Katz (2011)



Source: ATUS2011.

Survey of Employers

The National Compensation Survey (NCS), a survey of employers, provides a picture of the availability of formal leave policies from the employer perspective. While ATUS respondents may say they have access to paid leave for the birth of a child, this may include a variety of informal policies and an ability to use other forms of leave for family reasons in addition to formal employer paid leave for family reasons.

According to the NCS, only 11 percent of private-sector workers have access to a formal paid family leave policy, including only 4 percent of part-time workers.[29] The NCS also reveals that workers at smaller firms have less access to paid leave—only 8 percent of those at establishments with fewer than 100 workers have access to paid family leave.[30]

Among all civilian workers, 65 percent responded that their employees had access to paid sick leave. The contrast between private and public (state and local) responses was especially sharp – private employers reported that 61 percent of their employees had access to paid sick leave, while public employers reported 89 percent.

Table 4
Access to Leave (National Compensation Survey)

Leave Type	%Paid Sick Leave	%Paid Vacation	%Paid Holidays
Civilian	65%	74%	76%
Private Industry	61%	77%	77%
State and Local Gov't	89%	59%	67%

Source: NCS.

In addition to the fact that NCS measures access to formal leave policies while ATUS measures the ability to take a leave of any length for a specific purpose, there are other

[29] Van Giezen (2013).
[30] Van Giezen (2013).

differences that explain why employers reported that less employees had access to paid family leave and more access to paid sick leave in the NCS than in ATUS. Some employees may lack the knowledge and understanding of their employer's leave policies, however lack of knowledge may mean de facto lack of access. Finally, many jobs have tenure thresholds, and new employees may report having no leave access even though they would be counted as having access in the employer survey.

Regardless of the reasons for the differences across the two surveys, there is one consistent message: a significant portion of American workers still lack access to paid sick leave.

IV. The Business Case for Paid Leave

A key argument posed by skeptics of paid family leave or flexible workplace policies is that such practices are costly and place an unfair burden on employers. However, the birth of a child or a serious illness is not a frequent event, and evidence from the states that have paid leave policies in place, as well as other developed countries, shows that these policies do not

cause undue interruptions in the workplace. In fact, a body of research finds that these practices can benefit employers by improving their ability to recruit and retain talent, lowering costly worker turnover and minimizing loss of firm-specific skills and human capital, as well as boosting morale and worker productivity.

Paid leave policies can help business recruit talented workers who plan to stay with a firm after having children. In a survey of two hundred human resource managers, two-thirds cited family-supportive policies, including flexible schedules, as the single most important factor in attracting and retaining employees.[31] Paid leave has been shown to increase the probability that women continue in their job after having a child, rather than quitting permanently, saving employers the expense of recruiting and training additional employees.[32] A review of 27 separate case studies found that the median cost of replacing an employee was 21 percent of that employee's annual salary – a substantial cost that can be reduced with family-friendly leave policies.[33]

Following implementation of state programs, most businesses reported no negative effect on profitability. A survey of 253 employers affected by California's paid family leave initiative found that the vast majority – over ninety percent – reported no noticeable or a positive effect on profitability, turnover, and morale.[34]

Paid sick leave also induces a healthier work environment by encouraging workers to stay home when they are sick. Workers who show up sick are likely to infect others and cause further productivity losses. A recent study investigating the effects of the 2009 H1N1 pandemic found that employee absences fell more rapidly after the peak of the pandemic among public sector workers (who had much higher access to paid sick leave) compared to private sector workers who were much less likely to have paid sick leave.[35]

Evidence suggests that workers do not abuse paid sick days. A survey of 251 employers conducted after Connecticut implemented a paid sick leave program found that employees did not abuse the policy by taking unnecessary sick days. About two-thirds of employers reported no increase in cost (47 percent) or an increase of less than 2 percent (19 percent) and the report's authors conclude that there is no business case for opposing paid sick days.[36] Another study examining the implementation of San Francisco's paid sick leave law in 2007 found no evidence of a negative effect on the economy. Unlike surrounding areas that did not have a paid sick leave law, San Francisco saw an increase in total employment after the implementation of the law.[37] The number of businesses also grew more rapidly in San Francisco than in surrounding areas in the same time period.[38]

Innovative, family-first companies have, of course, known about these advantages for some time now. A 1998 survey of large and medium-sized firms found that almost *half* of surveyed

[31] Williams (2001).
[32] Rossin-Slater, Ruhm, and Waldfogel (2011).
[33] Not including executives and physicians. Boushey and Glynn (2012).
[34] Appelbaum and Milkman (2011a).
[35] Drago and Miller (2010).
[36] Appelbaum (2014).
[37] Petro (2010).
[38] Petro (2010).

firms reported a positive return on investment in their flexible work arrangements or caregiving leave policies, and 80 percent found such policies to be at least cost-neutral.[39] In New York, following a survey of 120 employers in 2000 and 2001, researchers found that those with flexible leave policies experienced significantly lower turnover and concluded that "these results are more likely to reflect causal impacts, rather than simple correlations".[40] In a 2002 survey, researchers from the University of Cambridge determined that businesses with family-friendly policies, which includes either paid or unpaid leave, were more likely to have above average labor productivity than those without such policies. In that same survey, 90 percent of respondents characterized their family-friendly policies as cost-effective.[41]

One question is why, if such practices can be beneficial to employers, they have not already been adopted. Businesses may be slow to adapt their business practices to changes in the workforce, even when modernizing their organizations would be profitable.[42] One reason is that businesses may be reluctant to experiment with new initiatives and thus lack a full understanding of the long-run benefits, and instead focus on short-run cost-saving measures. This suggests that there is considerable scope for government to take a leadership role in spreading information about best management practices and that both workers *and* businesses can benefit as a result.

[39] Galinsky and Bond (1998)).
[40] Baughman, DiNardi, and Holtz-Eakin (2003).
[41] Dex and Smith (2002).
[42] For example, Bloom et al. (2013) demonstrate that informational barriers may be sufficiently large and manager time sufficiently scarce that firms do not always adapt profit-maximizing business strategies.

V. State and Local Leave Policies

Although some employers have voluntarily enacted paid leave policies, the results of this study confirm that many workers, especially those most in need, still lack access to these benefits.

Currently, three states have implemented paid family leave programs and Connecticut has implemented mandatory paid sick leave. In addition, Washington passed paid leave legislation but has not yet implemented the program. These programs are summarized in the table below. A number of states are also considering the feasibility of similar programs.

Table 5
Current State Leave Policies

State	Type	Year Effective	Duration	Implementation	Replacement Rate
California	Family Leave	2004	6 weeks	Temporary Disability Insurance	Up to 55% to a maximum of $1,067 a week in 2014
New Jersey	Family Leave	2009	6 weeks	Temporary Disability Insurance	Up to 66% to a maximum of $595 a week
Washington	Family Leave	Passed in 2009, scheduled to begin in 2015			
Rhode Island	Family Leave	2014	4 weeks; job protection also offered	Temporary Disability Insurance	Up to 60% to a maximum of $752 a week
Connecticut	Sick Leave	2012		Paid by employers	

Paid Family Leave

In California, paid family leave benefits are available to almost all private sector workers, including non-profit workers and public-sector workers in agencies that opt into the program. The program provides six weeks of paid leave at approximately 55 percent of usual weekly earnings with a maximum weekly benefit of $1,067 as of 2014, which is indexed to the state's average weekly wage. The paid family leave program extends the existing SDI system to create a paid family leave system, allowing California to capitalize on the existing administrative and revenue collection institutions. Pew estimates that 1.5 million workers have used the Paid Family Leave program since its inception.[43]

New Jersey extended their own temporary disability insurance system to create its paid family leave program, called Family Leave Insurance (FLI), in 2009. FLI is available to workers with at least 20 calendar weeks of covered employment and earned at least $145 per week (or $7,300 annually) in the 52 weeks preceding leave. Covered workers are eligible for 6 weeks of partial wage replacement in the 12 months after becoming a parent or any time for the care of an ailing family member. The wage replacement is paid at two thirds of the worker's average weekly wage, up to $595 per week.

[43] Pew (2014).

Rhode Island also followed California and New Jersey's lead by extending its temporary disability insurance program in 2014 to provide paid leave for new parents and workers that need to care for a sick family member. All private sector employers are covered by the law, in addition to some public employers. The Rhode Island program, called Temporary Caregiver Insurance (TCI), leverages the benefits of extending the temporary disability insurance program to incorporate new benefits for caregiving. Weekly TCI benefits are paid at a rate equal to 4.6% of weekly wages from the highest quarter of the claimant's base period, up to $752. Additional benefits may be available to workers with children under the age of 18 and disabled children over 18. This weekly "dependency allowance" is paid as the greater of $10 or 7% of the standard benefit rate.

New York, Hawaii, and Puerto Rico also have temporary disability insurance systems and could implement similar programs as California, New Jersey, and Rhode Island. Washington State was the first state to pass a paid leave law not administered through a disability insurance program. Although the bill was passed in 2007, it faced a number of budgetary issues and implementation has been delayed three times. It is now slated to be implemented in October 2015. The Administration recognizes that implementing family paid leave programs, particularly in states without disability programs, presents challenges and the President's budget includes a State Paid Leave Fund at the Department of Labor that will help cover start-up costs for states that choose to launch paid leave programs.

Paid Sick Leave

In 2012, Connecticut became the first state to implement legislation that required certain employers to offer paid sick leave to their workers. The law covers hourly (non-exempt) workers in the service sector employed by firms with at least 50 employees. Manufacturers and most non-profits are not required to provide paid leave; per diem and temporary workers are also not covered.[44] While only about 1 in 5 of Connecticut's workers are covered due to the many exceptions, a majority of part-time workers benefit from the earned leave law.

Covered workers in Connecticut earn one hour of paid leave for every forty hours worked, up to a total of forty hours of paid leave (five days) in a calendar year. In addition to personal illness, workers are able to use this leave to care for a sick spouse, a sick child, or in the wake of family violence.

Cities across the country have enacted statutes providing covered employees with the opportunity to accrue paid sick leave. In 2006, San Francisco became the first locality to pass a law enabling all workers in the city, including part-time and temporary workers, to accrue one hour of paid sick leave per every 30 hours worked beginning 90 days after employment. Under the law, San Francisco workers can earn up to a maximum of 5 to 9 days of sick leave per year, depending on employer size, to care for themselves, a family member, or another designated person.

[44] Manufacturers are classified as such if they belong to sector 31, 32, or 33 in the North American Industrial Classification System (NAICS). Exempt non-profits must be national chartered and provide recreation, child-care, and educational services.

The District of Columbia followed suit in 2008, enabling qualified workers to accrue paid sick leave from up to 3 to 7 days per calendar year depending on employer size. The District's law went a step further, enabling eligible workers to use sick leave to obtain social or legal services if they or their family member is a victim of domestic violence, stalking, or sexual abuse. The law was expanded in 2014 to allow tipped restaurant and bar employees, a group that was previously ineligible to accrue sick leave, to earn one hour of leave per every 43 hours worked, up to 5 days annually. The recent change to the law also enables workers to begin accruing leave as they are employed rather than after one year with the same employer and 1,000 hours worked, as had been required under the 2008 law.

As of May 2014, Seattle, WA, Portland, OR, New York City, NY, Jersey City, NJ, and Newark, NJ, have passed paid sick leave legislation. More than twenty other states and cities currently have active campaigns, paid sick leave legislation, or ballot initiatives. At the same time, at least ten states have passed legislation barring cities and counties from passing their own paid sick leave legislation.

ADMINISTRATION INITIATIVES PROMOTING PAID LEAVE FOR WORKING FAMILIES

Since taking office, the President has taken a number of steps to promote paid family and medical leave for working families.

- **Supporting paid sick leave**. To facilitate caregiving without loss of income, the Administration endorsed the Healthy Families Act, which enables workers to earn up to 7 paid days per year to care for themselves or a sick family member.
- **Helping states establish paid family leave funds.** To support states that choose to launch paid leave programs, the President's Budget includes $100 million in the Opportunity, Growth, and Security Initiative and $5 million State Paid Leave Fund at the Department of Labor that will provide competitive grants to help states cover start-up costs.
- **Supporting parental leave for federal employees**. Recognizing the importance of family bonding for child development and new parents' caregiving responsibilities, the Administration issued a Statement of Administrative Policy in support of the goals of the Federal Employees Paid Parental Leave Act, when the bill was passed by the House of Representatives. The legislation provides federal employees with access to paid leave to care for children upon birth, adoption, or fostering.
- **Modernizing the Family and Medical Leave Act**. The Family and Medical Leave Act (FMLA) provides access to up to 12 weeks of unpaid, job-protected leave, but about half of all workers are in firms that are not covered by the Act. Millions more may work for employers covered by the Act but they aren't qualified as individuals for the Act's protections. The President signed legislation that made it possible for flight attendants and crewmembers to access FMLA and expanded coverage for military families. The White House Task Force on the Middle Class has recommended exploring opportunities to expand access to FMLA to more workers.

VI. Conclusion

With the rise in women's labor force participation, particularly among mothers, there are increasing demand on both men and women to balance work and family responsibilities. Relative to the pace of economic change, paid leave and flexible workplace policies have been slow to develop. There is still a substantial fraction of American workers without access to paid leave and workplace flexibility, and this gap is particularly severe among less educated and low wage workers. The U.S. lags all other advanced countries in providing paid family leave, an important reason why women's participation in the workforce has stalled in the U.S. and now lags many other developed nations.[45]

As this report demonstrates many businesses would benefit from offering more workers paid family leave as it improves retention and helps workers be more productive on the job. American families would benefit, many businesses would benefit, and our economy overall would benefit since making full use of American talent requires policies that let workers better balance their family lives. This report demonstrates the important role of paid leave in keeping American workplaces competitive in the 21st century.

[45] International Labour Organization (2014).

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