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MAKING THE CASE FOR PAID PARENTAL LEAVE IN THE UNITED STATES

Jane Johnson¹ and Sarah Calvert²

I. INTRODUCTION

In a comprehensive list of different countries' paid parental leave mandates around the world, the United States stands out with zero weeks of federally mandated paid leave. The United States is one of only a handful of places on Earth and one of only three developed countries where countrywide paid parental leave laws are nonexistent.³ Women have been advocating for a change for decades, and some even use social media to bring awareness to the lack of a paid leave policy. Posts and Tweets using the hashtags #PaidLeaveCantWait and #SavePaidLeave are surfacing across the country, sharing experiences from new mothers and uncovering alarming statistics. One example of such experiences includes women who were forced to quit their jobs after being both physically and mentally unable

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3 Judy Jou et al., *Paid maternity leave in the United States: associations with maternal and infant health*, 22 *MATERNAL AND CHILD HEALTH JOURNAL* 216, 216–225 (2018).

to return to work when their disability coverage ran out.⁴ Another example includes women who were forced to continue working after just a three-week period of unpaid leave because they could not afford to pay their bills.⁵

One post pointed out that in 28 states, it is illegal to separate a puppy from its mother before the puppy is 8 weeks old.⁶ Over half of the states in the United States have mandates protecting dogs from leaving their mothers before 8 weeks, but these same states force most working women to be separated from their infants anywhere from 2–6 weeks following birth. Most daycare facilities will not even admit infants until they are 6–8 weeks old.⁷

Both these unsatisfied working women and their infants could greatly benefit from paid parental leave. Studies show that the length a mother spends with her infant during the first year of life directly influences the child's future success in school and work.⁸ These outcomes are related to the duration of a child's access to exclusive breastfeeding and the child's early brain development. Additionally, the earlier a mother returns to work following childbirth, the more likely she is to develop symptoms of postpartum depression or intensify already existing symptoms. Thus, mothers' mental health would also positively benefit from receiving maternity leave.⁹

4 Shelly Rockwell (@doctormommymd), INSTAGRAM, https://www.instagram.com/p/CVnlfxbLBjv/?utm_ (last visited Jan. 22, 2022).

5 Ibid.

6 Rebecca F. Wisch, *Table of State Laws Concerning Minimum Age for Sale of Puppies*, ANIMAL LEGAL & HISTORICAL CENTER, <https://www.animallaw.info/topic/table-state-laws-concerning-minimum-age-sale-puppies>

7 Robin McClure, *When Babies Can Start Daycare and What to Look for*, VERYWELLFAMILY (Aug. 9, 2021), <https://www.verywellfamily.com/what-age-should-a-baby-be-placed-in-child-care-616928>

8 Pedro Carneiro, *A Flying Start? Maternity Leave Benefits and Long-Run Outcomes of Children*, 123 JOURNAL OF POLITICAL ECONOMY. 365, 365–412 (2015).

9 Katelin R. Kornfeind, *Exploring the link between maternity leave and postpartum depression*, 28 WOMEN'S HEALTH ISSUES. 323, 321–326 (2018).

Parental leave should cover both paid maternity leave and paid paternity leave. Although fathers don't experience the same physical challenges that mothers do following childbirth, allowing them to stay home for a period of time gives them opportunities to participate in the infant's early life, help the mother recover from childbirth, and adjust to their family's new addition.

Our empirical research shows that paid federal maternity and paternity leave mandates in developed countries positively affect levels of postpartum depression and decrease discrimination in the workplace; therefore, the United States should adopt a federal mandate requiring up to 12 weeks of paid maternity leave and 14 days of paid paternity leave. We will first examine existing legislation in the United States pertaining to family leave and show their deficiencies, then look at individual states who have already implemented a family leave policy. Next, we will examine studies showing the benefits of paid maternity leave for both mother and child and then conduct an international survey showcasing the paid parental leave mandates that exist in different countries around the world. Finally, we will examine the current proposed plan for paid parental leave in the United States.

II. BACKGROUND

A. Defining Terms

Maternity leave is defined as the period of employment-protected time a new mother takes off work following the birth of her child to care for the infant. Similarly, paternity leave refers to the employment-protected time off work a father has after the birth of his child.¹⁰ In the United States, the duration of and salary granted during this postpartum period of leave is determined by the policies of the mother's and father's place of employment. Outside of the United States, parental leave is defined by each country's mandates and typically remains independent of individual company policies.

10 OECD FAMILY DATABASE, PARENTAL LEAVE SYSTEMS (2021). https://www.oecd.org/els/soc/PF2_1_Parental_leave_systems.pdf

Workplace discrimination is defined as prejudicial treatment in the workplace based on a person's gender, age, or disabilities. In some cases, pregnancy can be considered a short-term disability if it hinders or prevents a woman from fulfilling her responsibilities at work.¹¹ Workplace discrimination may affect hiring, promotions, job assignments, and benefits. Finally, postpartum depression is defined as depression experienced in a mother following the birth of her child. Not every woman experiences postpartum depression; it is a genetic disorder typically caused by many factors following childbirth. Symptoms of postpartum depression include insomnia, intense irritability, and inability to connect with one's newborn infant.¹²

B. Existing Legislation

Despite the lack of a federal mandate for paid parental leave, the United States has a small number of acts that protect new parents and provide some benefits. However, these existing acts are flawed and often incapable of providing sustainable postpartum rights for parents, something only a federal mandate could do. Here we will examine the Pregnancy Discrimination Act (PDA), Family and Medical Leave Act (FMLA) and Federal Employee Paid Leave Act (FEPLA), as well as the benefits, or lack of benefits, that they provide.

1. The Pregnancy Discrimination Act of 1978

The Pregnancy Discrimination Act of 1978 forbids discrimination based on pregnancy during any part of and in any aspect of employment, including hiring, firing, pay, job assignments, layoff, and health insurance benefits. This act states that if a woman is unable to perform her job due to a medical condition related to pregnancy,

11 U.S. Equal Employment Opportunity Commission, *Pregnancy Discrimination*, EEOC.GOV, <https://www.eeoc.gov/pregnancy-discrimination> (last visited Feb. 14, 2022).

12 Donna E. Stewart et al., *Postpartum Depression*, 375 NEW ENGLAND JOURNAL OF MEDICINE. 2177, 2177-2186 (2016).

employers must treat her like a temporarily disabled employee.¹³ For example, employers must provide lighter duty or alternative assignments or grant temporary disability unpaid leave if a pregnant woman can no longer fulfill the normal responsibilities for her position.¹⁴ This act applies to all employers who have 15 or more employees. Additionally, because workplace discrimination based on pregnancy can begin before a woman actually becomes pregnant, the PDA makes it clear that no woman should be discriminated against due to pregnancy or changes caused by becoming pregnant. For example, employers might show prejudice during the hiring stage against women who anticipate requiring leave in the future for childbearing and childcare. The PDA does not allow for this sort of behavior.¹⁵

Despite the clear statements forbidding discrimination based on pregnancy made in the Pregnancy Discrimination Act, discrimination against women in the workplace still exists. The last two decades have seen a growth of pregnancy discrimination charges.¹⁶ Employers in the United States who must either pay for an employee's paid maternity leave salary or simply cover her shifts while she is on unpaid leave may be less likely to hire a woman nearing childbirth.

Additionally, because there is no federal mandate dictating the duration and salary of maternity leave, companies are at liberty to create their own maternity leave policies. A lawsuit from 2020 shows the repercussions of allowing companies in the United States to create their own parental leave policies. Deloitte, a multinational professional services network, uses its website to boast the company's

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- 13 U.S. Equal Employment Opportunity Commission, *The Pregnancy Discrimination Act of 1978*, EEOC.GOV, <https://www.eeoc.gov/statutes/pregnancy-discrimination-act-1978> (last visited Feb. 14, 2022).
 - 14 U.S. Equal Employment Opportunity Commission, *Pregnancy Discrimination*, EEOC.GOV, <https://www.eeoc.gov/pregnancy-discrimination> (last visited Feb. 14, 2022).
 - 15 Nora Ellman & Jocelyn Frye, *Efforts to Combat Pregnancy Discrimination*, AMERICAN PROGRESS (Nov. 2, 2018), <https://www.americanprogress.org/issues/women/news/2018/11/02/460353/efforts-combat-pregnancy-discrimination/>
 - 16 Ibid.

generous parental leave policy, which includes up to 16 weeks of paid leave for eligible professionals. Following the birth of her child, Saxon Knight decided to take advantage of the company's policy and took a 16 week leave. However, Knight was unaware that any individual who actually takes the 16 week leave as offered by Deloitte loses the right to return to her prior position or any position in the company. Knight lodged complaints with the company's integrity helpline and employee relations department, but her job was terminated just weeks after she took her leave. She filed a lawsuit against the company in September 2020, and the decision of the case is still pending, as of February 2022.¹⁷

2. The 1993 Family Medical Leave Act

The 1993 Family Medical Leave Act entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family members and medical reasons. In order to be eligible for FMLA, employees must 1) work for a covered employer, 2) work for their employer for at least 12 months within the past seven years and at least 1,250 hours in the 12 month period prior to taking leave and 3) work at a location with fifty or more employees located in a 75 mile range.¹⁸ This act also ensures the continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to twelve work weeks of leave in a 12-month period following the infant's birth to care for the newborn child. The 12 workweeks of leave similarly covers employees who have adopted a child.¹⁹ This act seems to provide an exceptional amount of time off, though unpaid, for parents following a child's birth. However, this act does not cover nearly enough Americans to meet everyone's needs. Since this law has so many eligibility restrictions, only 59 percent of workers are eligible for the 12 workweek leave. Additionally, according to

17 Knight v. Deloitte Touche Tohmatsu Limited et al, No. 1:20-cv-07114 (S.D.N.Y, filed Sept. 1, 2020).

18 Family Medical Leave Act of 1993, 29 U.S.C. § 2611(2012).

19 U.S. Department of Labor, *Family and Medical Leave Act*, DOL.GOV, <https://www.dol.gov/agencies/whd/fmla> (last visited Feb. 14, 2022).

a report released by the U.S. Bureau of Labor Statistics, only 17 percent of all employed American workers have access to paid parental leave.²⁰ Up to 23 percent of working mothers return to work within 10 days after giving birth, primarily due to their inability to pay living expenses without income.²¹

3. Federal Employee Paid Leave Act

Beginning in October 2020, the Federal Employee Paid Leave Act (FEPLA) made paid parental leave available to certain categories of Federal civilian employees. This act provides up to twelve weeks of paid parental leave within the first twelve months following childbirth to eligible workers.²² Paid parental leave under FEPLA replaces the unpaid leave guaranteed under FMLA, and a federal employee must meet eligibility requirements in order to qualify.²³ However, not every branch of federal civilian employees is covered by FEPLA. The largest category of ineligible workers for the paid twelve workweek leave is the U.S. Postal Service, which has nearly 600,000 employees. In addition to the Postal Service, the Federal

20 U.S. BUREAU OF LABOR STATISTICS, *Access to paid and unpaid family leave in 2018*, <https://www.bls.gov/opub/ted/2019/access-to-paid-and-unpaid-family-leave-in-2018.htm> (last visited Feb. 23, 2022).

21 Maureen Sayres Van Niel et al., *The impact of paid maternity leave on the mental and physical health of mothers and children: a review of the literature and policy implications*, 28 HARVARD REVIEW OF PSYCHIATRY. 124, 113–126 (2020).

22 S.1174 - 116th Congress (2019-2020): Federal Employee Paid Leave Act, S.1174, 116th Cong. (2019), <https://www.govinfo.gov/app/details/BILLS-116s1174is>.

23 U.S. Department of Labor, *Paid Parental Leave*, DOL.GOV, <https://www.dol.gov/general/jobs/benefits/paid-parental-leave> (last visited Feb. 14, 2022).

Aviation Administration and Transportation Security Administration employees are not covered under FEPLA.²⁴

4. State Family Leave Policies

To date, eleven states and the District of Columbia have currently passed laws related to paid family medical leave, including California, Connecticut, Hawaii, Maine, Minnesota, New Jersey, Oregon, Rhode Island, Vermont, Washington and Wisconsin.²⁵ These laws differ in each state in multiple ways, including eligibility requirements, the amount of leave granted, and the percentage of an individual's paycheck that is granted during the medical leave time period.

Some states require individuals to work at their place of employment for a certain amount of time before they can qualify for paid family leave provided by the state. For example, New York's Paid Family Leave Benefits Law (PFL), which passed in 2016, requires full-time employees to work regularly for twenty or more hours per week for twenty-six consecutive weeks before they can qualify. Part-time employee requirements who "work a regular schedule of less than 20 hours per week are eligible after working 175 days, which do not need to be consecutive."²⁶

In addition to variations in eligibility requirements, states with family leave laws also have different guidelines for funding their programs. For example, New York's PFL pulls funding through payroll deductions taken from an employee's income after tax. According to the program's website, "In 2022, the employee contribution

24 Eric Yoder, *Oops. Some federal workers are not covered by the new family leave law*, THE WASHINGTON POST, (Jan. 9, 2020), https://www.washingtonpost.com/politics/oops-some-federal-workers-are-not-covered-by-the-new-family-leave-law/2020/01/09/82b657b8-3248-11ea-9313-6cba89b1b9fb_story.html.

25 *Expecting Better: A State-by-State Analysis of Parental Leave Programs*, NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES, https://www.leg.state.nv.us/App/NELIS/REL/79th2017/ExhibitDocument/OpenExhibitDocument?exhibitId=29512&fileDownloadName=0330ab266_ParentalLeaveReport-May05.pdf.

26 New York State, *Paid Family Leave*, PAIDFAMILYLEAVE.NY.GOV, [HTTPS://PAID-FAMILYLEAVE.NY.GOV/ELIGIBILITY](https://paid-familyleave.ny.gov/eligibility) (last visited Feb. 14, 2022).

is 0.511% of an employee's gross wages each pay period. The maximum annual contribution is \$423.71.²⁷ Massachusetts uses a similar method for its Paid Family and Medical Leave (PFML) program. In this program, "the contribution rate is re-evaluated annually. For 2022, the PMFL is a tax of no greater than 0.68% of... eligible wages" paid by an individual and, possibly, that individual's employer.²⁸ The repercussions of these differing state laws are addressed later in this paper.

III. PROOF OF CLAIM

A. Benefits of Paid Maternal Leave

In 2019, the United Nations Children's Fund (UNICEF) published an evidence brief advocating for the International Labour Organization Convention 2000's recommendation of eighteen weeks of paid maternity leave for mothers of infants.²⁹ As support for their recommendation, UNICEF outlined a variety of ways paid maternal leave can benefit mothers and children, including the effects listed below.

1. Improved Mental Health

According to a study conducted by *The Harvard Review of Psychiatry*, women who take at least twelve weeks of paid leave following the birth of a child are less likely to be diagnosed with a major depressive disorder. This study also found that paid maternity leave is associated with many positive effects on the mental and physical health of mothers and children, including a decrease in intimate partner violence towards women, postpartum depression, infant

27 New York State, *Paid Family Leave*, PAIDFAMILYLEAVE.NY.GOV, <https://paid-familyleave.ny.gov/cost> (last visited Feb. 14, 2022).

28 *Paid Family and Medical Leave (PFML) overview and benefits*, DEPARTMENT OF FAMILY AND MEDICAL LEAVE, <https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-overview-and-benefits#how-much-does-pfml-cost?>.

29 UNICEF, PAID PARENTAL LEAVE AND FAMILY-FRIENDLY POLICIES: AN EVIDENCE BRIEF (2019).

mortality, and mother and infant rehospitalization.³⁰ Women without the option of at least a twelve-week period of leave are burdened with the responsibilities of caring for an infant and dealing with financial and work-related concerns.

Another study conducted by the Department of Public Health at Benedictine University provides evidence of improved mental health in mothers following at least twelve weeks of maternity leave. This study looked at symptoms of postpartum depression reported by mothers who returned to work shortly after giving birth. The data illustrates that among women who took twelve weeks or less of maternity leave, each additional week of leave led to decreased odds of experiencing symptoms of postpartum depression.³¹ Mothers who return to work shortly after giving birth must immediately balance work and home responsibilities, but mothers who remain at home for longer periods of time find the transition back into the workforce to be much easier.

2. Long-term Influences on Child Development

Policies facilitating more time spent between mothers and their children in the first year of the child's life can lead to the child's increased ability to perform well in school succeed in the future. One study followed a group of children until they were 33, looking at factors such as high school completion, college attendance, and wages. The study found that the amount of time the mother spent at home caring for their newborn child within the first year of the child's life had a strong negative correlation with the child's subsequent high

30 Maureen Sayres Van Niel, et al., *The impact of paid maternity leave on the mental and physical health of mothers and children: a review of the literature and policy implications*, 28 HARVARD REVIEW OF PSYCHIATRY. 113, 113–126 (2020).

31 Katelin R. Kornfeind, *Exploring the link between maternity leave and postpartum depression*, 28 WOMEN'S HEALTH ISSUES. 323, 321–326.

school dropout rates and a strong positive correlation with his future earnings.³²

Another systematic review and meta-analysis of the effects of postpartum depression on child development found that a mother's postpartum depression was detrimental to the cognitive development of her child, and these effects were evident as early as eighteen months. Poorer outcomes in language development, IQ, and Piaget's object concept tasks, which test a child's cognitive understanding of object permanence,³³ were shown to persist until up to five years in some children, especially in boys.³⁴

These studies show the important, lasting effects of longer maternity leave on children. Although actions taken during a child's infancy are not always concerned with the child's long-term development, the data from these studies suggests that when a mother spends more time with her child during the first year of its life, there are lasting, positive consequences. Arguably, investing in paid maternity leave is an investment in a child's future and the contributions that child will make to the United States.

3. Breastfeeding & Mother Empowerment

Studies suggest that there is a positive relationship between maternity leave and duration of exclusive breastfeeding.³⁵ Breastfeeding has countless benefits for both mother and child. For the child, breastfeeding can improve the development of the immune system,

32 Pedro Carneiro, *A Flying Start? Maternity Leave Benefits and Long-Run Outcomes of Children*, 123 *JOURNAL OF POLITICAL ECONOMY*. 405, 365–412 (2015).

33 Donna E. Stewart et al., *Postpartum depression: Literature review of risk factors and interventions*, TORONTO: UNIVERSITY HEALTH NETWORK WOMEN'S HEALTH PROGRAM FOR TORONTO PUBLIC HEALTH. 221, 1–289 (2003).

34 Maureen Sayres Van Niel et al., *The impact of paid maternity leave on the mental and physical health of mothers and children: a review of the literature and policy implications*, 28 *HARVARD REVIEW OF PSYCHIATRY*. 113, 113–126 (2020).

35 Deborah Navarro-Rosenblatt et. al, *Maternity leave and its impact on breastfeeding: a review of the literature*, 13 *BREASTFEEDING MEDICINE*. 589, 589-597 (2018).

digestive system, and brain, and for the mother, breastfeeding can reduce breast and ovarian cancer.³⁶ The World Health Organization recommends exclusively breastfeeding up to the sixth month of the baby's life,³⁷ and maternity leave is one of the easiest ways for a mother to extend the duration of time she breastfeeds her child. The longer a mother stays at home with her infant, the longer she can exclusively breastfeed, which leads to many health benefits for the child.³⁸ Such benefits include modifying the function of the infant's digestive and immune systems, as well as preventing diabetes and obesity.³⁹ Breastfeeding has also been proven to protect infants against infection and allow them to respond better to vaccines.⁴⁰ Studies show the most commonly reported reason for mothers to stop breastfeeding is not the lack of milk supply but the need to return back to work and other work-related pressures.⁴¹

Additionally, socioeconomic standing should arguably not stand in the way of a mother's ability to exclusively breastfeed her infant. One study done to determine whether or not socioeconomic status plays a role in a woman's duration of maternity leave shows that

36 Ibid.

37 *Infant and young child feeding*, WORLD HEALTH ORGANIZATION, <https://www.who.int/news-room/fact-sheets/detail/infant-and-young-child-feeding>.

38 Deborah Navarro-Rosenblatt, et. al, *Maternity leave and its impact on breastfeeding: a review of the literature*, 13 BREASTFEEDING MEDICINE. 589, 589-597 (2018).

39 Ibid.

40 Lars A. Hanson, *Breastfeeding provides passive and likely long-lasting active immunity*, 81 ANNALS OF ALLERGY, ASTHMA & IMMUNOLOGY. 529, 523-535 (1998).

41 Seaneen Sloan et al., *Breast is best? Reasons why mothers decide to breastfeed or bottlefeed their babies and factors influencing the duration of breastfeeding*, 12 CHILD CARE IN PRACTICE. 283, 283-297.

black women, women in less privileged positions, and women with less education have a shorter duration of breastfeeding.⁴²

4. Parental leave and the economy

Some people in the United States may oppose paid parental leave because of the large amount of money needed to support working parents and make paid leave possible. However, studies have shown that paid parental leave can have a positive effect on the economy. For example, one study found that “women who take paid leave are more likely to return to their jobs during the year following birth, promoting job stability and negating replacement and retraining costs for employers.”⁴³ Research conducted on the impact of paid maternity leave on the economy has shown that maternity leave supports women’s economic empowerment from increased wages and experience, tenure, employment, and labor force participation.⁴⁴ Another study found that maternity leave can “pave mothers’ way back to... [and] strengthen their ties to [the workforce],” allowing women to contribute to a higher proportion of a household income.⁴⁵ For some families, paid parental leave may prevent a drop in income that can eventually lead to poverty.⁴⁶

42 Deborah Navarro-Rosenblatt et. al, *Maternity leave and its impact on breastfeeding: a review of the literature*, 13 *BREASTFEEDING MEDICINE*. 589, 589-597 (2018).

43 Maureen Sayres Van Niel et al., *The impact of paid maternity leave on the mental and physical health of mothers and children: a review of the literature and policy implications*, 28 *HARVARD REVIEW OF PSYCHIATRY*. 122, 113–126 (2020).

44 DEPARTMENT OF PUBLIC HEALTH AND WELLNESS, *THE HEALTH AND SOCIO-ECONOMIC BENEFITS OF PAID PARENTAL LEAVE AND LOUISVILLE BENCHMARKS* (2019).

45 Haya Stier and Hadas Mandel, *Inequality in the family: The institutional aspects of women’s earning contribution*, 38 *SOCIAL SCIENCE RESEARCH*. 596, 594-608 (2009).

46 UNICEF, *PAID PARENTAL LEAVE AND FAMILY-FRIENDLY POLICIES: AN EVIDENCE BRIEF* (2019).

B. Benefits of Paid Paternity Leave

Similarly to paid maternity leave, allowing fathers to take paid paternity leave following childbirth reaps several benefits. Worldwide, just 22 percent of countries provide at least four weeks of parental leave to both mothers and fathers.⁴⁷ However, allowing a father the opportunity to participate in the earliest moments of his child's life also has several benefits. According to the United States Department of Labor, longer paternity leaves are associated with increased father engagement and bonding, and increased engagement leads to improved health and development outcomes for children.⁴⁸ Many fathers struggle with work-life balance—providing them an opportunity to stay at home and be with their families helps alleviate this conflict and give them peace of mind. Additionally, providing the father with paid leave in turn benefits the mother; she can recover quicker and have more help at home. The two parents can work together in adjusting to a bigger family.⁴⁹

C. International Survey

The United States is one of only three developed countries worldwide that does not mandate paid maternity leave and is the only high-income country that lacks paid maternity leave mandates.⁵⁰ Around the world, paid parental leave ranges anywhere from less than 12 weeks to over 52 weeks. By examining different countries' parental leave mandates, we can observe the rising worldwide trends related to maternity and paternity leave and better understand the need for such mandates in the United States.

47 Ibid.

48 UNITED STATES DEPARTMENT OF LABOR, DOL POLICY BRIEF PATERNITY LEAVE (2015).

49 Ibid.

50 Jessica Deahl, *Countries Around the World Beat The U.S. Paid Parental Leave*, NPR (Oct. 6, 2016, 7:09 PM), <https://www.npr.org/2016/10/06/495839588/countries-around-the-world-beat-the-u-s-on-paid-parental-leave>.

1. New Zealand

An island country in the southwestern Pacific Ocean, New Zealand has long been known for its excellence in education, civil liberties, government transparency, and economic freedom. In recent years, New Zealand has also become associated with generous parental leave mandates. Since 2020, employees who have worked for a company for at least an average of 10 hours a week for 12 months or more prior to the expected date of the child are entitled to 52 weeks of unpaid parental leave and 26 weeks of government funded parental leave payments if they are the primary caregiver of the child.⁵¹ In order to prove eligibility for parental leave, New Zealand residents must complete a survey and provide evidence that they work for a New Zealand employer, pay income tax to New Zealand, and that their employment relationship is subject to New Zealand employment law.⁵²

2. Italy

Italy provides up to 5 months of paid maternity leave with an allowance equal to 80 percent of pay. No minimum contribution is required to be eligible for maternity leave except when the mother works for an agricultural, domestic, or independent company. Paternity leave is also available, allowing fathers to take seven days of leave within the mother's period of leave plus one optional day of unpaid leave. The compensation during this period is equivalent to 100 percent of pay. Additionally, if the mother is unable to care for the child due to death, serious illness, or abandonment, the father is entitled to the maternity leave period.⁵³

51 EMPLOYMENT NEW ZEALAND, <https://www.employment.govt.nz/leave-and-holidays/parental-leave/eligibility/>, (last visited Jan. 18, 2022).

52 Ibid.

53 European Commission, *Employment, Social Affairs and Inclusion*, EC.EUROPEA.EDU, <https://ec.europa.eu/social/main.jsp?catId=1116&langId=en&intPageId=4618> (last visited Feb. 14, 2022).

3. China

In 2012, maternity leave in China extended from 90 days to 98 days in response to recommendations from the International Labor Organization, the increase of women in the workforce, and the precedent set by other developed countries. However, this period of time is negotiable depending on the province of an individual's workplace. For example, Henan and Hainan provinces both offer up to seven months of maternity leave, while Beijing and Shaanxi provinces provide up to one year depending on the employer. All 31 provinces in China also provide 7–30 days of paternity leave, the average number being 20 days.⁵⁴ Similar to maternity leave, this time period is also negotiable, and families must work with employers to secure the desired amount of leave. In terms of paid leave, China's *Special Rules* states, "for those enterprises already participating in the maternity insurance system, the salary of female employees during maternity leave shall be paid by the maternity insurance fund; for those enterprises not participating in the maternity insurance system, the salary of women during maternity leave shall be paid by the employer."⁵⁵

D. Current Proposed Federal Plan

Evidently, as shown by the statistics referenced previously in this paper, existing legislation within the United States such as the FMLA are limited because they fail to provide a sufficient number of working Americans with even unpaid parental leave. Recently, President Biden proposed legislation with the potential to change how parental leave is handled on a federal level.

In April 2021, President Joe Biden released details about his proposed American Families Plan. This plan aims to provide free preschool to all three- and four-year-olds, grant two years of free community college to all Americans, and focus on "making college

54 Hongyan Liu et al., *A review of the development of maternity leave policy in China over the past 70 years*, 3 CHINA POPULATION AND DEVELOPMENT STUDIES 172, 172–187 (2020).

55 Ibid.

more affordable” for prospective students in low and middle income brackets. Most pertinent to the issue of maternity leave, however, is the plan’s extensive proposal to “create a national comprehensive paid family and medical leave plan” that aims to secure partial wages for workers who need to take time off to care for a new child or a loved one who has fallen ill.⁵⁶ The program proposes providing workers with up to 80% of their regular wages (or up to \$4,000) a month for a twelve-week period.⁵⁷ President Biden estimates that this paid family and medical leave plan will cost \$245 billion dollars over the next ten years.

However, at the end of 2021, the negotiations for President Biden’s plan ended. Although the bill passed the House, Senator Joe Manchin from West Virginia refused to support the plan, halting its path through the Senate. Manchin provided several reasons for not supporting the bill, namely because he believes the bill will substantially increase national debt.⁵⁸ The future of this bill is unclear, but supportive senators vowed to revise the bill and continue to vote until it is passed.

E. Proposal for Federal Mandate

After considering the multiple health benefits for mother and child, the trends around the world regarding paid parental leave, and the lack of a sound United States federal mandate for working parents following the birth of their children, it is clear that countless people would benefit from new legislation promoting paid maternity and paternity leave.

56 The White House, Fact Sheet: The American Families Plan, WHITEHOUSE.GOV, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/28/fact-sheet-the-american-families-plan/> (last visited Feb. 24, 2022).

57 Ibid.

58 Arnie Seipel & Joe Hernandez, *Joe Manchin says he won't support President Biden's Build Back Better plan*, NPR (Dec. 19, 2021), <https://www.npr.org/2021/12/19/1065636709/joe-manchin-says-he-cannot-support-bidens-build-back-better-plan>.

As we previously illustrated, inconsistencies in state family leave policies, or the lack of policies in some states altogether, can create confusion and obstacles for families moving to different states. These inconsistencies can also cause problems for employers with employees in multiple states. A federally mandated paid parental leave law would help eliminate such inconsistencies and allow citizens in every state the right to care for their children following childbirth.

Therefore, we propose instituting a national mandate requiring twelve weeks of paid maternity leave, as recommended by several of the previously mentioned studies referencing periods of postpartum depression. We support President Biden's proposed allowance allocation which provides up to 80 percent of wages per month, determined by an individual's income. Equally important is the opportunity for fathers to care for both the infant and the mother following birth. Therefore, following the fashion of countries around the world, including Italy and China, we propose a paid paternity leave duration of fourteen days that can be taken at any time within the year following the child's birth. Allowance allocation will be identical to the maternity leave system, which provides 80 percent of wages during paternity leave.

In the case of same-sex couples, one partner would be designated as the primary caregiver and enjoy the paid maternity leave rights, and the other partner would be designated as the secondary caregiver and enjoy the paid paternity leave rights. The designation of primary and secondary caregiver would be determined by each couple and their circumstances.

We recognize that every parents' circumstances are unique and complex. In addition to same-sex couples, some parents may be unmarried or have multiple jobs. Our paper is not meant to address every possible living situation and account for each unique situation. It is, however, meant to reiterate the importance and need for such a law that will account for these individual needs and ensure that all parents across the country have equal opportunities for paid parental leave.

This proposal is for the minimum amount of time enforced by the federal government for paid maternity and paternity leave. Each individual state has the ability to increase from the minimum twelve

weeks and fourteen days, but any increased wage allowance must be funded using means separate from federal funding. Additionally, privately owned companies may have the ability to create their own family leave plans. However, if those plans exceed the time duration set by the federal mandate, payment for this excess leave must be funded by the company.

Funding for this national mandate will follow the precedent set by states such as New York and Massachusetts, pulling funding through payroll deductions taken from an employee's income after tax. The contribution rate is to be re-evaluated annually.

By implementing this proposed parental leave federal mandate, we believe working men and women in the United States will feel more supported as they start families and take care of their children before coming back to work. Our proposal is just a starting point and can certainly be built upon or revised to help ease the burden of parents and allow them to participate in their child's early years. Twelve weeks of paid maternity leave and fourteen days of paid paternity leave pales in comparison to policies around the world, but is a suitable starting point that will still allow the United States to join the rest of the world in terms of parental leave.

IV. CONCLUSION

The United States needs to adopt a paid parental leave mandate. Due to the precedent set by countries around the world, instituting such a mandate does not need to be a radical or politically charged decision. Women, men, and children in the United States will benefit from paid maternity and paternity leave, and only a federal mandate will ensure that working parents in all states enjoy the rights of parental leave. The existing legislation provided by some states in the United States is a start, but this legislation does not even begin to cover the majority of working parents. Candidates for paid parental leave should also not be required to jump through hoops or meet exhaustive requirements—parents in the United States all deserve to be involved in the first few weeks of their children's lives.

As more and more women become enraged about the United States' lack of paid parental leave and share their dissatisfaction

about this country's parental leave rights, it is essential that the federal government hear the voices of these women and make a change. The United States prides itself on being a world leader in many areas, and our leaders should adopt that same attitude towards paid parental leave. Our recommended twelve-week paid maternity leave and fourteen-day paid paternity leave is just a starting point to further expand parental rights in the United States. These suggestions, if adopted, should be continually evaluated by government leaders, legislators, and experts to ensure new mothers can receive adequate support. Lawmakers should feel the urgency of this issue and act quickly to give citizens of the United States the paid parental leave policy they deserve.