



January 28, 2020

The Honorable Richard Neal
Chair
Committee on Ways and Means
United States House of Representatives

The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
United States House of Representatives

Dear Chairman Neal and Ranking Member Brady,

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy organization based in Washington, D.C. Our mission is to improve the lives of women and families by achieving equality for all women. We promote fairness in the workplace, reproductive health and rights, access to quality, affordable health care, and policies that help all people meet the dual demands of their jobs and families. We work toward creating a society that is free, fair and just, where nobody has to experience discrimination, all workplaces are family friendly, and every family has access to quality, affordable health care and real economic security.

No one should have to risk their job or face financial ruin when they need to welcome a new child, care for a seriously ill or injured family member or address their own major health condition. These are needs that nearly every working person will face at some point in their lives. Yet more than 110 million workers – 81 percent of the workforce – do not have paid family leave through an employer. More than 80 million do not have access to personal medical leave through an employer's short-term disability insurance program. The paid leave crisis has far-reaching impacts: families' health and economic security suffers, businesses lose valued employees, economic growth is reduced, and progress toward gender and racial equity stalls.

Solving the paid leave crisis should be at the top of the agenda for all members of Congress. It is an issue that bridges the divides that too often seem insurmountable: ideological, generational, geographical. Across the country, voters and lawmakers not only agree that the time has come for paid leave – they have been taking action. Eight states and the District of Columbia have enacted paid leave programs. Governors and state legislatures across the country – Virginia, Indiana, Tennessee, Missouri, Idaho – have enacted paid leave for state employees, and dozens of city and county governments have done the same. Last year, lawmakers on both sides of the aisle came together to pass paid parental leave for federal employees, putting families first.

It is past time for the United States to pass the FAMILY Act, an inclusive, comprehensive, common sense national paid family and medical leave program. At the National Partnership, we have been working to solve the paid leave crisis for decades. Since our founding in 1971 as the Women's Legal Defense Fund, the National Partnership has fought

for every major federal policy advance that has helped women and families, including our leadership in passing the nation's unpaid leave law, the Family and Medical Leave Act (FMLA) of 1993. Today, we convene the National Work and Family Coalition, which includes hundreds of organizations nationwide working to advance national paid leave and other policies to create a more family friendly and equitable economy and country. We are also a founding member of the Paid Leave For All Campaign, a coordinated effort by a diverse set of organizations fighting for a universal, comprehensive national paid family and medical leave program.

Families and Businesses Face High Costs and Impossible Choices

Without a comprehensive, inclusive national paid leave program, working families are faced with impossible choices between jobs and care. The consequences are expensive for families, businesses and the economy. Two-thirds of voters (66 percent) say they would face serious financial hardship if they had to take up to a few months of unpaid leave,¹ and racial wage and wealth gaps mean families of color are even less able to weather the effects of an income shock.² Families lose an estimated \$22.5 billion in wages each year due to inadequate or no paid leave.³ For women, who continue to do the majority of unpaid caregiving in most families, lack of paid leave often means being held back from fully participating in the workforce, costing the national economy an estimated \$500 billion dollars each year.⁴ The majority of the nation's 5.5 million military caregivers are in the labor force; caregivers for post-9/11 servicemembers and veterans report missing an average of 3.5 days of work per month, leading to lost wages and financial strain.⁵ Employers bear high costs of turnover, ranging between 16 percent and more than 200 percent of a worker's annual wages, when people leave their jobs⁶ – as more than one-quarter of those who take a leave without pay do.⁷

But dollar amounts alone cannot fully capture the costs of America's paid leave crisis. An unmet and growing need for family caregivers for older adults increases stress on families and the health care system.⁸ Older adults in the workforce, who are more likely to develop serious or chronic health conditions such as coronary heart disease or cancer,⁹ face heightened risks of being pushed out of the workforce without paid medical leave to help keep them address their health needs and stay attached to their jobs. Infants are less likely to attend well-child visits or receive on-time vaccinations.¹⁰ Mothers return to work too quickly after giving birth,¹¹ harming their physical and mental health,¹² and parents of all genders lack time to form nurturing bonds with their children, which is critical for child development.¹³

These costs are not felt equally. Access to paid leave varies dramatically by job type and wage level, which perpetuates disparities and means the working people least likely to be able to afford to take unpaid time away from their jobs are also least likely to have access to paid leave.¹⁴ In one study, nearly 60 percent of low-income fathers reported taking no paid time away from work after the birth or adoption of a child.¹⁵ Less than half (45 percent) of LGBTQ workers say their employer has inclusive leave policies, and often face discrimination or other challenges related to gender identity, family status or health status.¹⁶ People with disabilities are twice as likely as people without disabilities to hold part-time jobs, which typically lack paid leave and other benefits, and four in five lack any "rainy day fund" to help cover expenses during an unpaid leave.¹⁷

Women of color, whose health and economic well-being are undermined by the combined effects of racism and sexism, are acutely harmed by the paid leave crisis. About 2 in 5 Latinas and Asian Pacific Islander women and about 1 in 4 Native American and Black women say family caregiving has had a negative impact on their ability to keep a job or advance at work just in the past two years.¹⁸ Due in part to job segregation and wage discrimination, Latinas, Native American/Alaska Native women and Black women are disproportionately likely not to be covered by the Family and Medical Leave or to be unable to afford a period of unpaid leave without financial distress.¹⁹ Women of color are disproportionately faced with the prospect of either losing the chance to earn income when they need to care for themselves or a loved one, or forgoing needed care in order to make ends meet. The consequences for the health and well-being of women of color and their families, and for their ability to achieve financial stability and build wealth, are severe.²⁰

The FAMILY Act: A Common Sense Solution Based on Successful State Models

Since 1993, the Family and Medical Leave Act, the cornerstone of the United States' family leave policy, has enabled working people to take unpaid, job-protected leave more than 270 million times.²¹ But just 60 percent of the workforce is eligible for the FMLA's protections, and fewer than 40 percent are both eligible and can afford to take unpaid leave without financial distress.²² The Family and Medical Insurance Leave (FAMILY) Act is a comprehensive, inclusive and common sense plan to update the FMLA and ensure nearly all working people can take paid time away from their jobs to care for themselves or a loved one.

The FAMILY Act is modeled on successful state programs. Eight states and the District of Columbia have passed comprehensive paid family and medical leave programs, five of which have been fully implemented. These state programs have provided more than 13 million paid leaves since 2004, when California became the first state to implement paid family leave, building on its longstanding temporary disability insurance program.²³ All programs have remained financially sound and affordable, even for workers with the lowest wages. A large and growing body of evidence from these tried and tested models shows that paid leave programs help working people meet their caregiving needs, with clear benefits to families' health and economic security, small and large businesses and state economies.

Based on these models, the FAMILY Act would establish a national paid family and medical leave fund, financed through small payroll contributions shared equally by employees and employers, that would replace a share of a worker's usual income for up to 12 weeks when they needed to address their own serious health condition, care for a family member with a serious health condition, bond with a newborn, newly adopted or foster child, care for a seriously ill or injured servicemember or address needs related to active duty.

States' Paid Leave Programs Improve Public Health, Strengthen Families and Benefit Small and Large Businesses

A large and growing body of research on state paid leave programs has documented how paid leave improves health outcomes and helps working people be economically secure. For young children, paid leave provides time to establish a strong bond with parents during the first months of life, with significant benefits to early childhood health and development.²⁴

Families of new children are less likely to need SNAP or other public programs after a child's birth,²⁵ women's wages increase,²⁶ and single mothers are less likely to be in poverty.²⁷ For opposite-sex couples, when both parents can take paid leave for a new child, it improves fathers' involvement in care²⁸ and mothers' physical and mental health.²⁹ Paid leave has even been shown to improve the labor force participation of family caregivers³⁰ and reduce nursing home utilization.³¹

Small and large employers have adapted well to state programs, and many report improvements to productivity, morale and turnover. Analyses of California's law have documented that the average firm experienced reduced turnover and no increase in wage costs, and an even larger share of small employers report positive or neutral outcomes than large employers.³² A survey conducted for the New Jersey Business and Industry Association found that, regardless of size, New Jersey businesses say they have had little trouble adjusting to the state's law.³³ Early research on Rhode Island's program found positive effects for new parents, and a majority of small- and medium-sized employers were in favor of the program one year after it took effect.³⁴ The majority of small business owners support the creation of family and medical leave insurance programs, as these programs allow them to provide leave affordably, reduce costs such as turnover, increase competitiveness with larger employers and can allow small business owners themselves to take paid leave when the need arises.³⁵

All programs are financially sound and self-sustaining. State paid leave programs are serving working people across the income spectrum: our own analysis of state program claims in Rhode Island and New Jersey found that the majority of claims are made by individuals earning \$50,000 per year or below. Program use has also become more gender-equal over time, and early data suggests improvements to public outreach and program design, such as a higher wage replacement rate in California, have improved utilization.³⁶ Early adopter states – California, New Jersey, Rhode Island and New York – each have enacted or are exploring ways to make them even more accessible to people who need family leave, including higher and more progressive wage replacement rates, more inclusive definitions of “family” for family caregiving, improved provisions for job protection, and greater funding for public outreach and education, including for small employers.

Paid leave has broad popularity among the public, a common sense solution to the financial and caregiving challenges that so many families face. Nationally, 8 in 10 voters – including 94 percent of Democrats, 83 percent of Independents and 74 percent of Republicans – support a comprehensive, national paid family and medical leave program that includes all workers. And voters value paid leave: More than 7 in 10 who are currently working would be willing to contribute at least one percent of their income to fund a national paid leave program.

Best Practices for an Inclusive National Plan

The FAMILY Act sets forth a strong framework for a national paid family and medical leave program. But since it was first introduced in 2013, state programs have provided additional evidence that points to improvements which would make the program more equitable and better serve all working families. We would recommend making the following improvements to the bill:

Improved coverage and eligibility. As drafted, the FAMILY Act would exclude many workers who are not in jobs covered by Social Security, particularly impacting many public employees. We recommend expanding coverage to be closer to universal. In addition, current requirements to be eligible to apply for benefits are based on eligibility for Social Security Disability Insurance (SSDI), which has relatively high work-history requirements and could exclude many new parents and younger workers with caregiving or health-related needs. We recommend following best practices from the states for eligibility rules, including a lower income or work history threshold to qualify for benefits. For example, Washington’s program examines the past five completed calendar quarters. States also use lower earnings or hours thresholds for a worker to be eligible for benefits. For example, in California, a worker must have earned at least \$300 during a one-year base period to be eligible.

More progressive wage replacement rate and more equitable financing. Currently, the FAMILY Act would replace 66 percent of a worker’s usual wages, up to \$1,000 per week. This rate is not adequate for the lowest income workers to be able to afford to take leave, disproportionately affecting workers of color,³⁷ and may prevent the program from fulfilling its potential to advance gender equity.³⁸ New and updated state laws have adopted progressive rates, replacing between 80 and 100 percent of wages up to a certain threshold to ensure low-income workers can take leave, and a smaller share of wages above that point and high enough weekly cap that leave remains accessible to middle-income workers as well. In addition, we recommend eliminating the five-day waiting period before a worker is eligible to claim benefits, which will unduly burden the lowest-income workers, who are least likely to have access to paid sick days or other employer-provided benefits to cover a period of unpaid leave. Finally, to help ensure that the program’s financing is equitable, we recommend lifting the cap on earnings subject to the FAMILY Act’s payroll tax.

Inclusive family definition. Family should be defined inclusively to reflect the full range of caregiving relationships that working families have, recognizing that families come in all forms. More than 80 percent of households today do not fit the so-called nuclear family model (a married couple living together with minor children).³⁹ For example, one in five people (about 64 million nationwide) live in a multigenerational household, and people of color are especially likely to do so.⁴⁰ In part as a result of the opioid crisis, more than 2 million children are living with grandparents.⁴¹ And, whether due to small family size, living a great distance from relatives, or even divorce or estrangement from a birth family, many adults – in fact, nearly one-third of people in the United States – report having needed to care for a friend, neighbor or other person who do not have a legal tie.⁴² Coverage for these “chosen family” members, which is included New Jersey’s, Connecticut’s and Oregon’s paid leave programs, is particularly important for LGBTQ people, people with disabilities,⁴³ and servicemembers and veterans: around 15 percent of caregivers for pre-9/11 veterans and nearly one-quarter (23.4 percent) of post-9/11 servicemembers and veterans are friends or neighbors.⁴⁴

Improved protections from retaliation or job loss. About 40 percent of the workforce is not protected by the FMLA,⁴⁵ which guarantees the right to return to the same or a similar position after taking leave, includes robust protections against employer retaliation for needing or taking leave and ensures that a worker does not lose access to employer-

provided health insurance (if provided) during a period of leave. While the FAMILY Act includes a provision protecting a worker from retaliation for requesting or taking leave, we recommend expanding access to full job protection and ensuring that workers do not lose access to health insurance during a period of FAMILY Act leave. In the states, Rhode Island and New York have ensured job protection for workers using their paid family leave programs, and Massachusetts, Connecticut and Oregon provide job protection for leaves of all types. Workers would also benefit from strengthened anti-retaliation language, for example similar to that in Massachusetts' program.

Innovations in state program design and implementation have provided a wealth of evidence about the most effective approaches in policy design and implementation, and some key best practices are described above. In considering legislation to create a national paid family and medical leave program, we urge the committee to preserve state programs' ability to continue innovating, allowing them to expand on the baseline set by any federal program.

Working Families Cannot Afford Cuts to Social Security or the Child Tax Credit
Critically, the FAMILY Act would ensure workers access to comprehensive paid family and medical leave without threatening cuts to other programs essential for working families. Other proposals fail to meet the most basic standard of a paid leave plan – ensuring people can take time to care without jeopardizing their job or financial stability – and would make unacceptable cuts to other programs that families depend on.

For example, the Advancing Support for Working Families Act (H.R. 5296) would offer a temporary increase in new parents' Child Tax Credit (CTC), then penalize those who need assistance by cutting their CTC for the following 10 to 15 years. This proposal ignores bipartisan support for previous increases to the CTC, which has never included a penalty for those who claim it.⁴⁶ It would be especially harmful to families with low incomes, who are less likely to have paid leave through an employer and least able to afford cuts to their CTC. Critically, it is not a paid leave proposal and includes no provision ensuring working parents can take time away from a job, and no protections against the loss of a job, loss of health insurance, or other adverse consequences for requesting or taking leave.

Another harmful approach, the New Parents Act (H.R. 1940), would carve out funds for paid leave from Social Security and penalize those who take leave with cuts to their retirement benefits, setting up false choices between the paid leave people need during their working years and the financial security they need in retirement. A single 12-week period of leave under the New Parents Act would result in delayed eligibility for Social Security of about 20-25 weeks, equivalent to a lifetime cut of about three percent to a worker's Social Security retirement benefits.⁴⁷ This cut would be felt most acutely by workers of color and by women, who already typically face lower earnings in their working years and lower Social Security benefits in retirement,⁴⁸ and an increased likelihood of relying on Social Security as their sole source of retirement income.⁴⁹

And it's important to be clear: millions of older workers cannot simply choose to work longer. Age discrimination is rampant in the labor market, and more than half of workers older than 50 experience a layoff, are forced to retire, or suffer another involuntary job loss.⁵⁰ Lower-income workers are especially likely to work in jobs that are physically

demanding and difficult to perform in older age⁵¹ – and are least likely to have paid leave through an employer,⁵² thus most likely to feel pressure to use this kind of program.

In addition, both of these proposals neglect the vast majority of workers who need time away from work to care for reasons other than a new child. Three-quarters of people using the Family and Medical Leave Act (FMLA) had to care for their own health or that of a seriously ill family member. Any U.S. paid leave plan should reflect the well-established reasons set out in the FMLA, which are parental leave, family care leave, personal medical leave and military caregiving leave.

The FAMILY Act, by contrast, is a comprehensive, affordable plan that would help working people address the range of caregiving needs their families have throughout their working years, while preserving their financial security in their working years and in retirement.

National Paid Leave Will Help Create an Economy That Works for All Families

The nationwide paid family and medical leave program created under the FAMILY Act will promote gender and racial equity, help working families achieve financial security, and strengthen small and large businesses and the economy. This transformational program will provide families financial security and peace of mind at some of the most challenging moments in life, making the largest impacts on the families currently struggling the most. It will enable more women to remain in the workforce, allow parents to invest more time and care in their children, and help older Americans to age with dignity and support from their loved ones. More than 100 million working people in this country cannot afford to wait.

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