Family Matters:
Toward Universal Paid Family Leave

Samuel Hammond and Jason Peirce | July 2021 | NiskanenCenter.org

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Key Takeaways

- Paid family leave provides income and job security for parents caring for a newborn or adopted child full-time. The United States is one of the only developed countries that does not guarantee paid family leave universally despite receiving consistent cross-partisan support in surveys.
- While a common employee benefit in salaried professions, the market under-provides paid family leave for lower income wage and part-time workers for whom income and job insecurity near childbirth is greatest.
- Research shows access to paid family leave improves infant health and wellbeing through greater bonding time with parents, while helping families achieve their fertility aspirations by reducing the financial risk associated with pregnancy.
- Universal paid family leave can be enacted through either direct public financing or through legal mandates on employers. While private sector mandates may have lower or even zero budgetary cost, they are more likely to penalize lower-wage workers and small businesses, while leading to ad hoc exemptions that politicize the availability of leave benefits.
- Public financing, whether as a family allowance or contributory social insurance program, is the best way to secure universal, equitable and bipartisan paid family leave while accommodating legacy employer and state-level programs.

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When expecting mothers and fathers approach their due date in the United States, they face a choice between earning an income at their job or staying home to care for their precious newborn. Unlike other industrialized countries, the U.S. does not guarantee paid family leave nationwide,[1] despite remarkably broad support across the political spectrum. Surveys find roughly 83 percent of Americans, including almost all Democrats and three-fourths of Republicans, support national paid maternal leave.[2] Paid paternal leave, meanwhile, is supported by a considerable 69 percent of Americans.[3]

Yet paid family leave proposals come in many shapes and forms, each with their own strengths and weaknesses. Mandating that businesses provide family leave benefits would not add to the federal budget, for example, but that simply means the costs are shifted elsewhere, including onto businesses and the workers themselves. Employer tax credits can help on the margin, but are largely captured by firms which already provide leave benefits, thus failing to address the fundamental gap in access. And while a social insurance model is likely the most efficient overall approach, it by nature requires dedicated funding streams, whether from general revenues or a new payroll tax.

This issue brief explores the case for paid family leave, and evaluates the various approaches toward achieving universal access in the U.S. context. While family leave is often coupled with sick and medical leave, we focus on paid parental leave to care for a newborn, adopted, or foster child, but where applicable draw lessons for other forms of leave, as well.

U.S. Family Leave Policy In Brief

The U.S. is an outlier among industrialized countries for not guaranteeing paid family leave nationwide. Current national policy comes from the Pregnancy Discrimination Act of 1978 (PDA) and the Family and Medical Leave Act of 1993 (FMLA).[4] The PDA prevents employers from discriminating against female applicants or workers because of pregnancy, childbirth, or related medical conditions, while requiring employers to offer the same benefits to pregnant or childrearing women as they would to

1 Gretchen Livingston and Deja Thomas, "Among 41 countries, only U.S. lacks mandated paid parental leave," Pew Research Center, December 16, 2019.

2 National Partnership for Women & Families, "Voters' Views on Paid Family and Medical Leave," October 2018.

3 Juliana Horowitz et al., "Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies," Pew Research Center, March 23, 2017.

4 Gault et al., "Paid Parental Leave in the United States: What the Data Tell Us about Access, Usage, and Economic and Health Benefits," Institute for Women's Policy Research, January 23, 2014.

workers with other medical conditions or temporary disabilities. Under the FMLA, eligible workers may take job-protected unpaid leave for up to 12 weeks for childbirth and newborn caregiving, although under current definitions these protections exclude roughly 40 percent of workers.[5] More recently, in 2019 Congress passed legislation as part of the National Defense Authorization Act (NDAA) that gives 12 weeks of paid parental leave to federal civilian employees.[6]

"Over thirty states have enacted paid and unpaid leave laws in some form."

Nine states plus D.C. have enacted paid family and medical leave programs, while over thirty states have enacted paid and unpaid leave laws in some form. The most ambitious of these states have established paid family leave programs funded by dedicated payroll taxes with ceilings for high earners.[7] In California, workers pay a payroll tax to the State Disability Insurance program to qualify for Paid Family Leave coverage. Eligible workers who take time off in order to bond with a new child are eligible for approximately 55 percent of their weekly wages for up to six weeks. The Family Leave Insurance program in New Jersey is funded similarly, except it replaces two-third of weekly pay. In Rhode Island, the Temporary Caregiver Insurance Program gives eligible workers up to four weeks of wage replacement at about 60 percent of their wages. In New York, Paid Family Leave gives eligible workers up to ten weeks of paid leave at 60 percent of their wages. In the District of Columbia, Paid Family Leave provides up to eight weeks of wage replacement at between 80 to 90 percent of wages. In Washington state, their Family Leave Insurance Law covers 90 percent of a worker's average weekly wages up to an amount equal to 50 percent of the statewide average. Oregon passed one of most generous paid leave laws in the country in 2019, however their legislature has delayed its rollout until September, 2023.[8] And most recently, in the fall of 2020, Colorado voters approved a robust paid family and medical leave program via ballot initiative. The reform includes strengthened job protections for workers returning from leave, and will be financed by a 0.9 percent payroll tax split between employers and employees.[9] A table comparing these state programs in detail is available at abetterbalance.org.

In addition, since 1946 states have been permitted to draw on Unemployment Insurance (UI) trust funds to provide Temporary Disability Insurance (TDI), although only Rhode Island, California, New Jersey, New York, Puerto Rico, and Hawaii have operational TDI programs.[10] Depending on the state, TDI is either funded by a payroll tax on employers, or by a payroll tax on both employers and employees, which the lone exception of Hawaii where TDI is provide via an unfunded employer mandate. TDI often functions as a kind of paid family and medical leave for women who require paid time off due to pregnancy or childbirth. Eligible women in these states are generally able to receive six to eight weeks of TDI around the time of childbirth, and receive on average between 50 to 60 percent of their wages during leave.

An increasing number of employers have begun to provide paid family leave voluntarily, particularly

5 The Council of Economic Advisors, "The Economics of Paid and Unpaid Leave," June 2014.

6 Chief Human Capital Officers Council, "Paid Parental Leave for Federal Employee," December 27, 2019.

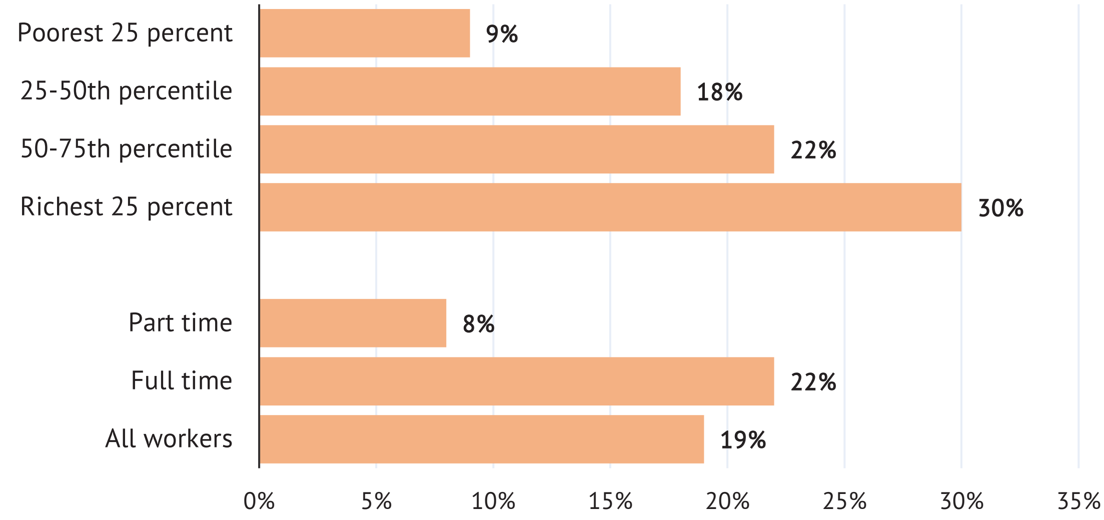
7 Ibid.

8 Chris Lehman, "Oregon House narrowly votes to delay paid family leave," The Oregonian, June 8, 2021.

9 Holland & Hart, "Colorado's New Paid Family and Medical Leave Law: What Employers Need to Know," February 9, 2021.

10 Gault et al., "Paid Parental Leave in the United States: What the Data Tell Us about Access, Usage, and Economic and Health Benefits," Institute for Women's Policy Research, January 23, 2014.

Figure 1: Percentage of civilian workers with access to paid family leave



Source: Bureau of Labor Statistics National Compensation Survey, "Table 31. Leave Benefits: Access, civilian workers, March 2019"

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for high earners. Unfortunately, this trend is unlikely to spread across the entire workforce anytime soon. From an employer's perspective, paid leave benefits are primarily useful for attracting and retaining skilled employees. Identifying and training new employees is inherently costly. The longer someone works for a particular business, the more they build up organization-specific knowledge that is hard to replace. Providing paid leave is thus often in an employer's direct interest. The worker retains their job, and in exchange for a few weeks' pay, the employer retains a valuable asset. Within low wage sectors, conversely, it is often cheaper to simply replace a worker who requires leave than to keep them on payroll.[11] This is particularly true in labor intensive industries, businesses with high employee turnover, and the growing number of "fissured workplaces" that subcontract positions that were formally in-house.

As shown above, access to paid family leave varies significantly by income and job type.[12] Results from other surveys suggest that many parents often substitute family leave with sick or personal leave, vacation days, or short-term disability. According to a 2014 report by the Council of Economic Advisors, about 39 percent of workers had access to some type of paid leave for the birth of a child.[13] More recent research by the BLS found that in 2017-2018 roughly 75 percent of workers had access to some form of paid leave for a new child, however the amount of pay was not studied.[14]

Social insurance is meant to protect us from income shocks.[15] When a parent needs to stay home

11 Heather Boushey and Sarah Glynn, "There Are Significant Business Costs to Replacing Employees," Center for American Progress, November 16, 2012.

12 Bureau of Labor Statistics, "Leave benefits: Access, civilian workers," March 2019.

13 Council of Economic Advisors, "The Economics of Paid and Unpaid Leave," June 2014.

14 Bureau of Labor Statistics, "Access To and Use of Leave," August 29, 2019.

15 Theodore Marmor, "Our Lost Vocabulary of Social Insurance," Niskanen Center, December 10, 2018.

to care for a new child, they are unable to work and earn an income. The goal of a national paid family leave policy is to therefore ensure all working parents have the income security they need to care for their child, and in a way the market does not provide on its own.

Why Paid Family Leave?

There are several motives for a government role in guaranteeing paid family leave, with the common thread being that a parent caring for their newborn child is temporarily unable to work, and therefore suffers from income and job insecurity.[16] Along these lines, the top three reasons why Americans say they support paid family leave are, in order:

- that it helps keep people and families financially secure;
- that it allows people to be there for important first moments in the lives of their children;
- and that it promotes families as a key building block of society.[17]

Among parents who took leave in the past, 56 percent said they took less time off than they wanted to, of which 69 percent said they could not afford the lost wages and 47 percent felt their job was at risk.[18] Among leave takers of any type, 36 percent reported that their leave was unpaid, rising to 62 percent among those earning less than $30,000 a year. Among those who took parental leave, paid or unpaid, a majority reported that they took less time off than they wanted, while cutting back their spending and drawing down savings.

"28 percent of households with earnings between $30,000 and $75,000 report relying on public assistance during parental leave."

Among households earning less than $30,000, roughly half who took parental leave were forced to access public assistance, take on debt, and / or borrow from friends and family.[19] Disturbingly, 28 percent of households with earnings between $30,000 and $75,000 report relying on public assistance during parental leave, as well. Widespread reliance on means-tested safety-net programs following an otherwise common life event, including among many middle-income households, is a tell-tale indicator of an incomplete social insurance system. Indeed, given that median household income in the U.S. is around $68,000, these survey results suggests that the direct and indirect costs of childbirth are enough to push nearly three in ten otherwise middle- and working-class families into poverty, at least temporarily.

Job insecurity itself can have negative effects. If a new mother has to temporarily leave work to give birth and care for her newborn, she risks being laid off from her job. Although there are job protections in the PDA and FMLA for women who take unpaid leave during pregnancy and childbirth, there are also large gaps in coverage. Expanding on these protections, whether by reducing the

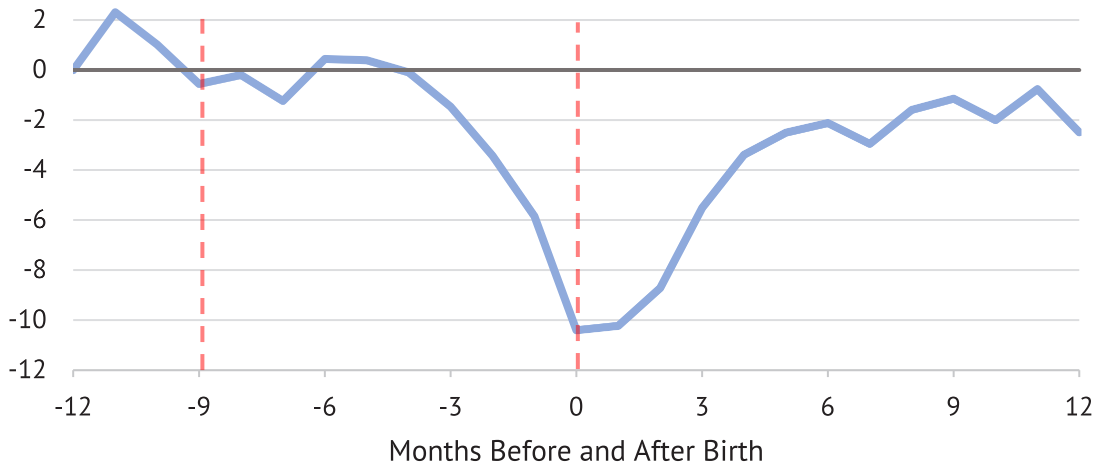
16 Austin Clemens and Kavya Vaghul, "Economic insecurity rises around childbirth, explained in four charts," Washington Center for Equitable Growth, October 17, 2016.

17 National Partnership, "Voters' Views on Paid Family + Medical Leave," October 2018.

18 Horowitz et al., "Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies," Pew Research Center, March 23, 2017.

19 Ibid.

Figure 2: Percentage change in household income around childbirth



Source: Alexandra Stanczyk, "The dynamics of household economic circumstances around a birth," Washington Center for Equitable Growth working paper series, October 2016.

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number of work hours required to qualify or lowering the threshold for exempted small businesses, would increase womens' attachment to the labor force and reduce childbirth as a risk factor for falling into poverty.[20]

As shown in Figure 2, analysis of U.S. household data finds that, on average, gross family income contracts by roughly 10 percent around the birth of a child and takes nearly six months to recover, although to a persistently lower level. Pregnancy and childbirth are also intrinsically costly. Among women with employer-provided healthcare, for example, the out-of-pocket cost for maternity care alone averages $4,500.[21] The household budgets of new families thus face a double-whammy of forgone income and new, often unexpectedly high expenses. Paid family leave can thus be thought of mechanism for insuring against the income shock associated with childbirth head-on.

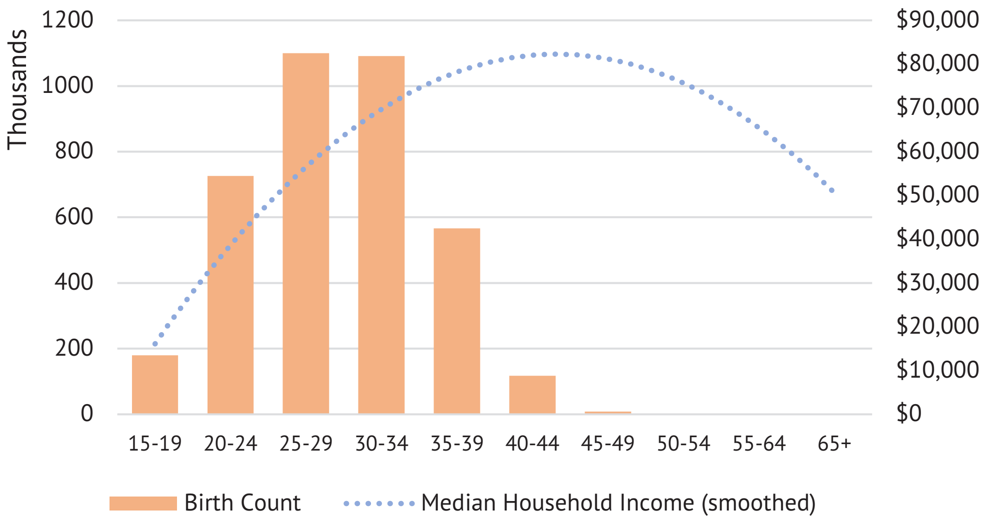
Financial security matters for the health and development of the new child, as well as the health of the mother.[22] If an expecting mother does not have enough money to adequately care for herself and her newborn, they are both at a heightened risk of health complications. New mothers will be unable to invest as much time breastfeeding, touching, and nurturing her newborn if she needs to return to work immediately. This can affect a mother and child's stress levels alike, potentially harming a child's heath and development. An econometric evaluation of the effects of unpaid maternity leave under the FMLA, for example, found that maternity leave led to "small increases in birth weight, decreases in the likelihood of a premature birth, and substantial decreases in infant mortality for children of

20 Tanya Byker, "Paid Parental Leave Laws in the United States: Does Short-Duration Leave Affect Women's Labor-Force Attachment?," American Economic Review, Vol. 106, no. 5, pp. 242-246, May 2016.

21 Moniz, Michelle H et al. "Out-Of-Pocket Spending For Maternity Care Among Women With Employer-Based Insurance, 2008-15." Health affairs (Project Hope) vol. 39,1 (2020): 18-23.

22 Jody Jou et al., "Paid Maternity Leave in the United States: Associations with Maternal and Infant Health," Maternal Health Journal, Vol. 22, Issue 2, pp. 216-225; Lawrence Berger et al., "Maternity Leave, Early Maternal Employment and Child Health and Development in the US," The Economic Journal, Vol. 115, Issue 501, pp. F29-47, February 2005.

Figure 3: U.S. birth count and household income by age (2018)



Source: Center for Disease Control National Vital Statistics Reports, "Table 3. Births, by age (years) of mother, live-birth order, and race and Hispanic origin of mother: United States, 2018"; U.S. Census Income and Poverty in the United States: 2018, "Table A-1. Income Summary Measures by Selected Characteristics: 2017 and 2018"

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college-educated and married mothers."[23] A 2019 study of Sweden's family leave program found similarly substantial benefits to the mother and child from paternity leave for new fathers, as well.[24]

The income- and consumption-smoothing benefits provided by paid leave are particularly valuable to families with volatile incomes, a population that includes single earner households, the self-employed and small business owners, and younger households whose primary earner is age 18 to 35.[25] The average age of a first-time mother in the U.S. is 26, while women and men do not reach their peak earning potential until ages 44 and 55 respectively.[26] As illustrated in Figure 3, the gap between the age when families have kids and the age when the parents maximize their disposable income makes the primary alternative to paid family leave — self-insurance through personal savings — simply unrealistic. In that sense, the implicit redistribution underlying paid family leave is best thought of as *horizontal* rather than *vertical*, i.e. a transfer across the earnings lifecycle, from older households with high and stable incomes to younger households with low and volatile incomes, rather than from rich to poor.[27] This makes parental leave conceptually distinct from most other forms of paid leave. Paid sick leave, for example, follows a more conventional, actuarial logic by insuring against a source of income loss — sickness — that is largely unpredictable and less correlated with age.

The economic security provided by paid family leave may also help address America's declining

23 Rossin-Slater, Maya, "The effects of maternity leave on children's birth and infant health outcomes in the United States." Journal of Health Economics, vol. 30,2 (2011): 221-39.

24 Persson, Petra and Rossin-Slater, Maya, "When Dad Can Stay Home: Fathers' Workplace Flexibility And Maternal Health," SIEPR Working Paper No. 19-012, May 2019.

25 V. Anderson et al., "Addressing Income Volatility of Low Income Populations," University of Wisconsin-Madison, Spring 2015.

26 Payscale.com, "Earnings Peak at Different Ages for Different Demographic Groups," June 4, 2019.

27 Van Lancker et al., "Child Benefit Reforms and Principles of Redistribution," Conference: XVIII ISA World Congress of Sociology, July 2014.

fertility rate.[28] The international evidence in this regard is promising. After Germany enacted a major expansion to its maternity leave program, fertility rates rose significantly and persistently.[29] The effect was largest for women with tertiary education, suggesting that the maternity benefit was successful in offsetting the higher (and growing) opportunity cost of having children for women with successful careers. Similarly, after Australia enacted its Paid Parental Leave program in 2011, overall fertility intentions remain largely unchanged, but among those who desired at least one (more) child, the number of children intended increases by 0.28 or 13 percent. The effect was driven by highly educated women who did not already have children, suggesting that "even modest paid parental leave programs can increase the fertility of working women."[30] This comports with a 2020 study of California's paid family leave program, which found that "as a result of the policy, probability of childbirth increases by up to 15 percent."[31]

Finally, paid family leave policies are often advanced in the name of promoting greater gender equality. Fathers with access to paid paternity leave end up contributing more to child care and house work, resulting in a more equitable division of labor within the home.[32] Encouraging both the mother and father to take leave may also help to equalize how employers treat prospective parents of either sex.[33] Whether that translates to more equal labor market outcomes for men and women is another story. A recent study using fifty years of Austrian administrative data, for example, determined that "the enormous expansions of parental leave and child care subsidies have had virtually no impact on gender convergence."[34] As in many areas in the public policy, it would be premature to call this debate settled. Nonetheless, the relatively weak and disputed evidence around secondary motives like gender equality does not detract from paid family leave's primary function: stabilizing family income and job security near the birth of a child.

Funding Models

Paid family leave can be funded in several different ways. Private sources of funding include employer contributions, whether voluntary or due to a federal mandate. Public sources of funding include a state or federal payroll tax on workers, employers, or both, and general tax revenues. For reasons detailed in the next section, public funding is the best way to secure universal and equitable paid family leave without penalizing workers or businesses.

In most states, the main source of funding for paid family leave is voluntary employer contributions,

28 Samuel Hammond, "Paid Family Leave Can Help Combat the Coming Covid Baby Bust," American Compass, November 30, 2020.

29 Raute, Anna, "Can Financial Incentives Reduce the Baby Gap? Evidence from a Reform in Maternity Leave Benefits," NBER working paper no. 23793, September 2017.

30 Bassford, Micaela and Fisher, Hayley, "The Impact of Paid Parental Leave on Fertility Intention," Economic Record, Vol. 96, Issue 315, pp. 402-430, December 2020.

31 Golightly, Eleanor, "Is Paid Family Leave a Pro-Natal Policy? Evidence from California," Job Market Paper, November 2019.

32 Gerardo Meil, "European Men's Use of Parental Leave and Their Involvement in Child Care and Housework," Journal of Comparative Family Studies, Vol. 44, Issue 5, pp. 557-570, July 30, 2014.

33 Aliya Rao, "Even Breadwinning Wives Don't Get Equality At Home," The Atlantic, May 12, 2019.

34 Kleven et al., "Do Family Policies Reduce Gender Inequality? Evidence from 60 Years of Policy Experimentation," NBER Working Paper no. 28082, November 2020.

but this is disproportionately available to high earners. This is because generous employee benefits can make firms less competitive unless offset by implicit wage reductions — a trade off higher earners can afford to make. For instance, whereas 58 percent of high-income parents say they received regular pay during their family leave in surveys, the same is only true of 22 percent of low-income parents.[35] This disparity is therefore unlikely to be overcome by free market mechanisms alone. Provision of paid leave could be subsidized with tax credits, but this risks merely incentivizing employers to reduce wages in favor of non-wage compensation, just as the tax exclusion for employer-sponsored health insurance has incentivized excess compensation via generous health benefits.

"82 percent of Americans believe it is 'very or somewhat' important for paid leave to be universally available for both high and low earners."

Another private source of funding are tax-deferred private savings accounts. When paid leave plans pay less than 100 percent of previous income, it is implicit that workers will then fund the rest by either drawing on savings, taking on debt, or cutting household spending. However, like voluntary employer retirement contributions, relying on private savings accounts can again privilege high earners with the most to gain from tax deferrals. Whereas high-income mothers take around 12 weeks of family leave, low-income mothers only take around six weeks, and much of this gap is likely due to savings discrepancies.[36] Savings could be made more accessible with directly-subsidized savings account, but this could create administrative complication for workers, particularly given the variety of such plans that already exist. The best route might be to consolidate the plethora of tax-preferenced accounts into a single, portable tax-free savings account that can be used for various purposes, including paid leave.

Given that 82 percent of Americans believe it is "very or somewhat" important for paid leave to be universally available for both high and low earners, privately funded options are unlikely to be satisfactory.[37] Alternatively, the federal government could equalize paid leave across income levels, through a mandate on employers to provide paid family leave for all their workers. Federally mandated paid family leave is supported by 51 percent of Americans, but it also comes with a thorny trade off.[38] Small businesses will be less able to cover the costs associated with an unfunded mandate, and will therefore either be less competitive or incentivized to discriminate against workers of reproductive age who are most likely to require paid leave in the future. If small businesses are instead exempted, as with the FMLA, this would merely create different distortions for businesses near the exemption cut-off, while the goal of universal paid family leave would remain unmet.

Paid family leave can also be implemented as a social insurance program funded through employer and employee payroll tax contributions. Such programs already exist in a handful of states, and have been proposed for the national level, as well, however this would require a strategy for either preempting or accomodating existing state-level programs. Alternatively, the federal government could create incentives for states to implement paid family leave program of their own, along the

35 Horowitz et al., "Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies," Pew Research Center, March 23, 2017.

36 Ibid.

37 National Partnership, "Voters' Views on Paid Family + Medical Leave," October 2018.

38 Horowitz et al., "Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies," Pew Research Center, March 23, 2017.

lines of existing cost-sharing arangements in UI and Medicaid.

Another way to fund universal paid family leave is through general tax revenues. This could be done in a budget neutral way by either raising taxes, or by cutting spending or tax expenditures. This method of financing is generally more progressive than payroll taxes, but it could also remove the sense of personal contribution that workers have when they pay into the system. For example, the recently enhanced Child Tax Credit could be further expanded for qualifying children ages 0 to 1. As a kind of flat "family allowance," this approach would be more progressive than leave proposals based on wage replacement, and would enable parents to take unpaid leave to the extent they are already protected under the FMLA.[39] A generous new born Child Tax Credit would have the added feature of not crowding-out existing employee benefits, while being compatible with state-level programs.

A final funding mechanism is to front-load government benefits that are already funded. This is a version of self-funding that lets parents borrow from their future selves to make up for their income loss when caring for a new child. As discussed in the next section, this could be achieved by allowing parents to access Social Security benefits in exchange for an equivalent delayed retirement, or by letting parents claim some of their future Child Tax Credits early in exchange for a smaller tax refund in subsequent years.

Summary of Existing Proposals

The most prominent existing paid family proposal is the Family and Medical Insurance Leave Act, or **Family Act**, sponsored by Rep. Rosa Delauro (D-CT) and Sen. Kirstin Gillibrand (D-NY). The Family Act uses a payroll tax to fund up to 12 weeks of leave for each parent, while extending FMLA job protections to currently excluded workers, such as workers in small businesses, part-time and contingent workers, young workers, and self-employed workers.[40] Workers on paid leave would receive up to 66 percent of their normal wages up to a ceiling of $1,000 per week. In addition to parental leave, the Family Act grants paid leave for workers who need time off to care for themselves or a family member with a severe medical condition, or for military caregiving and leave. It would use Social Security Disability Insurance (SSDI) rules to determine paid leave benefit levels for the groups mentioned above. The policy is gender neutral between mothers and fathers in order to promote gender equality. Although the Family Act extends some job protection to the groups not covered by the FMLA, its job protection measures are relatively weak in order to apply to small businesses and other, more fragile employers. The Family Act also polls the best among several common paid leave proposals, receiving the support of about 80 percent of Americans.[41]

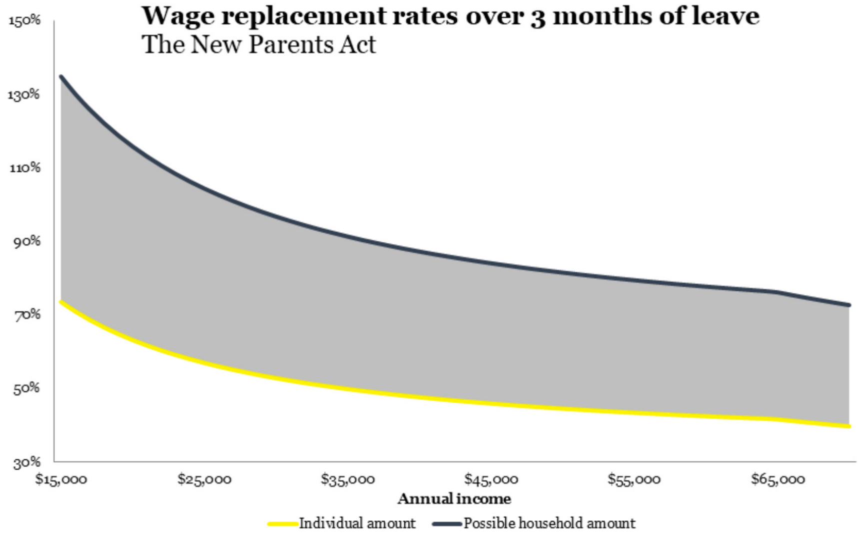
The **New Parents Act** sponsored by Sen. Marco Rubio (R-FL), Sen. Mitt Romney (R-UT), Rep. Ann Wager (R-MO), and Rep. Dan Crenshaw (R-TX) would let new parents take one to three months of their Social Security benefits early, followed by either a later retirement date or modestly reduced Social

39 Samuel Hammond, "Family Allowances are the Conservative Alternative to Paid Family Leave." Niskanen Center, July 18, 2017.

40 A Better Balance, "At a Glance: The Family and Medical Insurance Leave Act," July 30, 2019.

41 National Partnership, "Voters' Views on Paid Family + Medical Leave," October 2018.

Figure 4: Paid parental leave benefits under the New Parents Act



Source: The New Parents Act one pager. "The gray area represents the range of possibilities under a transferable benefit, assuming spouses earn equivalent incomes and the spouse taking the lower period of leave takes leave for 2 weeks."

Security benefits after retiring.[42] Given the progressive structure of the benefit formula, two parents with median household income would collectively receive about 80 percent of their normal wages for three months, whereas new parents with two kids living at the poverty line would collectively receive about 100 percent of their normal wages for three months. In exchange for each month of Social Security benefit taken early, the parent would either increase their retirement age by three to six months or proportionately reduce their Social Security income for the first 5 years of retirement.

The Child Rearing and Development Leave Empowerment Act, or **Cradle Act**, sponsored by Sens. Joni Ernst (R-IO) and Mike Lee (R-UT) would similarly let new parents access their Social Security retirement benefits early to care for a newborn or newly adopted child.[43] Parents could take up to three months of paid leave and would delay their retirement by two months for each month of early benefits. While superficially similar, the New Parents Act differs from the Cradle Act in allowing both parents to claim leave benefits even if one parent is not currently in work, making it functionally similar to a family allowance.

Opponents of the both the New Parents Act and Cradle Act primarily object to the retirement deferral, characterizing it as an attack on the Social Security system.[44] Defenders of the approach counter that having a voluntary option to pull-forward Social Security benefits from late in the earnings lifecycle to a period of volatile family income is welfare-enhancing. This echos our argument for seeing parental leave as a horizontal or intertemporal transfer across the earnings lifecycle, and in a way that is conceptually distinct from other forms of paid leave premised on pooling risks like sickness. Individualizing the cost of paid parental leave is thus consistent with the public finance

42 Marco Rubio, "New Parents Need Paid Leave, and Here's a Bill to Provide It," National Review, June 16, 2019.

43 Joni Ernst and Mike Lee, "How to provide paid family leave without further indebting the nation," The Washington Post, March 12, 2019.

44 See for example: Kathleen Romig and Kathleen Bryant, "Cutting Social Security to Offset Paid Parental Leave Would Weaken Retirement Security," Center on Budget and Policy Priorities, September 12, 2019.

principle of horizontal equity. Conversely, funding parental leave through a universal payroll tax would unfairly collect contributions from childless workers and penalize households with a stay-at-home-parent for whom conventional leave benefits are at best half as valuable. This makes the proposal less an attack on Social Security than an extension of its architects vision for Social Security to serve as the basis for a comprehensive social insurance system.[45] Indeed, using Social Security to support families during child birth is consistent with the intergenerational logic of our pay-as-you-go pension system, which depends in large measure on a growing population.

"[Implementing] paid leave as an extension of Temporary Disability Insurance would be an elegant way to achieve universal access without imposing a 'one-size-fits-all' model on states with existing programs."

The former Trump administration's paid family leave concept, although not drafted in any detail, proposed allowing states to incorporate at least six weeks of paid family leave into their existing **Unemployment Insurance** (UI) systems.[46] Aside from the duration, states would have the freedom to choose financing, eligibility, benefit levels, and other facets of administration. This would have the benefit of letting states tailor their policies to their local circumstances, including integration with existing programs that might otherwise be preempted. Indeed, state-level paid leave progams are typically run out of state departments of labor already, in order to piggy-back on existing employer databases and systems for processing claims. The federal government could provide grant funding to help states transition to a permanent program financed through UI taxes, following the precedent set by Temporary Disability Insurance. Amending federal unemployment law to encourage states to offer paid leave as an extension of TDI would be an elegant way to achieve universal access without imposing a "one-size-fits-all" model on states with existing programs. For states without a paid leave program, UI trust funds would represent a paid leave "public option" for employers to buy into in lieu of regulated private plans. Coming out of the pandemic, UI modernization is already a high policy priority for many state and national lawmakers, making consideration of such an option timely.

The **Advancing Support for Working Families Act** (ASWFA) is a bipartisan proposal sponsored by Sens. Kyrsten Sinema (D-AZ) and Bill Cassidy (R-LA).[47] The ASWFA would let families take up to $5,000 of their Child Tax Credit early in the year of childbirth or adoption, offset by a reduced credit over the next ten years. For adopted children over age five, the 10-year offset period is reduced by one year for each year the qualifying child is over age five. Low-income households who do not typically receive the full refundable portion of the Child Tax Credit would instead receive the lesser of $5,000 or 25 percent of their earned income from the prior tax year. However, since being first proposed, the maximum Child Tax Credit was expanded from $2,000 per child to $3,600 for young children and $3,000 for children ages 6 to 17 as part of the Biden Administration's American Rescue Plan. For the first time, the new child credit is fully-available to all low income families, and is being issued to households as a monthly payment for at least the remainder of 2021. A larger child credit, paid

45 Samuel Hammond, "Marco Rubio's Paid-Leave Plan Shows How Conservatives Can Embrace Working-Class Families," National Review, August 6, 2018.

46 Danielle Paquette and Damian Paletta, "U.S. could get first paid family leave benefit under Trump budget proposal," The Washington Post, May 18, 2017.

47 Tom Spiggle, "Is Paid Family Leave Finally Coming To Working Americans?," Forces, February 18, 2020.

periodically, may make the Sinema-Cassidy approach more viable going forward. Nonetheless, there is no particular reason to require a larger up-front credit to be offset by a smaller credit in future years. Rather, the Child Tax Credit could simply be increased for children ages 0 to 1 as a kind of "baby bonus," thus functioning as de facto income replacement for parents who take unpaid leave.

"...less-than-ideal political circumstances risk compromising the program's design and implementation, raising questions about its durability, actuarial fairness, and administrative complexity"

Most recently, the House Ways & Means Committee released legislation for a universal paid family and medical leave program as part of the **Building an Economy for Families Act**.[48] Coverage would extend to all workers, including self-employed and gig workers. Individuals requesting paid leave would be required to notify their employer before applying directly to the federal Treasury Department with documentation establishing their average earnings and reason for taking leave (e.g. medical leave would require attestation from a medical doctor; leave to care for a family member would require documenting time spent on care duties, etc.). Employers who already offer paid leave or wish to going forward would be eligible for partial reimbursements, provided their plan meets certain minimum standards such as being available to all employees. The Treasury Secretary would be further charged with establishing an appeals process for adjudicating disputed claims. States with "legacy" paid leave programs, meanwhile, would be grandfathered-in and eligible for federal grants to cover existing program costs.

The Treasury Department has limited experience administering social insurance programs, outside of the employer tax credits for paid sick leave enacted in the emergency context of Covid-19. The Social Security Administration would be the more natural home for a national paid leave program, however the above legislation was drafted by a different committee of jurisdiction, and was no doubt designed with the Congressional budget reconciliation process in mind. These less-than-ideal political circumstances risk compromising the program's design and implementation, raising questions about its durability, actuarial fairness, and administrative complexity.

"Legacy" state-level and voluntary employer paid leave programs makes enactment of a preemptive national program particularly hard to evaluate. For example, while the Ways & Means proposal includes partial reimbursements for employers that already provide leave benefits, many employer-provided plans could be displaced outright. Workers would then have a nominally equivalent leave benefit, only now with the administrative burden of applying for it themselves, including the need to file monthly benefit reports to justify their leave. Claims adjudication is easier said than done, and as such any national appeals system could easily become overwhelmed, particularly for hard-to-verify claims made by self-employed and gig workers. For these reasons, an approach that builds around existing employer and state-level programs is likely to be prefered, whether by allowing states to offer paid leave as an add-on to federal-state UI programs, or (for parental leave) through a family allowance of the sort discussed above.

48 Press release: "Chairman Neal Unveils Groundbreaking Proposal to Reshape the American Economy," April 27, 2021.

Conditions for Bipartisanship

Creating a well-designed and politically durable paid family leave program will ultimately require bipartisan support. Toward that end, a 2017 Brookings Institute-American Enterprise Institute working group argued that any compromise paid family leave reform should:

- be equally accessible to all eligible mothers and fathers;
- be budget neutral through a combination of payroll taxes and reductions in non-social government spending or tax expenditures;
- provide 70 percent of normal wages up to $600 per week for around eight weeks;
- include job protection;
- and be subject to independent study to avoid unwanted unintended consequences.[49]

These are worthy guidelines, but they arguably miss the crux of why many lawmakers and interest groups oppose a national paid leave program.[50] From our vantage point, the main barriers to reaching a bipartisan agreement are:

- the tendency to treat paid parental leave and paid sick and medical leave as a package deal (many conservatives have voiced support for paid family leave but remain wary of comprehensive proposals like the Family Act);
- opposition to benefit structures biased against single-earner households;
- fear of a "one-size-fits-all" national program undermining federalism and state flexibility in program implementation;
- opposition to new mandates on small and independent businesses, particularly through amendments to the FMLA;
- and concern that a national program would crowd-out existing paid leave plans provided voluntarily by employers, and otherwise distort the structure of employee compensation.

Whatever the merits of these concerns, they faithfully represent why superficially bipartisan momentum around paid family leave has hit a political impasse. Overcoming these concerns will thus be essential to securing a bipartisan agreement. In practice, such a compromise would likely require:

- treating paid parental leave separately from other forms of paid leave;
- minimizing crowd-out and/or preemption of state-level and employer programs;
- committing to principles of horizontal equity and family structure neutrality;
- avoiding new mandates on small businesses;

The existing proposals that come closest to meeting these conditions are the Working Families Act, the New Parents Act, and the Cradle Act. The first of these lets working parents borrow up to $5,000 from their future Child Tax Credits following the birth of a child, but could be improved by simply expanding the Child Tax Credit for children ages 0 to 1 with payments issued as a monthly family

49 AEI-Brookings, "Paid Family and Medical Leave: An issue whose time has come," May 2017.

50 See, for example: "Legislative Hearing on Universal Paid Leave and Guaranteed Access to Child Care," House Ways and Means Worker and Family Support Subcommittee May 27, 2021

allowance. The latter two proposals allow parents to draw on their Social Security benefits during paid or unpaid leave in exchange for a budget-neutral deferral in retirement. The idea of using Social Security to fund family leave is conceptually sound, however retirement deferral is widely considered a political-nonstarter. A more viable alternative may be to let working parents repay their Social Security leave benefits during their working years through an individualized payroll tax, thereby spreading the cost across the earnings lifecycle.

Both the family allowance and Social Security-based approaches to paid family leave would be well targeted to the populations least likely to have paid leave through their employer. Both would be distributionally progressive relative to the conventional approach based on replacing a worker's average wages. Both would be relatively simple to administer and inclusive of all types of workers, without requiring any new mandates or ad hoc business exemptions. Both would be neutral to family structure, providing equivalent support to single- and dual-earner families. And both would be compatible with existing employer and state-level programs, as direct payments to families minimize the potential for crowd-out.

With respect to comprehensive paid family and medical leave, a one-size-fits-all model is unlikely to secure bipartisan support. Nonetheless, the precedent of allowing states to finance Temporary Disability Insurance out of UI trust funds suggests states could be incentivized to provide paid leave benefits in an analogous fashion. With federal standards and cost-sharing, states could require that employers without satisfactory paid leave policies buy into a public option administered through state employment offices. This approach would move the U.S. toward universal paid family leave in a way that preserves options for employers and the integrity of legacy state-level programs.

About the Authors

Samuel Hammond

DIRECTOR OF POVERTY AND WELFARE POLICY

Samuel Hammond is the Director of Poverty and Welfare Policy at the Niskanen Center, and the co-author with Brink Lindsey of Faster Growth, Fairer Growth: Policies for a High Road, High Performance Economy. He previously worked as an economist for the Government of Canada specializing in rural economic development, and as a graduate research fellow for the Mercatus Center at George Mason University. Hammond earned an M.A. in Economics from Carleton University in Ottawa, Canada.

Jason Peirce

POVERTY AND WELFARE POLICY INTERN

Jason Peirce is a second-year MA student in the Department of Economics at George Mason University. Jason graduated from Texas Tech University with a BS in biology. His research interests include public finance, welfare and labor policy.

For media inquiries, please contact Louisa Tavlas at ltavlas@niskanencenter.org

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Niskanen Center
820 1st Street NE, Suite 675
Washington, D.C. 20002
NiskanenCenter.org