



The Voice

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The Role of Paternity Leave in Addressing the Gender Pay Gap

by Diane S. Davis

The role of women in the American workforce has evolved during the last half century. Approximately 40 percent of all households with children under the age of 18 include mothers who are either the sole or primary source of income in comparison to 11 percent in 1960. Wendy Wang, Kim Parker, and Paul Taylor, [Breadwinner Moms](#), Pew Research Center, May 29, 2013.

As the role of women has evolved in the workforce, the role of men in their families, specifically, their childrearing and domestic responsibilities, has also changed. The goal of achieving gender equality directly relates to the approach that firms implement to promote gender equality in the workforce, including paternity leave. This article will discuss the current legislation in the United States that provides gender-neutral parental leave, the stigma associated with paternity leave, the effect that wide-scale implementation and acceptance of paternity leave has on closing the gender pay gap, and the strategies that should be used to encourage paternity leave policies.

Legislation for Parental Leave

The Family and Medical Leave Act of 1993 (FMLA) provides that federal, state, and local governments as well as employers with 50 or more employees must provide up to 12 weeks of unpaid family leave. It also requires that an employee be allowed to return to the same or a similar job with the same salary, benefits, working conditions, and seniority. [The Family and Medical Leave Act](#), Wage and Hour Division, U.S. Dep't of Labor.

This parental leave protection is only afforded to individuals who have worked with their employers for at least 12 months and 1,250 hours during the previous year. *Id.* In addition, if both parents work for the same employer, they have a combined total of 12 weeks of parental leave between them. *Id.* A further limitation exists insofar as the gender-neutral parental leave policy afforded by FMLA only covers certain workers depending upon the size of the company for which they work. Moreover, FMLA does not require that an employer pay the employee's salary during the leave.

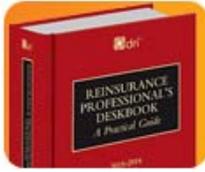
In the United States, only three states—California, New Jersey, and Rhode Island—have mandated paid gender-neutral parental leave. [State Family and Medical Leave Laws](#), Nat'l Conf. of State & Legis. (Dec. 31, 2013).

In 2002, California became the first U.S. state to guarantee six weeks of *paid* leave for mothers *and* fathers alike, financed by a small payroll-tax contribution from eligible workers. Liza Mundy, [The Daddy Track: The Case for Paternity Leave](#), *The Atlantic*, Jan./Feb. 2014 (Dec. 22, 2013).

Rhode Island and New Jersey have also implemented their paid gender-neutral parental leave policies with four and six paid weeks, respectively. *Id.* These three states fund their paternity leave through payroll taxes and administer the parental leave program through their respective disability programs. [State Family and Medical Leave Laws](#), Nat'l Conference of State & Legis., *supra*.

A couple of other states have passed paternal leave legislation. In 2007, the state of Washington passed a family medical leave act, but the law was not implemented and has been definitely postponed through subsequent legislation. *Id.* In Massachusetts, on his last day in office on January 7, 2015, Governor Deval Patrick signed Senate Bill 865 into law. This law amended and expanded the Massachusetts Maternity Leave Law to stipulate that male employees will be

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entitled to 8 weeks of leave for the birth or adoption of a child. [New Parental Leave Law Benefits Fathers](#), Mass. Law Updates (Jan. 19, 2015).

The law further states that if both employees work for the same employer, the employees are entitled to only eight weeks of leave in the aggregate for the same child. *Id.* The law will go into effect April 7, 2015, and will apply to businesses with six or more employees. Shira Schoenberg, [New Law Gives Massachusetts Fathers Paternity Leave](#), MassLive (Jan. 14, 2015).

Stigma Associated with Paternity Leave

To promote gender quality, companies must be willing to shift from the traditional views of the male breadwinner and female caregiver roles in their parental leave policies. While most mothers in the United States now work outside of the home, the careers of women often suffer after they become mothers. This is largely attributed to the working mother's assumption of most of the responsibility for household tasks and childrearing responsibilities. A 2007 study found that 60 percent of professional women who stopped working reported that the decision to leave the workforce was primarily motivated by their partners' inability and/or unwillingness to share housework and child-care duties. Mundy, *supra*.

According to a study of working fathers conducted by the Center of Work and Family at Boston College, only 14 percent of American employers offer paid paternity leave. Jason Hall, [Why Men Don't Take Paternity Leave](#), Forbes (June 14, 2013). At many of the nation's largest law firms, paternity leave ranges from two to ten weeks. Debra Cassens Weiss, [More Male Lawyers at Big Firms Taking Paternity Leave](#), ABA Journal (July 10, 2008). However, even when paternity leave is offered, most men will still choose not to take the leave. *Id.* Similarly, according to a 2012 study of tenured track college professors, only 12 percent of fathers took paid parental leave when it was offered compared in comparison to 69 percent of new mothers. *Id.* In addition, even when the new father chose to take paternity leave, he still remained involved in the projects at the office. *Id.* This can be attributed to an overriding concern that the choice to spend additional time with family, including paternity leave, will result in lower salaries, reduced bonuses, or being passed over for a promotion. Claire Cain Miller, [Paternity Leave: The Rewards and the Remaining Stigma](#), N.Y. Times (Nov. 7, 2014).

Creating and Embracing a Workplace Culture that Accepts and Encourages Paternity Leave

In October, the World Economic Forum released its latest global gender-gap report, showing that countries with the strongest economies are those that have found ways to further women's careers, close the gender pay gap, and keep women in the workplace after they become mothers. Mundy, *supra*. Other positive results of implementing and fostering paternity leave policies are that both the child and the father will benefit from time spent with each other during paternity leave. Crucially, one of the biggest beneficiaries of an effective paternity leave policy is the working mother. When a father can use leave to support a working mother during her maternity leave, or possibly better yet take leave consecutively with a working mother's maternity leave to be supportive in the home when she returns to work, the working mother has a greater opportunity to transition effectively. It's not enough impetus for effecting positive change with respect to the gender pay gap for a company to offer a great paternity leave program; the company must also focus on creating a workplace culture that encourages an individual to take the necessary time off without fear of penalty. [6 Steps to Shedding the Stigma of Paternity Leave](#), AG Beat (Oct. 14, 2013).



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