

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## BILL 10-22: PERSONNEL AND HUMAN RESOURCES – PAID PARENTAL LEAVE

### SUMMARY

The Office of Legislative Oversight (OLO) cannot determine the racial equity and social justice (RESJ) impact of Bill 10-22 without additional information on which employees will utilize paid parental leave by race and ethnicity. Available data suggests that Bill 10-22 could widen racial and social inequities in the County as White Montgomery County Government (MCG) employees are likely to benefit more from paid parental leave than Black, Indigenous, and Other People of Color (BIPOC) employees. Data on paid parental leave utilization rates is required to offer a more definitive RESJ assessment. However, to improve the RESJ impact of this Bill, OLO offers several recommended amendments for consideration.

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### PURPOSE OF RESJ IMPACT STATEMENT

The purpose of racial equity and social justice (RESJ) impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### PURPOSE OF BILL 10-22

Paid parental leave usually allows employees to take paid time off during pregnancy, after the birth or adoption of a child, or when a young child needs care.<sup>3</sup> Paid parental leave is a form of paid family leave that can also include paid time off to care for family members that can include children or adults. Research suggests that paid family leave enhances the physical and mental health of employees who are able to use it and lowers their stress levels.<sup>4</sup>

The purpose of Bill 10-22 is to establish a paid parental leave program for County employees and supplement the state's Family and Medical Leave Insurance (FAMLI) program.<sup>5</sup> The Maryland Time to Care Act established the FAMLI program, which, beginning January 1, 2025, will provide up to 12 weeks of benefits to individuals taking leave from employment for specified personal and family circumstances.<sup>6</sup> With the enactment of this law, Maryland joined nine states and the District of Columbia in providing paid family leave.<sup>7</sup>

Currently, County regulations allow County employees to use up to 720 hours (within a 24-month period) of accumulated paid leave or unpaid leave as "parental leave" to care for a newborn, newly adopted child, or newly placed foster child. If enacted, Bill 10-22 would create a new category of paid parental leave that would consist of 240 paid hours (six weeks) during a 12-month period and not count against the employee's personal, annual, or sick leave.<sup>8</sup> The County would completely cover the 240 hours of additional leave until 2025; thereafter, the County would supplement the state FAMLI program to ensure employees receive 240 hours of fully paid parental leave.

Bill 10-22 was introduced to the Council on June 14, 2022.

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### PARENTAL LEAVE AND RACIAL EQUITY

As described by the Department of Labor, the federal Family and Medical Leave Act (FMLA) “entitles eligible employees of covered employers to take unpaid, job-protected leave for specific family and medical reasons.”<sup>9</sup> Yet the benefits of the FMLA are not distributed equitably by race or ethnicity. For example,

- At the national level, 62 percent of Black adults and 73 percent of Latinx adults are either ineligible for or cannot afford to take unpaid leave, compared to 60 percent of White adults.<sup>10</sup>
- Research has also found that Black and Latinx workers were more likely than White workers to indicate that when they needed to take leave for family and medical reasons they could not, most likely because they could not afford to take leave without pay.<sup>11</sup>
- There is evidence that FMLA has yielded health benefits to infants of highly educated women and married women, and not to children of less advantaged mothers.<sup>12</sup>

The benefits of paid family leave programs are distributed inequitably. While most workers in the United States (85 percent) do not have access to paid family and medical leave through their employers, BIPOC workers have the lowest access.<sup>13</sup> For example, one study found that 25 percent of Latinx workers and 43 percent of Black workers reported having access to any paid parental leave, compared to 50 percent of White workers.<sup>14</sup> Another study also found that Latinx workers have lower rates of paid leave access and use than White workers.<sup>15</sup>

Lack of paid family and medical leave exacerbates entrenched racial inequities in wealth, financial stability, and health outcomes for BIPOC, with BIPOC women suffering the most from the combination of these disparities.<sup>16</sup> In terms of health outcomes, lack of paid leave is most concerning for Black women, who face higher rates of maternal mortality and pregnancy complications than White women.<sup>17</sup> The on-going COVID-19 pandemic exposed that taking unpaid leave is largely unaffordable for many women – especially low-income women, single mothers, and BIPOC women – as their economic contributions are central to the financial stability of their families.<sup>18</sup>

Universal, paid family and medical leave are generally viewed as a best practice for enhancing racial equity. For example, research on California’s Paid Family Leave (PFL) has shown that use of the program following childbirth increased most considerably among non-college educated, unmarried, Black, and Hispanic mothers.<sup>19</sup> PFL has also been shown to increase breastfeeding initiation and continuance, and the potential to increase breastfeeding rates particularly among low-income mothers.<sup>20</sup> Another study of paid temporary disability insurance programs in the U.S. found that the programs improved infant health, with Black and unmarried mothers experiencing the largest effects.<sup>21</sup>

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### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 10-22 on racial equity and social justice in the County, OLO staff considered two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

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For the first question, OLO considered the demographics of the County's full-time workforce overall. Data in Table 1 shows that both White and Black people are overrepresented among County employees compared to their shares of the adult population. The especially high level of over-representation of Black people among County employees suggests that this Bill could especially benefit them. Moreover, the significant benefits to Black workers could potentially offset the lesser benefits experienced among Latinx and Asian persons who are under-represented in the County workforce and in turn would experience fewer benefits than other racial and ethnic groups. If the magnitude of the benefit to Black workers was especially high, Bill 10-22 could potentially improve RESJ in the County.

**Table 1: Percent of Residents 18 Years and Over and MCG Full-Time Workforce by Race and Ethnicity, Montgomery County<sup>22</sup>**

| Race and ethnicity <sup>23</sup>       | Residents 18 Years and Over | MCG Full-Time Employees | Difference |
|--|-----------------------------|-------------------------|------------|
| American Indian or Alaska Native       | 0.1                         | 0.4                     | +0.3       |
| Asian                                  | 15.9                        | 6.8                     | -9.1       |
| Black                                  | 17.7                        | 29.0                    | +11.3      |
| Latinx                                 | 18.6                        | 11.1                    | -7.6       |
| Native Hawaiian/Other Pacific Islander | 0.0                         | 0.1                     | +0.1       |
| Two or more races                      | 3.4                         | 1.2                     | -2.2       |
| White                                  | 43.4                        | 51.4                    | +8.0       |

Sources: 2020 Decennial Census (Table P4), Census Bureau. OLO Analysis of 2019 Personnel Management Review, Office of Human Resources via Data Montgomery.

Yet, it is important to recognize that the over-representation of Black people in the County workforce reflects their concentration in lower-paid occupations that will draw fewer benefits from paid parental leave relative to higher-paid positions. As noted below among full-time employees 45 years of age and under who are the most likely to use paid parental leave, Black employees accounted for 60.3 percent of staff making a salary of less than \$40,000 but only accounted for 11.8 percent of staff making more than \$130,000. Conversely, among the same age group, White employees accounted for 19.0 percent of staff making less than \$40,000 and 66.7 percent of staff making over \$130,000.

**Table 2: Percent of MCG Full-Time Workforce 45 Years and Under by Salary Level, Race and Ethnicity<sup>24</sup>**

| Race and ethnicity                     | Less than \$40K | \$40K-\$69K | \$70K-\$99K | \$100K-\$129K | \$130K and Greater |
|--|-----------------|-------------|-------------|---------------|--------------------|
| American Indian or Alaska Native       | 0.0             | 0.3         | 0.4         | 1.3           | 0.0                |
| Asian                                  | 1.7             | 5.4         | 5.4         | 9.7           | 17.6               |
| Black                                  | 60.3            | 31.8        | 16.5        | 9.4           | 11.8               |
| Latinx                                 | 19.0            | 16.4        | 10.7        | 6.6           | 3.9                |
| Native Hawaiian/Other Pacific Islander | 0.0             | 0.2         | 0.1         | 0.3           | 0.0                |
| Two or More Races                      | 0.0             | 3.4         | 0.8         | 0.0           | 0.0                |
| White                                  | 19.0            | 42.6        | 66.1        | 72.7          | 66.7               |

Source: OLO Analysis of 2019 Personnel Management Review, Office of Human Resources via Data Montgomery.

Given the concentration of White people in higher-paid occupations, they are likely to accrue greater benefits from paid family leave relative to their peers of color. As such, in response to the second question, OLO finds that Bill 10-22 could

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widen the County compensation gap by race and ethnicity. However, it is important to note that additional data on paid parental leave utilization rates by race and ethnicity are required to offer a more definitive assessment of the anticipated impact of Bill 10-22 on RESJ in the County. In practice, it may be that employees in lower-paid positions are more likely to have children and in turn take paid parental leave than higher-paid positions among County personnel. In the absence of this data, OLO's assessment of the RESJ impact of Bill 10-22 is indeterminate.

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### RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>25</sup> OLO cannot determine the RESJ impact of Bill 10-22 without additional information on which employees will utilize paid parental leave by race and ethnicity. An analysis of available data, however, suggests that Bill 10-22 could have a negative impact on RESJ in the County as its benefits could disproportionately accrue to more highly compensated White employees.

Should the Council seek to improve the RESJ impact of Bill 10-22 through incorporating amendments or introducing companion legislation, they could consider extending more paid parental leave to lower-paid County employees, who are likely to disproportionately be BIPOC and low-income. More specifically, the Council could consider making 12 weeks of paid parental leave available to employees in lower-paid positions<sup>26</sup> before the FAMLI program begins in 2025, and once the state program is established, pay these occupational groups the difference between their actual pay and the FAMLI benefit so they could receive 480 hours of fully paid parental leave.

As highlighted by the National Partnership for Women and Families, “[i]f paid family and medical leave programs are not crafted carefully, with the needs of people and women of color at the forefront, they can disproportionately exclude these families and perpetuate inequitable access to leave and the economic and health challenges associated with the lack of paid leave.”<sup>27</sup> Thus, the following equitable policies from existing paid leave programs can also be considered:<sup>28</sup>

- **Job protections** allowing BIPOC employees to take paid leave without fear of losing their jobs. Research shows that BIPOC, especially those who are low-income, are less likely to take paid leave without job protection.
- **Strong anti-discrimination protections** to make paid leave fully accessible to BIPOC employees.
- **Progressive wage replacement** that provides greater income replacement to people with lower incomes.
- **Meaningful and comprehensive leave** of at least 12 weeks for parental leave that is gender neutral.
- **Dedicated funding for outreach, education, and enforcement** to ensure an equitably designed implementation. Research shows that BIPOC workers are less likely to be aware of paid leave programs and how to take advantage of them.

OLO also recommends the Council consider requiring County contractors to provide paid parental leave to their employees that are analogous to Bill 10-22 with recommended amendments. In 2017, the County Office of Procurement estimated it reviewed payroll records for 6,000 to 6,500 contract employees per quarter under the County's Wage Requirement Law.<sup>29</sup> While the number and demographics of the County's contractor workforce remain unknown, the size and functions of contracts with the Departments of Health of Human Services, Environmental Protection, and General Services for human services, recycling, trash hauling, and facility and maintenance services suggests a disproportionately BIPOC and low-income workforce that would especially benefit from paid parental leave. Making paid parental leave available to County contractor personnel would advance RESJ.

### CAVEATS

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Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

### APPENDIX

**Table 3: Number of MCG Full-Time Workforce 45 Years and Under by Salary Level, Race and Ethnicity<sup>30</sup>**

| Race and ethnicity                     | Less than \$40K | \$40K-\$69K | \$70K-\$99K | \$100K-\$129K | \$130K and Greater |
|--|-----------------|-------------|-------------|---------------|--------------------|
| American Indian or Alaska Native       | 0               | 5           | 6           | 4             | 0                  |
| Asian                                  | 1               | 91          | 75          | 31            | 9                  |
| Black                                  | 35              | 541         | 229         | 30            | 6                  |
| Latinx                                 | 11              | 278         | 148         | 21            | 2                  |
| Native Hawaiian/Other Pacific Islander | 0               | 3           | 1           | 1             | 0                  |
| Two or More Races                      | 0               | 57          | 11          | 0             | 0                  |
| White                                  | 11              | 725         | 915         | 232           | 34                 |

Source: OLO Analysis of 2019 Personnel Management Review, Office of Human Resources via Data Montgomery.

<sup>1</sup> Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

<sup>2</sup> Ibid

<sup>3</sup> “Paid Family Leave Ensures Health Equity for All,” Change Lab Solutions, Accessed July 11, 2022.

<https://www.changelabsolutions.org/product/paid-family-leave-ensures-health-equity-all>

<sup>4</sup> “Literature Review: Paid Family Leave Ensures Health Equity for All,” Change Lab Solutions, August 2017.

[https://www.changelabsolutions.org/sites/default/files/Paid\\_Family\\_Leave-LIT-REVIEW\\_FINAL\\_20170818.pdf](https://www.changelabsolutions.org/sites/default/files/Paid_Family_Leave-LIT-REVIEW_FINAL_20170818.pdf)

<sup>5</sup> Ibid

<sup>6</sup> Fiscal and Policy Note, Labor and Employment – Family and Medical Leave Insurance Program – Establishment (Time to Care Act of 2022, Department of Legislative Services, Maryland General Assembly, April 8, 2022.

[https://mgaleg.maryland.gov/2022RS/fnotes/bil\\_0005/sb0275.pdf](https://mgaleg.maryland.gov/2022RS/fnotes/bil_0005/sb0275.pdf)

<sup>7</sup> “State and Medical Leave Laws”, National Conference of State Legislatures, April 29, 2022. <https://www.ncsl.org/research/labor-and-employment/state-family-and-medical-leave-laws.aspx>

<sup>8</sup> Bill 10-22, Personnel and Human Resources – Paid Parental Leave, Montgomery County, Maryland, Introduced June 14, 2022.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220614/20220614\\_3B.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220614/20220614_3B.pdf)

<sup>9</sup> “Family and Medical Leave Act,” Wage and Hour Division, U.S. Department of Labor, Accessed July 7, 2022.

<https://www.dol.gov/agencies/whd/fmla>

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<sup>10</sup> “Paid Family and Medical Leave: A Racial Justice Issue and Opportunity,” National Partnership for Women and Families, August 2018. <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-family-and-medical-leave-racial-justice-issue-and-opportunity.pdf>

<sup>11</sup> Ibid

<sup>12</sup> Ann P. Bartel, Soohyun Kim, Jaehyun Nam, Maya Rossin-Slater, et. al., “Racial and Ethnic Disparities in Access to and Use of Paid Family and Medical Leave: Evidence from Four Nationally Representative Datasets,” Monthly Labor Review, Bureau of Labor Statistics, U.S. Department of Labor, January 2019. <https://www.bls.gov/opub/mlr/2019/article/racial-and-ethnic-disparities-in-access-to-and-use-of-paid-family-and-medical-leave.htm>

<sup>13</sup> “Paid Family and Medical Leave: A Racial Justice Issue and Opportunity”

<sup>14</sup> Ibid

<sup>15</sup> Bartel, Kim, Nam, Rossin-Slater, et. al.

<sup>16</sup> “Paid Family and Medical Leave: A Racial Justice Issue and Opportunity”

<sup>17</sup> Ibid

<sup>18</sup> “Black Women Need Access to Paid Family and Medical Leave,” Center for American Progress, March 4, 2022. <https://www.americanprogress.org/article/black-women-need-access-to-paid-family-and-medical-leave/>

<sup>19</sup> “Literature Review: Paid Family Leave Ensures Health Equity for All”

<sup>20</sup> Ibid

<sup>21</sup> Bartel, Kim, Nam, Rossin-Slater, et. al.

<sup>22</sup> Analysis excludes workers with unreported data on race and ethnicity, accounting for 5.5 percent of MCG full-time workforce.

<sup>23</sup> The Office of Human Resources tracks Latinx as a distinct racial category; thus Latinx people are not included in other racial groups throughout this impact statement, unless where otherwise noted.

<sup>24</sup> Analysis excludes workers with unreported data on race and ethnicity, accounting for 5.5 percent of MCG full-time workforce. Analysis also excludes workers with salary marked as “unassigned.”

<sup>25</sup> Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

<sup>26</sup> To be co-determined by the County Council, the County Executive, and employee bargaining units.

<sup>27</sup> “Paid Family and Medical Leave: A Racial Justice Issue and Opportunity”

<sup>28</sup> Ibid

<sup>29</sup> Stephanie Bryant and Blaise DeFazio, Montgomery County Government Contracting Analysis: Wages, Staffing, and Service Contract Trends, Office of Legislative Oversight Report 2018-7, May 15, 2018

<sup>30</sup> Analysis excludes workers with unreported data on race and ethnicity, accounting for 5.5 percent of MCG full-time workforce. Analysis also excludes workers with salary marked as “unassigned.”