

Policy Focus

The FAMILY Act

RECIPES FOR RATIONAL GOVERNMENT FROM THE INDEPENDENT WOMEN'S FORUM

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WHAT YOU NEED TO KNOW

Democrat Members recently introduced legislation called the “Family and Medical Insurance Leave Act” or the [FAMILY Act](#) that would dramatically expand the Family and Medical Leave Act by creating a federal entitlement program to provide paid leave to qualified workers. Workers would be entitled to 60 days of family and medical leave during which they would receive two-thirds of their average pay.

Proponents argue that this inexpensive program would provide needed assistance to those who lack paid leave, and particularly benefit women by providing paid maternity leave. However, this overlooks how this program would impact existing leave programs, discourage flexible work arrangements, and reduce employment opportunities for women.

This new federal entitlement program would encourage businesses currently providing paid leave programs, including more generous leave programs, to eliminate those plans. Companies and employees would also be less likely to seek mutually beneficial arrangements, such as part-time and work-from-home options, during periods of leave. Moreover employers would have to consider the costs, including the lost productivity, associated with potential extended absences, and may be less inclined to hire women for leadership positions as a result.

Most workers already have access to paid leave. Policymakers should consider more targeted intervention to help those Americans who lack paid leave options and face potential hardship. Importantly, the best protection for American workers is a robust job market that allows them to obtain compensation packages tailored to their unique needs.

WHY YOU SHOULD CARE

Women want plentiful employment opportunities and to have the support they need after having a child or whenever they face a medical-related leave. However, the FAMILY Act would have significant, overlooked costs for women:

- **One-Size-Fits-All Leave Packages Discourage Customization:** This federal entitlement program will discourage companies that currently provide more generous leave programs from doing so. It would also discourage customized work arrangements, such as those that allow women to work from home after the birth of a child.
- **Potentially Discouraging Employers from Hiring Women:** By effectively guaranteeing that all new mothers will take three months of leave, this program may discourage employers from hiring women of childbearing age for leadership positions.
- **Another Tax on Wages:** Higher payroll taxes mean less take-home pay for workers and an increased cost of hiring for employers. Particularly during a time of high unemployment, the government should be seeking to lower, not increase, the costs of hiring.

The best protection for women is a robust job market that provides a variety of benefit packages that can be tailored to a woman's individual needs and preferences.

MORE INFORMATION

The FAMILY Act

Rep. Rosa DeLauro, D-Conn. and Sen. Kirsten Gillibrand, D-N.Y. introduced legislation entitled the “Family and Medical Insurance Leave Act” or the [FAMILY Act](#) to expand the Family and Medical Leave Act and create a federal entitlement program providing paid leave to qualified workers.

The new program would be financed like the Social Security program, with a payroll tax on wages. The 0.4 percent payroll tax would fund a new trust fund, which would then be used to replace the wages of workers taking up to 60 days of medical or caregiving leave. Workers would receive two-thirds of their average monthly wages, though the legislation also sets a minimum and maximum payment, which is indexed for inflation.

Unlike under the existing Family and Medical Leave Act, employees would be eligible for this leave time regardless of the size of their employer (currently FMLA applies solely to workers in companies with 50 or more employees). It would also be available for self-employed workers and those with sufficient work histories but who are currently unemployed.

Proponents of the law note that the weekly cost of the law per employee is relatively small. As Senator Gillibrand puts it:

The average woman worker earning the median weekly wage would only need to contribute \$1.38

per week (for a total of \$72.04 per year) into the program, and even the highest wage earners would have a maximum contribution of \$4.36 per week, or \$227.40 per year. This means that for less than ONE tall brewed Starbucks coffee (\$1.85) or about the cost of ONE venti latte per week (over \$4) we could create a program that will be so beneficial for our families.

If those were truly the only costs associated with creating this new federal entitlement program, then that would be a persuasive point. Yet this overlooks the many other unintended consequences and the economic impact of this potential law.

One-Size-Fits-All Leave Packages

Workers need to be able to take time off from their jobs for illnesses or to care for loved ones. Employers overwhelmingly recognize this, which is why—although there is no legal requirement to do so—most workplaces offer some paid leave. According to the Department of Labor as detailed in [this report](#), as of 2007, 82 percent of workers had access to some paid leave. Nearly 70 percent specifically had paid sick leave, and 20 percent of part-time workers also had paid sick leave.

Employers provide such benefits because it helps them attract and retain higher quality workers, and simply makes business sense. Clearly, it would be counterproductive for employers to fire any employee who must take time off due to illness or

the birth of a child. Aside from the potential publicity problems, it would be costly to constantly hire and train replacement workers.

Certainly some companies have leave policies that seem ungenerous, and bad bosses exist. Moreover, some companies—in particular labor intensive businesses or small institutions—cannot afford to lose workers for extended periods or they risk themselves going out of business. Limitations on leave can certainly create real hardship, particularly for those with low-incomes.

However, creating a federal entitlement program for paid leave won't eliminate those challenges, but will instead change the expectations and calculations made by employers and alter the options that are available for workers. While some may benefit from the new entitlement, others will bear considerable costs.

For example, the creation of a federal paid leave entitlement will encourage many companies to eliminate existing employer-provided paid leave programs, including those that are more generous than the proposed federal program. Many employers do provide considerable, fully-paid leave benefits, including maternity leave. The new federal program which provides only two-thirds of average pay would likely supplant much of this fully-paid time off.

The federal entitlement would also discourage women and their employers from negotiating other mutually agreeable relationships, like part-time or work-from-home options following the birth of a

child. They will no longer have the motivation, or potentially even the option, to do so.

Discouraging the Hiring of Women

A federal paid leave program will also affect how employers view potential job candidates. Knowing that any worker facing a medical issue can take up to three months of paid leave creates a new potential cost that employers must build into their budgets. While the federal government would pick up the direct cost of workers' wages through this leave program, businesses would still face considerable other costs as a result.

When a worker is on leave, a replacement needs to be identified and trained or responsibilities must be shifted to remaining workers, which can result in a drop in productivity. This is particularly true for small businesses, where the absence of one worker can make a huge difference. Given that the federal program reduces the potential for employers and employees to work out mutually agreeable leave arrangements (such as the leave-taker continuing to provide limited assistance from home while on leave), these costs are further increased.

That's something that employers (particularly small businesses) are likely to consider when evaluating candidates for key leadership positions. Given that women, particularly women of childbearing age, are more likely to qualify for and take extended medical leave, employers may

be reluctant to consider such women for senior positions with significant responsibilities.

This is particularly unfair to women who do not want or are unable to have children. The expectation that women are likely to take off three months from their jobs may unnecessarily hamper their career prospects.

Raising Employment Costs Again, and Decreasing Take-Home Pay

While the Congressional sponsors of this legislation dismiss the 0.4 percent payroll tax as insignificant, there is a real economic impact to this tax. Higher payroll taxes mean less take-home pay for working Americans. Already, workers are losing more than 15 percent of their effective compensation to payroll taxes; losing even a few more dollars of weekly wages can take a toll on those struggling to make ends meet.

The [Congressional Research Service](#) explained how the expected costs of greater utilization of leave time translates into lower take-home pay. While this report specifically focused on the costs of mandating employer-paid leave, the additional costs associated with leave utilization work the same way:

If Congress were to pass...paid family-medical leave...one would expect the compensation costs of employers to increase. Because employees generally are no more valuable (i.e., productive) to businesses after imposition of a benefit, however, they have no economically

sound reason to raise their workforce's total compensation...Economists therefore theorize that firms will try to finance the added benefit cost by reducing or slowing the growth of other components of compensation.

Employers also will have to build these new costs—both the higher tax bill and the potential costs due to potential absences—as they make labor force decisions. Higher expected labor costs lead to fewer jobs created. In particular, as fixed labor costs rise, lower-skilled workers will find that they are priced out of the labor force and fewer entry-level jobs will become available.

There Are Better Ways to Encourage Paid Leave and Provide Support

The best protection for workers is a robust, growing job market, so that employees have a variety of job options and can choose arrangements that make sense for them. Many women, particularly women in professional positions, may not find three months of leave optimal; they may prefer less time off, more flexibility, telecommuting options, and other arrangements. The federal government should not be in the business of discouraging such options, but will do so by creating a one-size-fits-all federal entitlement program.

Rather than rearranging the employment contracts of more than one hundred million working Americans—including those who like their existing compensation packages and leave options—

policymakers should target assistance for those with low-incomes who face the greatest chance of hardship. Additional income support, such as more generous earned income tax credits, dependent tax deductions, or child tax credits, would more effectively target vulnerable populations. State level welfare and disability programs can also provide assistance to those in need.

Lessons from ObamaCare

ObamaCare was sold as addressing a real problem—the rising health care costs and problems experienced by a small subset of Americans unable to access insurance. Americans were also told that ObamaCare would create new protections for all citizens, increase access to health care and health insurance, lower costs, and—most infamously—allow those who “like their current health insurance to keep it.”

Sadly we have seen these promises backfiring. Millions of Americans have lost insurance coverage, premiums are going up, and there are increasingly problems accessing trusted doctors and medical services. Rather than solving our health care problems, ObamaCare is creating new ones. Clearly there are better, more targeted ways than ObamaCare to help those truly disserved by our former health care system.

A federal leave entitlement would likely create a similar result: Millions of Americans will find their previous leave programs are no longer available, employment opportunities will diminish, and costs are likely to be higher than expected. A massive new federal entitlement program redesigning all labor contracts is not the best way to help those who need income support while taking leave.

WHAT YOU CAN DO

You can help educate Americans about the real tradeoffs with government-created paid leave programs.

- **Get Informed:** Learn more about this issue. Visit:
 - [Independent Women's Forum](#)
 - [Society for Human Resource Management](#)
 - [Heritage Foundation](#)
- **Talk to Your Friends:** Help your friends and family understand these important issues. Tell them about what's going on and encourage them to join you in getting involved.

- **Become a Leader in the Community:** Get a group together each month to talk about a political/policy issue (it will be fun!). Write a letter to the editor. Show up at local government meetings and make your opinions known. Go to rallies. Better yet, organize rallies! A few motivated people can change the world.
- **Remain Engaged Politically:** Too many good citizens see election time as the only time they need to pay attention to politics. We need everyone to pay attention and hold elected officials accountable. Let your Representatives know your opinions. After all, they are supposed to work for you!

ABOUT THE INDEPENDENT WOMEN'S FORUM

The Independent Women's Forum (IWF) is dedicated to building support for free markets, limited government, and individual responsibility.

IWF, a non-partisan, 501(c)(3) research and educational institution, seeks to combat the too-common presumption that women want and benefit from big government, and build awareness of the ways that women are better served by greater economic freedom. By aggressively seeking earned media, providing easy-to-read, timely publications and commentary, and reaching out to the public, we seek to cultivate support for these important principles and encourage women to join us in working to return the country to limited, Constitutional government.

We rely on the support of people like you! Please visit us on our website www.iwf.org to get more information and consider making a donation to IWF.

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