

October 24, 2023

Sen. Ron Wyden
United States Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Principles and Priorities in Evaluating Paid Leave Proposals

Dear Chairman Wyden and members of the Senate Committee on Finance,

Tomorrow’s hearing, “Exploring Paid Leave: Policy, Practice, and Impact on the Workforce,” is an opportunity to explore the principles and approaches that should undergird any federal approach to paid parental leave. Today, the cost of childbirth leaves too many families under economic pressure when considering having a child, as evidenced by our record-low fertility rates. Female labor-force participation is at an all-time high, and more moms than ever are trying to balance having a family with the demands of the workplace. In polling we commissioned last year, 71% of parents support a federal paid leave plan.¹

We believe there is an entirely appropriate role for the federal government to provide new mothers and fathers with a little cushion around the time of childbirth, insulating them at a time when expenses are high and earnings unpredictable. But the details of such a plan matter. As conservatives concerned about the economic and social well-being of families, we believe any paid leave plan should keep in mind these three key principles:

Focus on New Parents

Some paid leave proposals treat maternity and paternity leave as equivalent to paid sick leave or time off to care for an ailing friend or family member. This is a mistake. Across many public opinion surveys, maternity leave receives near-universal support. Paternity leave also receives strong support, but at lower levels. Leave for personal sick time or care for others receives the lowest support of all.

While other cases where federal support for paid leave may well be laudable and worth pursuing, they should be discussed outside the context of parenthood. As opposed to chronic illness or

¹ Patrick T. Brown, “Five Pro-Family Priorities for the 118th Congress and Beyond: Policies and Public Opinion on Putting Families First,” Institute for Family Studies and the Ethics and Public Policy Center (Feb. 2023), <https://eppc.org/wp-content/uploads/2023/02/ifs-congress-familypriorities-final.pdf>

hospice care, support for new parents can be designed to be time-limited and difficult to claim fraudulently.² **In an era of rising deficits and high interest rates, any paid parental leave program must be targeted and prudent.** Focusing on parenthood, rather than an expansive paid leave approach such as the one included in Build Back Better, will help keep the price tag down and contain an inherent and compelling rationale.

Recognize New Moms' Unique Needs

Some paid leave proponents insist that any paid parental leave program should offer the same benefits to “birthing parents” and “non-birthing parents.” Linguistically, we oppose the idea that our public policies should seek to erase or efface the distinct and essential roles of mother and father.

But beyond nomenclature, a paid leave policy that adopts a strict gender egalitarianism does new mothers a disservice. **Any paid leave program worth its salt must prioritize mothers who are recovering from childbirth.** Mothers bear unique physical, psychological, and emotional burdens during pregnancy that their partners do not, and deserve time to recover before facing the demands of the economy.³ While we support approaches that would allow fathers and adoptive parents some time to bond with a new child, any approach to paid parental leave should contain a recognition of the asymmetry in reproduction.⁴ The U.S. Military recognizes this distinction, offering new moms Maternity Convalescent Leave that is in addition to the parental leave available to all service members. Any federal policy should do likewise.

Treat All Families Fairly

Many paid leave approaches, like those passed in every state that has adopted a new leave program, require individual workers to have hit an earnings requirement or demonstrated a sufficiently long work history to be eligible for benefits. This effectively penalizes parents who wish to stay home, are or were recently enrolled in school, work for unpredictable wages, or were involuntarily laid off. This can dramatically reduce a program’s effectiveness – one estimate finds that more than half of all potential new moms in Rhode Island would be ineligible for the state’s paid leave program.⁵

The simplest fix would be to **ensure that any paid parental leave program includes a minimum benefit for which all parents**, regardless of work history or earnings, are eligible. Because paid leave is focused on a month or two after birth, this would not create the same concerns around dependency and work disincentives as other forms of social spending. Another approach would be to make eligibility contingent on the household’s labor force participation, ensuring that families with two parents would be able to hit meet any requirements in the

² For instance, requiring paid parental leave recipients to provide a birth certificate or certificate of still birth produced by a state’s department of vital records will make a parental leave program virtually impossible to defraud. Expanding the definition of allowable leave could lead to higher enforcement costs in the program.

³ Research suggests that when gender-egalitarian paid leave programs were introduced in academia, male scholars were more likely to use their leave to advance towards tenure, while female scholars ended up disproportionately worse off, since much of their leave time was dedicated to physical recovery. See Heather Antecol, Kelly Bedar, and Jenna Stearns, “Equal but Inequitable: Who Benefits from Gender-Neutral Tenure Clock Stopping Policies?” *American Economic Review*, Vol. 108, No. 9 (Sept 2018), <https://www.aeaweb.org/articles?id=10.1257/aer.20160613>

⁴ A legal precedent for this was established in footnote 4 of the Supreme Court’s decision in *Nevada Dept. of Human Resources v. Hibbs* (01-1368) 538 U.S. 721 (2003) which noted that offering 4-8 weeks of maternity leave was the established medical recovery period for normal childbirth and that the Family and Medical Leave Act was not required to be administered in a gender-neutral manner.

⁵ Matt Bruenig, “Minnesota Parental Leave Plan Excludes Large Minority of Potential Mothers,” People’s Policy Project (May 19, 2023), <https://www.peoplespolicyproject.org/2023/05/19/minnesota-parental-leave-plan-excludes-large-minority-of-potential-mothers/>

manner they deem fit. But only providing benefits to individuals who fit into the model of career-oriented, full-time work would do a disservice to parents who find meaning elsewhere.

These principles can be applied to any number of paid parental leave approaches. But we urge you to keep them in mind during tomorrow's hearing and any future conversations about how the federal government can better support mothers, babies, and families. We would be happy to continue a conversation about how to put these principles into action and how best to give parents a little breathing room when welcoming and celebrating the gift of new life.

Sincerely,

Erika Bachiochi

Fellow

Ethics and Public Policy Center

Patrick T. Brown

Fellow

Ethics and Public Policy Center

Alysse El-Hage

Editor, *Family Studies*

Institute for Family Studies

Michael Toscano

Executive Director

Institute for Family Studies

Brad Wilcox

Senior Fellow

Institute for Family Studies