



# Rhetoric vs. Reality: Not All Paid Leave Proposals Are Equal

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***Author's note:** CAP uses “Black” and “African American” interchangeably throughout many of our products. We chose to capitalize “Black” in order to reflect that we are discussing a group of people and to be consistent with the capitalization of “African American.”*

Paid family and medical leave is increasingly recognized as a critical benefit for the economic security of workers and their families.<sup>1</sup> A recent poll found that 84 percent of voters support a comprehensive national paid family and medical leave policy that covers all working people.<sup>2</sup> Supporters realize that every worker may, at some point in their life, need time away from work to care for themselves or a loved one. Paid family and medical leave would allow these workers extended time away from work to recover from a serious medical condition, to care for a new child, or to care for a family member with a serious illness, while still receiving a portion of their regular wages.

While most workers are likely to experience one of these life events, the United States has no national guaranteed paid leave program, making it the sole outlier among advanced economies across the world to lack such a program. Currently, only 19 percent of civilian workers have access to paid family leave through their employers, and only 40 percent have access to short-term disability insurance benefits.<sup>3</sup> Low-wage and part-time workers—who are disproportionately women—are less likely to have access to these employer-provided benefits, and younger workers and workers of color are less likely to have access to any form of paid time off.<sup>4</sup> Eight states—California, New Jersey, Rhode Island, New York, Washington, Massachusetts, Connecticut, and Oregon—and the District of Columbia have passed comprehensive, statewide paid family and medical leave insurance programs. However, too many workers across the United States still do not have access to any paid family and medical leave.<sup>5</sup> As a result, workers lose an estimated \$20.6 billion in wages each year.<sup>6</sup> The majority of parents with children under the age of 18 are employed,<sup>7</sup> including 64.2 percent of mothers who are primary, sole, or co-breadwinners in their families, but the lack of supportive paid work-family policies forces millions of workers to choose between caring for themselves and their family or maintaining a paycheck.<sup>8</sup>

Any federal solution must have several features, including covering all workers and being accessible, comprehensive, affordable, and inclusive, to ensure that it improves the economic security and health of working families.<sup>9</sup> And yet, many of the federal proposals now pending in Congress vary enormously by, among other things, the workers who would be eligible; the number of weeks that would be available; the accepted reasons for leave; and how the leave would be funded.

The main bipartisan, evidence-based proposal introduced in each Congress since 2013 is the Family and Medical Leave Insurance (FAMILY) Act sponsored by Sen. Kirsten Gillibrand (D-NY) and Rep. Rosa DeLauro (D-CT). The legislation builds off the proven success of state models and proposes a comprehensive federal paid family and medical leave insurance program.<sup>10</sup> In addition to this bill, at least one presidential candidate and potentially more have put forward similar comprehensive proposals that would build on this framework and offer other more expansive options. Opponents of this type of comprehensive model, in the Trump administration and in Congress, have proposed lesser alternatives which only provide paid leave to a narrow segment of workers, falling far short of what working families need.<sup>11</sup> These misnamed proposals—such as the New Parents Act of 2019, the Child Rearing and Development Leave Empowerment (CRADLE) Act, and President Donald Trump’s Unemployment Insurance plan outlined in his annual budgets—only provide time away from work to parents with new children; are funded by robbing from other critical family programs; and often only provide a voluntary benefit to those who wish to participate.

Given the variety of pending proposals, this issue brief examines the rhetorical myths and misconceptions in the debate about paid family and medical leave and addresses the reality of what workers and their families need to maintain and improve their economic security. It explains why paid leave must be comprehensive to meet the full needs of working families and to ensure gender parity for women. It also addresses how paid leave is good for business—especially small business—and highlights successful state paid leave programs that can provide a roadmap for a national policy. Finally, the brief evaluates four other proposals to fund a national paid leave program and outlines why each one falls far short of providing the key features of a successful plan. As policymakers consider options and plans, they must understand the critical components of a policy that both meets the needs of all working families and is affordable and sustainable for families, businesses, and the economy.

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## Workers and their families need comprehensive paid family and medical leave

Some policymakers have proposed harmful paid leave plans which limit leave only for parents of new children rather than providing comprehensive leave that meets a wider range of families’ needs. Proponents of these limited plans fail to acknowledge the diversity of families’ needs after the first 12 weeks of a child’s arrival: The New Parents Act and the CRADLE Act would allow workers to take leave only for the

birth, adoption, or foster placement of a child and are woefully inadequate to meet the full needs of workers and their families. For example, under a paid new-child leave plan, a woman would have access to paid leave after the birth of her child; however, she would not be able to use the leave years later to care for her young child undergoing treatment for cancer. Parents would be forced into an impossible choice of caring for their sick child or keeping their job or paycheck. This type of paid new-child leave plan also prevents workers from accessing paid leave to care for elderly relatives. This runs counter to the growing caregiving crisis in the United States and the shortage of paid caregivers necessary to meet the needs of a rapidly aging population.<sup>12</sup>

Furthermore, these proposals ignore existing evidence about workers' leave-taking: Only 21 percent of workers used leave under the landmark Family and Medical Leave Act (FMLA) to care for a new child.<sup>13</sup> The law, which was passed in 1993, guarantees eligible workers up to 12 weeks of unpaid, job-protected leave per year, and a majority of leave-takers—55 percent—used FMLA leave to recover from a personal illness, according to an employee survey.<sup>14</sup> Original Center for American Progress analysis of the survey found that 52 percent of FMLA leave taken by workers in the preceding 12 months occurred when they were also caring for one or more children at home.<sup>15</sup> Only a comprehensive paid family and medical leave policy that allows workers to take leave to recover from a serious medical condition; care for a seriously ill family member; care for a new child; care for a military family member; or spend time with service members before their deployment will help the millions of children and families who need it most.

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## Women need comprehensive paid leave to achieve gender parity and increase their labor force attachment

Conservatives who support limited paid leave only for parents of new children often tout its benefits for mothers' health and ability to remain in the labor force, yet they fail to recognize how such a narrow policy will ultimately harm women and lead to setbacks in gender equality. These limited leave policies will place a lifelong burden on women—who perform the majority of unpaid caregiving work—to choose between caring for a sick child or aging parent and keeping their job. Although paid leave has been shown to increase women's labor force participation after welcoming a new child, women's attachment to the labor force may decline later in their careers if they do not have access to comprehensive paid leave policies that enable them to manage their caregiving responsibilities.<sup>16</sup> The lack of comprehensive paid family and medical leave would particularly harm the 64.2 percent of mothers who are the primary, sole, or co-breadwinners in their families by forcing them to choose between caring for their families or maintaining their income.<sup>17</sup>

A policy that is limited to parents of new children could also exacerbate employer stereotypes about women providing the majority of caregiving, which may cause even higher rates of gender discrimination. Many women already face the specter of discrimination based on assumptions about gender roles and potential time away from work for

pregnancy or caregiving. For example, women make up 86 percent of plaintiffs in family responsibilities discrimination cases, where employers discriminate based on real or perceived biases against workers with family caregiving responsibilities.<sup>18</sup> Gender discrimination also contributes to the gender wage gap: Overall, women working full-time, year-round earn, on average, only 82 cents for every dollar earned by men, and the gap is significantly worse for most women of color.<sup>19</sup> Additionally, women with caregiving responsibilities may spend more time away from work to manage their family's caregiving needs, which can cause lower wages compared with their male counterparts.

The FMLA was signed into law more than 26 years ago and is the foundation for family and medical leave in the United States. It was crafted as a gender-neutral measure covering a variety of reasons for leave and was intended to remedy some of the discrimination against women in the workplace as well as to avoid pitting workers against each other.<sup>20</sup> A national paid family and medical leave law must follow this well-established precedent by including comprehensive, gender-neutral leave. Women will only truly benefit under a paid leave program which acknowledges and supports all the reasons someone needs to take time away from work throughout their career, which extend beyond welcoming a new child.

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### Paid leave for all workers is good for businesses, especially small businesses

Opponents of national paid leave often perpetuate a false narrative that paid leave policies hurt businesses, especially small businesses. However, research of existing state paid family and medical leave programs show that the laws actually have a neutral or positive effect on businesses.<sup>21</sup> A survey of California employers after the implementation of their paid leave law found that a majority of businesses, 87 percent, experienced no increased costs related to the program, and some businesses even reported cost savings.<sup>22</sup> Roughly 90 percent of surveyed employers also reported that paid leave laws had a positive effect or had no noticeable effect on employee morale, productivity, performance, and business profitability.<sup>23</sup> Paid leave in California was also found to improve worker retention, reducing the rate of turnover and therefore reducing the costs to employers to find and train new employees.<sup>24</sup> Business owners in New Jersey and Rhode Island reported similar findings in surveys of their states' paid leave programs.<sup>25</sup>

These findings are not unique to large businesses, as small businesses have been shown to support and benefit under state paid family and medical leave laws. Without these state programs, many small businesses struggle to find and afford paid family and medical leave benefits, leaving them at a disadvantage in competing in hiring with large employers.<sup>26</sup> Small businesses are currently less likely to offer employer-provided paid family leave: 13 percent of private sector businesses with fewer than 50 employees offer such leave compared with 23 percent of private sector businesses with 100 or more employees.<sup>27</sup> Providing the same paid leave benefits to all workers through a national paid leave

program would mean that all employers are treated equally—leveling the playing field for businesses of all sizes, without hurting their bottom line. This policy is also popular among small-business owners, who care about their workers but often cannot afford to provide generous benefits on their own. A 2018 report on a survey of small-business owners who are unable to offer paid leave to their employees overwhelmingly prefer a social insurance program over a tax credit, at 79 percent and 8 percent respectively.<sup>28</sup> Another survey of small-business owners in the same year, commissioned by CAP and Small Business Majority, found that 70 percent of small-business owners support a national paid family and medical leave insurance program.<sup>29</sup>

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## Policy makers must rely on evidence about comprehensive paid leave programs when crafting a national policy

Existing paid leave programs in states such as California, New Jersey, Rhode Island, and New York prove that comprehensive paid leave can be successful and affordable as well as provide positive economic and health outcomes.<sup>30</sup> A total of eight states and the District of Columbia now have paid leave programs, and none limit leave only to parents with new children. Yet, many federal policymakers are willing to ignore these successful examples when suggesting national programs. Federal precedent under the FMLA includes comprehensive reasons for leave: medical leave for a worker's own serious injury or illness; family leave to care for a family member with a serious medical condition or to welcome a new child; and exigency leave related to a family member's military deployment. The first four states to pass paid leave laws understood the value of comprehensive leave when they added family leave on top of their preexisting temporary disability insurance programs. The laws created by the remaining four states and the District of Columbia have an entirely new insurance program to provide comprehensive leave to workers. Beyond the enormous and well-documented health benefits for mothers and children from paid parental leave,<sup>31</sup> paid medical and family caregiving leave in states has also led to improved vaccination timing for young children;<sup>32</sup> increased time spent caring for elderly relatives;<sup>33</sup> declined usage of elderly nursing homes;<sup>34</sup> and improved mental health of caregivers;<sup>35</sup> among other positive outcomes.

Some proponents argue for a national paid leave program that focuses solely on the needs of parents welcoming new children. These policymakers fail to understand how this flawed and ultimately harmful strategy shows a preference for one group of workers' needs over others' and sets up a worker hierarchy. While parents of new children would be eligible for benefits, the vast majority of workers would have to continue using a patchwork of solutions, including relying on unpaid FMLA leave if eligible, cobbling together other benefits, continuing to work even if not medically advisable, or quitting their job altogether. There is no evidence to suggest that a limited paid leave plan only for parents of new children will meet the needs of all families.

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## Social insurance funding is proven to be sustainable and affordable

Some policymakers have put forward flawed proposals to fund a national paid leave program that include cutting from other government programs or forcing workers to pay back their benefits. In addition to harming workers and undermining government programs, these proposals fail to take into account the lessons learned from successful state paid leave insurance programs. The District of Columbia and eight states with paid leave laws have all used an insurance model where employees and/or employers make small payroll contributions that provide a sustainable source of funding for workers' wage replacement benefits while on leave. This model establishes paid leave as an earned benefit that is inexpensive, efficient, and inclusive. Social insurance is also the most common way other countries provide paid leave as a practical and sustainable solution that does not cut into other critical programs.<sup>36</sup> When planned and administered well, these programs can provide the same coverage to everyone at a low per-person cost.<sup>37</sup> Low-wage workers would have equal access to leave under this program compared with high-wage workers and would receive the majority of their regular wages while on leave. States that have implemented paid leave laws this way have found that their funds are solvent, with some states even reporting a surplus due to lower than expected take-up rates.<sup>38</sup> Depending on eligibility requirements, insurance models also have the potential to be inclusive of all workers, including self-employed and nonstandard workers and employees at small businesses.<sup>39</sup>

Currently, the FAMILY Act is the only bipartisan, comprehensive national paid family and medical leave proposal which builds on state evidence by using a social insurance model with partial wage replacement to provide workers paid leave for up to 12 weeks each year. A survey of voters from across the country found that voters prefer a national paid family and medical leave policy where costs are shared between employers and employees.<sup>40</sup> More than 70 percent of currently employed workers in the survey also said they would be willing to contribute at least 1 cent for every dollar they earn—or 1 percent of wages—to fund a national paid family and medical leave program.<sup>41</sup> This evidence from workers and from the successful state paid leave programs provides federal policymakers with a clear roadmap to follow when creating a national policy.

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## How sham proposals to fund national paid leave fall short

Some of the conservative federal policymakers who have proposed paid leave programs do not have fiscally responsible ways to fund benefits without cutting other critical social safety net funds; instead, they rely on forcing families to pay back their benefits years later. Not only are such proposals untenable for low-wage workers, but they also cut into other federal benefits that workers need in order to support their families. These policymakers tout the flexibility and choice in their proposals. But it is a false choice if families must choose between paid leave and their retirement savings or their future child tax credit.

A national paid leave program also should not threaten the solvency and security of other necessary federal and state programs such as Social Security or Unemployment Insurance (UI). The following sections break down each type of harmful funding proposal by describing the effects each would have on workers, families, and government programs.

### Raiding Social Security to fund paid leave erodes workers' retirement security

Two recent proposals to provide paid leave only for parents of new children are funded, as the bill sponsors describe, by individuals “pulling forward,” or borrowing from, their own Social Security retirement benefits.<sup>42</sup> These proposals are the New Parents Act of 2019, introduced by Sens. Marco Rubio (R-FL) and Mitt Romney (R-UT) and Reps. Ann Wagner (R-MO) and Dan Crenshaw (R-TX), as well as a similar proposal, the CRADLE Act, introduced by Sens. Joni Ernst (R-IA) and Mike Lee (R-UT). But this “pulling forward” rhetoric disguises the harm these bills cause to workers' retirement security.

These proposals would cut workers' benefits and treat their Social Security retirement benefits as a private account from which workers can draw loans that accrue interest.<sup>43</sup> Such a proposal undermines the solvency of Social Security, a program already facing a long-term financing gap, by diverting retirement funds to provide an entirely different benefit.<sup>44</sup> According to the Urban Institute's analysis of the New Parents Act, for every two months of paid leave that a worker could take, they should expect to see their Social Security full retirement age increase by six months, essentially leading to an average lifetime reduction in retirement benefits of 3.2 percent.<sup>45</sup> If a parent earning a moderate income were to take a three-month leave where they only receive 44 percent of their wages—about \$5,300 for three months—they would lose almost three times that amount—about \$15,100—in lifetime retirement benefits.<sup>46</sup> The amount of interest workers' would pay back in the form of reduced retirement benefits would actually exceed the amount of their paid leave benefit.<sup>47</sup> Parents who take three leaves, each three months long, over the course of a career would lose up to 12 percent of their Social Security retirement benefits and have to delay their retirement by at least a year and a half.<sup>48</sup> This plan would harm women and people of color the most, as they are more likely to rely on Social Security as their main source of income in retirement.<sup>49</sup> Despite arguments that this program is affordable and voluntary for low-income families, these workers would still face a reduction in their retirement benefits.

Using a worker's own Social Security benefits to fund their paid leave is punitive, inequitable, and unsustainable for workers, their families, and the solvency of the Social Security system. This proposal is also unpopular among voters. A national survey of voters in 2018 found that 58 percent of respondents oppose such a proposal.<sup>50</sup>

### Undermining state Unemployment Insurance to fund paid leave is unworkable

President Trump's proposal, first introduced in his budget for the 2018 fiscal year, is unsustainable and flawed because it would fund paid leave only for parents of new children through state UI programs.<sup>51</sup> Although the details of the plan remain vague, the brief descriptions in the president's annual budget proposals indicate that the program would rely primarily on states to identify new funds through their state UI programs in order to fund six weeks of paid leave for parents after the birth or adoption of a new child.<sup>52</sup> The plan does not provide states with additional funding to deliver the benefits, making it an unfunded mandate by pushing costs onto states' already strained and underfunded UI programs.<sup>53</sup> Such ill-conceived policy ignores the challenges and funding shortages state UI programs already face; many are deeply underfunded and unprepared to provide unemployment protections during a recession.<sup>54</sup> The proposal fails to make much-needed new investments in UI programs and instead would add new strains that would hinder programs' ability to provide support to help unemployed job seekers. The Trump administration also claims that some costs for the plan will be offset by reforming state UI systems, though reducing fraud would likely cover only a tiny amount of the program's costs and would be an inconsistent funding stream.<sup>55</sup> Financing paid new-child leave through UI programs risks destabilizing the entire UI system.

### Workers should not have to fund paid leave by cuts to their child tax credit

Sens. Bill Cassidy (R-LA) and Kyrsten Sinema (D-AZ) are leading an effort they call paid leave for parents of new children that would ultimately rob parents of an income support intended to supplement costs associated with raising a child. Parents would receive a \$5,000 lump sum upon the birth or adoption of a child. However, they would lose \$500 per year for the following 10 years that they would otherwise receive as part of the child tax credit—a program that provides valuable support to families raising children.<sup>56</sup> Families would lose out on these future tax credits at a time when they are early in their careers, have lower wages, and face higher bills when their children are young. Meanwhile, businesses can receive a paid leave tax credit under the 2017 Tax Cuts and Jobs Act without any such requirement for paying it back or receiving a lower credit.<sup>57</sup> Parents, especially low-income parents, may not be able to afford such a cut to their child tax credit years later, as they need every penny of the credit to afford the basic costs of raising a child.<sup>58</sup> Such a proposal would be more accurately described as a harmful revision of the child tax credit instead of a real paid leave program. If federal policymakers want to help families with the high cost of raising children in addition to providing comprehensive paid leave and affordable child care, they should improve the earned income and child tax credits through bills such as the Working Families Tax Relief Act of 2019 or the American Family Act of 2019.<sup>59</sup>

Sens. Cassidy and Sinema's plan also does not guarantee workers any time away from work to care for a new child, meaning workers who are not eligible for job protection under FMLA leave would be forced to return to work quickly after giving birth or adopting a young child. Details of the proposal are still lacking, including how

families would access the benefit as soon as they have a new child instead of when they claim the child tax credit on their federal taxes once a year. Families need paid family and medical leave, retirement security, and assistance with the costs of raising a child. Valuing families means prioritizing all of these policies—not creating more impossible choices for them.

### Workers cannot afford to fund their own paid leave through health savings accounts

Another paid leave proposal introduced by Rep. Andy Biggs (R-AZ), the Freedom for Families Act, would allow employees to use health savings accounts (HSAs) to fund their future leave.<sup>60</sup> The bill allows employees to choose to save money through HSAs to use in the future for purposes related to family and medical leave by increasing the contribution cap and allowing more people to access HSAs. This would be unaffordable for many low-wage workers and does not guarantee any time away from work, especially for workers who are ineligible for FMLA leave. While the proposal is touted as a free-market solution that allows workers and their families flexibility, in reality, HSA-funded paid leave means that workers are financing their own paid leave. For low-wage workers, particularly women, people of color, and people with disabilities, this means that paid family and medical leave will remain out of reach. Low-wage workers who have access to HSAs are less likely to contribute the maximum amount allowable and often cannot afford to contribute anything after paying for living expenses.<sup>61</sup>

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## Conclusion

All workers will likely need time away from work at some point in their lives to care for themselves, care for a loved one, or welcome a new child. Current policies fail to do enough to support workers and families or help them maintain their economic security during this time of need. The FMLA guarantees workers 12 weeks of unpaid leave, but roughly 40 percent of the U.S. workforce is unable to access FMLA leave due to eligibility requirements, and 61 percent of working parents in the United States who are eligible cannot afford unpaid leave.<sup>62</sup> With only 19 percent of civilian workers having access to paid family leave through their employer, and only eight states and the District of Columbia having paid family and medical leave laws, millions of workers are left with few good options when a crisis or family need arises.<sup>63</sup>

Evidence from both state paid leave laws and FMLA leave provides policymakers with significant guidance when moving forward to craft a national paid leave policy. Yet, proposals by the Trump administration and some members of Congress rely on easily disproven myths about paid leave. These proposals are not serious policy solutions and ignore clear evidence by only providing paid leave to parents of new children and by robbing other government programs to fund leave. These limited plans would exclude millions of workers, jeopardize workers' retirement security or child tax credits, and, in many cases, not guarantee workers extended and job-protected leave.

To support workers and their families, a national paid family and medical leave program must cover all workers and be accessible, comprehensive, affordable, and inclusive. A real paid family and medical leave plan uses facts—not myths—to meet these requirements. When a paid leave program uses a sustainable funding model and builds upon successful state laws, it will provide a critical benefit that is good for workers, their families, and business.

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## Endnotes

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