

The Evolution of Paid Family Leave Policies

Amidst all the talk of remote work, increased flexibility and revised PTO structures, there's another conversation that has come from the COVID era of work and still needs to be addressed by many employers: paid family leave.

It was more than a century ago that the battle for paid family leave began. As feminist groups and female trade unionists around the world battled for fair labor standards following the role women played in keeping industry going during World War I, they met resistance from male-dominated policy making bodies. But eventually, even the politicians had to acknowledge their concerns and provide what they were asking for.

Among the demands were free medical care during and after pregnancy, a guarantee of returning to work after pregnancy, periodic breaks to nurse infant children and notably, 12 weeks of paid maternity leave.

It wasn't something that employers around the world were keen to do, but pressure became sufficient that the International Labour Organization was created and adopted the Maternity Protection Convention of 1919. Over the course of the following decades, every developed nation gave in and created policies around that set of demands, though it took years for many countries to meet the standard the convention advised. The only nation of note that didn't adopt it was the United States.

An ongoing debate has been had since then. But as the country stripped unions of their bargaining power and handed more autonomy over benefit packages to employers, little was done about issues like paid family leave.

According to the New York Times, as of 2018, 33 of the 34 member countries in the Organization for Economic Cooperation and Development (OECD) had policies that guarantee paid leave for working mothers and 32 of the 34 did the same for working fathers.

The U.S. is one of the holdouts as it still has no laws in place that guarantee paid family leave as a worker's right. While

many corporations seeking highly skilled talent have adopted paid family leave policies as a means of being competitive for that talent, there are a significant number of workers in the U.S. for whom a pregnancy or addressing family needs can be financially devastating.

The only protection for those workers is the 1993 Family and Medical Leave Act (FMLA), which simply guarantees the security of their job for 12 weeks, unpaid, while they handle life's other obligations. Due to strict eligibility requirements, two-thirds of the workforce simply doesn't qualify to receive that guarantee.

The Impact of the Pandemic

Many workers long felt as if there was no choice but to accept this lack of understanding and empathy from their employers until the COVID-19 pandemic realigned many people's priorities. Suddenly, as workers reconnected with their families, courtesy of the ability to work remotely, they also wanted the freedom to take time to prioritize the family unit.

According to the [Bureau of Labor Statistics](#), both mother and father work in nearly half of all families where the parents are married. It comes as no surprise then that most of all working parents say that finding a work-life balance is difficult, if not impossible.

This contributed significantly to what we now refer to as the "Great Resignation." Between March and April 2020, nearly 3.5 million working mothers with school-aged children left active employment. Some of these women took paid or unpaid leave, others were laid off, but even more were forced to make the decision to resign as they struggled with child care, homeschooling, and caring for family members sick with COVID-19, according to [U.S. Census Bureau](#) data.

While women are three times more likely to leave the workforce, the impact on fathers wasn't so different as many prioritized time to focus on their household and be more present for the people who need them. Yet no federal paid family leave policy has been created. It was a part of the Democrats' "Build Back Better" initiative, but descension from within the party meant the legislation never came to fruition.

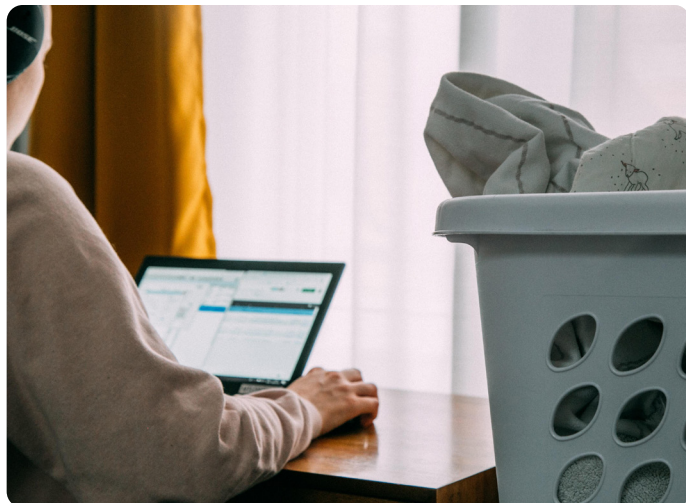
This has left current efforts to formalize legislation around paid family leave to the states. Just this year, Maryland and Delaware became the latest states to institute some type of paid family leave, bringing the total number of states with such a policy to 11. Other states include California, Colorado, Connecticut, Massachusetts, New Jersey, New York, Oregon, Rhode Island, and Washington.

Because these are state laws rather than federal, they can vary dramatically in what they require from employers, what the paid family leave benefits include and who is eligible to receive them.

The state policies are encouraging in that it seems paid family leave is finally picking up steam in the way that it has in other countries, but at the same time, there is much concern over what they'll mean for the American worker. House Ways and Means Committee Chairman Richard Neal expressed some of those concerns in a statement last April.

“While the state actions are encouraging, a patchwork of policies could exacerbate inequalities among women, people of color and low-wage workers,” Neal said. “Moreover, the policies will present challenges for employers operating in multiple regions.”

Neal went on to add that he remains committed to the idea of universal paid family leave policies that the Ways and Means committee had a hand in creating just last year as part of the Build Back Better framework. In the end, the issue was tabled due to concerns over costs and who is eligible.



But the discussion about paid family leave is far from over. As more states adopt them, it is often followed by disappointment and outrage in other states whose residents see inequity between the states and many desire federal policy to level the playing field on such an important issue.

Paid family leave polls well not just with liberals, but with independents and conservatives as well. This has many political analysts thinking it will likely be a hot topic this fall as midterm elections roll around. Whether or not it sparks action in congress remains to be seen.

Over the last few years, there have been several different proposals for paid family leave, but none have garnered sufficient support from lawmakers to pass. The Family and Medical Insurance Leave (FAMILY) Act that was proposed in the House and Senate just a few years ago sought to establish 60 days of paid leave at a wage replacement rate of 66%, using a 0.2% payroll tax on employees and employers to cover it.

An alternative House proposal for paid leave would have allowed employees to make contributions to tax-free savings accounts, which could then be used when the employee takes parental leave. Similar legislation was also proposed in Oregon and Minnesota. Neither measure has been passed at the federal level.

At some point, either businesses or legislators will have to commit to paid family leave as a benefit for the public good and take action. But for the time being, it seems that for all the talk of politicians believing in family values, they aren't all that keen on helping families through hard times.

Paid Family Leave in the Future?

The Washington Center for Equitable Growth notes that paid family leave is not only a societal imperative, but an economic one as well as a lack of paid family leave exacerbates issues around inequality for those with low- and moderate-income jobs.

It notes that “paid family leave improves child health and development and maternal wellbeing while causing minimal negative impacts on employers, and paid leave at the federal

level could help children from all backgrounds, curb the growth in inequality, and boost long-term U.S. economic growth and stability.”

There is a great deal of debate around the cost of paid family leave policies to employers, but what gets much less focus is the improvement to job continuity for parents who must take leave, the improvement to child wellbeing and the fact that research shows existing state programs have had little impact on employers.

In the end, the details of any policy are where the rubber meets the road and an important factor in determining the success of paid family leave programs. For example, studies show that leave policies exceeding one year have adverse effects on a mother’s employment and wages in the long term.

Specific components of leave policies that will be up for debate should the house or senate choose to re-engage on this issue in the future include duration, replacement rate and job protection. The only component that has been isolated for

study by researchers to date is the wage replacement piece, with researchers finding that higher wage replacement rates do not impact the duration of a person’s leave or the likelihood that they make claims to begin with.

Many experts predict that at some point a federal leave policy will arrive and part of the reason why is the complexity of state-by-state policies. Some states only guarantee job security, others only pay and others nothing at all. When that federal policy does arrive, it will need to be integrated into state laws and employer leave policies and it will need to provide a minimum bar for employers to comply with, thus simplifying some of the uncoordinated legal frameworks that cause confusion and prove to be time consuming for employers as they navigate the leave landscape by state and municipality.

For all the discussion about leave policies, it comes back to one central component of the talent landscape that employers must focus on: experience. Employers may have the best of intentions but getting paid leave policies wrong can have employees feeling unsupported, undervalued and easily replaceable.

Discussion Questions for Employees

How do you feel about the current family leave policies and practices we have in place? In what ways could we as a company improve upon these policies?

Other countries have family leave policies and other work policies in support of parents that may offer more than what’s currently available in the United States – what countries are doing a good job with their policies in support of parents that the U.S. should try to gain inspiration from?

The Facts and Figures presented above show that parents who are minorities are more likely to have at least one family member who is unemployed. If you are in a household with an unemployed family member and are comfortable sharing, how have you handled this? What obstacles have you faced that maybe we as your employer could assist with?

In terms of workplace flexibility, how comfortable are you as a working parent with our current policies and what can we do as the employer to enhance your work-life balance?