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Delivering New Parental Leave in the Trump Era: Can It Be Born?

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If President Donald Trump's Campaign is to be believed, for the first time in twenty-four years, parental leave will be a topic of Legislative Action - promising a new maternity leave program. So far, the Family and Medical Leave Act (FMLA)^[i] is the only federal legislation that governs leave protection. The spirit of the Act was to provide leave, and reprieve, for working parents. However, the Act has fallen short of that goal.^[ii] Thus, new legislation that actually grants working parents the leave they need is welcomed, regardless of the source.

Many are skeptical such change is on the horizon. Republicans are notoriously against workplace regulations, especially if they think it will cost those owners money. Thus, a Republican majority Congress is not likely to instill hope for parental leave advocates. Democrats and some dissident Republicans could, however, form enough of a heterodox group to vote the measure in. Whatever happens in the current Congress with parental leave, the value of the Trump policy is that it's the first paid policy put forward by a Republican candidate.

In hopes of striking a legislative balance, this article offers a sober analysis of Trump's policy to help us better appreciate how a compromise bill may look, and its presumed impact will be. By looking to several successful models, domestically and abroad, an effectively compromised bill can be formed.

The article proceeds in the following way: Part I of this article summarizes why parental leave is important to working parents and how it benefits individual employees, children, and the economy. Part II describes the proposal by the Trump administration policy through the leadership of Ivanka Trump^[iii] who has been leading the charge for paid maternity leave in the new administration.

Part III of the article compares the Trump proposal to domestic models (California, New Jersey, and New York). Part IV compares the proposal to Finland's and Germany's, parental leave policies. Finally, Part V proposes New York's recently enacted parental leave policy as the best compromised bill to satisfy the Republican nature. Although New York has yet to implement their plan, California is a feasible determinable for what the future holds. California has one of the most functioning, and longest running, paid leave program in the country. Although the research on the scope and breadth of the program is small, it has found small successes and favor within California.

I. THE IMPORTANCE OF PARENTAL LEAVE

Parental leave is a matter of the American economy and a public good to workers. Women and men having children will not cease. Women need leave in order to recover mentally and physically, and to bond with their newborn. Men need leave to bond with their newborn, family, and to help the mother. Bonding with newborns should be a matter of public importance because those children have to become productive members of society. In this section I want to discuss the similar and unique importance of why leave is important after childbirth.

A. Working Mothers

A third of new mothers in the United States return to work within three months of giving birth.^[iv] In Sweden,



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Germany, and the United Kingdom, only 5% of mothers return to work within that time frame. Returning to work too early can have adverse physical effects on both mother and the newborn – in addition to mental ones for the mother.^[v]

A number of scholars have defended family leave on the basis of its potential to improve child welfare. The World Health Organization concludes that “women need at least 16 weeks of absence from work after delivery” to protect the health of both mother and child. “Many mothers said they lacked time to physically recover from childbirth because they had little or no paid family leave or sick leave, and could not afford longer unpaid leaves.”^[vi]

Longer periods of maternity leave gives working mothers appropriate time to bond and care for their newborn. The first few months in a newborn’s life are some of most important to bonding.^[vii] This bonding between mother and child has numerable benefits for improved health on the part of the infant. In the case of sick children, studies find that the presence of a parent lessens the severity of symptoms and speeds recovery. Additionally, extensions to paid leave have been documented to decrease infant mortality by as much as four percent.^[viii] Paid leave policies are themselves positively correlated with better child health outcomes, perhaps because they increase the working parents’ ability to care personally for their children, and this care is better than the alternatives relied on in its absence.^[ix]

In the study, health care workers in several states were also interviewed. They echoed the concerns of the working mothers. The health care workers stated that many “patients return to work earlier than is medically advisable after childbirth.”^[x] Women return to work early because they cannot afford to take the extra time off to recover. For example, Doctor Cat Livingston, a family medicine clinician teacher in Oregon, said, “I’ve seen lots of cases where women go back to work after two weeks. It’s really inadequate. Healing usually takes six weeks.”^[xi]

There are few studies on the issue, but they find health benefits for mothers that return to work later. Longer periods away from work can be associated with fewer depressive symptoms.^[xii] Mothers in the HRW study said their short leaves contributed to postpartum depression.^[xiii] Another study highlighted this issue of depression and leave in mothers, finding that increasing maternal leave to eight weeks or twelve weeks is associated with an appreciable decline in depressive symptoms.^[xiv]

B. Working Fathers

Leave time is similarly important for fathers as well. More employers provide paid maternity leave than paid paternity leave, making paternity leave rare in the United States.^[xv] When paternity leave is an option, men are less likely to take it.^[xvi] Even when men do, it is significantly shorter in duration compared to women, most men taking about two weeks.^[xvii] Time away from work allows the father to have more time engaging his children and contribute to their development and growth while also supporting the mother who is recovering from the trauma of child birth.^[xviii] Studies suggest that when fathers use paternity leave, there is an increase in how much time they spend with their children afterward.^[xix] Early father-child interaction has been shown to result in fathers spending more time with their children in the long run.^[xx]

One study conducted took a look at father’s involvement and included three major components: a) engagement: direct interaction through caretaking, play or leisure; b) accessibility: being available to the child; and c) responsibility: making sure child needs are met. The findings suggested that fathers who took leave were more likely to be involved with their child on a regular basis than fathers who did not. This involvement continued into the child’s life. When children were aged 2-3 years old, fathers who had taken leave around childbirth were more likely to be involved with their child than fathers who did not take leave.

The study also analyzed child development. Child developmental outcomes were assessed using information on cognitive ability, conduct problems and attention-hyperactivity problems.^[xxi] Medium and high levels of involvement during a child’s first year of life were associated with higher cognitive scores relative to fathers with low levels of involvement, even after controlling for a wide range of father, child, mother and family factors.^[xxii] Children with highly involved fathers appeared to have better scores in three cognitive tests (reading, vocabulary and communications) compared with their peers with low involved fathers.^[xxiii] Thus, active paternal involvement from both mom and dad during the first year of the child’s life was positively associated with cognitive scores.^[xxiv] The long-term benefits from paternal involvement provide one of the most compelling justifications for paternity leave.^[xxv] Father engagement influences desirable outcomes in children.^[xxvi]

Fathers taking leave is equally important to the mother as well. One study showed that spousal parental leave is important for her future earnings.^[xxvii] Each month the father stays on parental leave, creates a positive effect on maternal earnings compared to when the mother solely takes leave.^[xxviii] A father's presence at home increases the ability of mothers to engage in paid work, and more specifically full-time work.^[xxix] In turn increasing the labor market for both men and women.^[xxx] Partner presence and support have an important influence on a mother's decision to breastfeed - which results in a healthier baby overall.^[xxxi]

II. THE CONTOURS OF TRUMP'S MATERNITY LEAVE POLICY

President Trump's proposal guarantees "six weeks of paid maternity leave by amending the existing unemployment insurance (UI) that companies are required to carry."^[xxxii] It is only mandated for employers without maternity leave programs. He does not specify how much paid leave a worker would receive, he only states that the benefit "would only equal what would be paid to a laid-off employee," which is less than an employee's actual salary. He further states that the program would be paid for by "offsetting reductions in the program so that taxes are not raised."^[xxxiii] And additionally that somehow "this enhancement will triple the average paid leave received by new mothers."^[xxxiv]

Trump realized that the FMLA is no longer a feasible model. Mothers and fathers alike are not taking the leave that they need and want. That a Republican presidential candidate so publicly announced his support for *paid* federally mandated maternity leave is a sign of progress. But it is still not enough. In order to further understand this plan it is important to look to the history of leave in the United States, the current state of family leave in the United States, and the current political climate. This section explores those three things.

A. History of Leave in the United States

Unlike Germany and Finland, the United States does not have as long of a history in family policy. For the first 150 years, the family was considered free and independent from the government.^[xxxv] The shift began to happen in the nineteenth century when politicians joined the reform movement and started listening to citizens and turning their voices into policy.^[xxxvi] During this time family policy did not appear until 1935 when the Social Security Act was passed and then again in 1944 when the GI Bill was approved.^[xxxvii] Although these two bills ushered in a new era, none of these plans specifically affected women.^[xxxviii] Women did not see individual protection until the Civil Rights Act of 1964^[xxxix] was passed which outlawed discrimination based on race, color, religion, sex, or national origin.^[xl] Pregnant women in the workplace did not see real change until Congress took action and ultimately passed the Pregnancy Discrimination Act (PDA) as an amendment to the Civil Rights Act of 1964.^[xli]

The issue of parental work leave remained silent until Representative Patricia Schroeder proposed the FMLA for the first time.^[xlii] By May 1990 the bill that we now call the FMLA, survived both the House and the Senate only to be vetoed by President George Herbert Walker Bush.^[xliii] A House effort to override the veto also failed. Two years later, the bill reemerged again only to be vetoed for a second time.^[xliv] The veto was in line with President Bush's ideology of government staying out of family.^[xlv]

When President Bill Clinton took office in 1993, the United States and South Africa were the only developed countries without national parental leave.^[xlvi] With President Clinton, there was a new focus on family policy and thus he was able to pass the FMLA.^[xlvii]

B. Political Stances on Maternity Leave

Whenever one is trying to change the current law in the United States it is important to look at the politics involved. In addition to a Republican President, the Republicans also hold a majority status in both the Senate and the House of Representatives. Currently, the Republican Party does not have an official stance on parental leave. However, given various statements from different Republican representatives, including House Majority Leader Paul Ryan, it seems that most Republicans are against government mandated maternity leave.^[xlviii] Senator Marco Rubio is one of the few Republicans to openly state acceptance for paid maternity leave.^[xlix] Republicans, in general, believe it should be left up to individual business owners to implement a maternity leave policy.

III. A COMPARISON OF TRUMP'S PLAN TO DOMESTIC MODELS

Although the United States does not federally mandate paid maternity leave, some states have taken it upon themselves to provide paid family leave. California was the first state to pioneer this concept. New York, Rhode

Island, New Jersey, and Washington State later followed suit by passing their own paid leave policy laws.^[i] This section will specifically discuss the leave laws in California, New Jersey, and New York. California and New Jersey have the longest leave programs and the programs that have been studied the most. New York is included because it is the most recent state to enact leave legislation.

A. **California**

California was the first state to offer paid family leave for working mothers and fathers.^[ii] California's paid leave program (CA-PFL) is integrated into California's State Disability Insurance (SDI) system, which provides paid leave to workers for a non-work-related illness or injury that prevents them from performing their regular job duties.^[iii] Under CA-PFL an employee can receive 55% of their salary.^[iiii] An employee must also have worked for the employer for at least one year, and at least 1,250 hours during the last twelve months, and work at a worksite with at least fifty employees within seventy five miles.^[liv]

Because of the integration with CA-PFL and SDI, birth mothers (but not fathers) can take SDI leave around the period of childbirth.^[lv] Women who have a normal pregnancy with a vaginal delivery can get up to four weeks of leave before the expected delivery date and up to six weeks of leave after the actual delivery date.^[lvi] Thus, women can potentially take up to sixteen weeks of paid leave.^[lvii] Additionally, a woman may qualify for longer leave if a doctor certifies that she needs to have delivery by Cesarean section, or if there are medical complications during pregnancy.^[lviii] Unfortunately, leave taken under either program is not job-protected unless taken in conjunction with FMLA.

Some studies were conducted on the impact of law in California. One study explored the CA-PFL from the perspective of employers. According to a 2011 study by California's Center for Economic and Policy Research after the state implemented paid leave, 91% of businesses said it had a positive effect on profitability or no effect at all — that is, it didn't show any disadvantages whatsoever.^[lix] Perhaps, surprisingly, since some had predicted the law would be so burdensome it would drive businesses from the state, many employers said they actually liked the program.^[lx] When asked how it had affected their work “all in all,” none responded negatively. Six saw the law as neutral, while twelve felt it had a positive impact.^[lxi]

In addition to being good for business, since the inception of paid leave in California, CA-PFL made leave more accessible to single mothers, minority mothers, and mothers with less advanced degrees.^[lxii] The study found that mothers with a high school degree and some college rose 5.3 and 7.8 percentage points, respectively.^[lxiii] And among black and Hispanics mothers, the estimated increase was 11.8 and 6.0, respectively.^[lxiv]

B. **New Jersey**

New Jersey offers workers with newborns up to six weeks of payments that amount to two-thirds of an employee's salary, capped at \$595 a week.^[lxv]

The plan does not pose a direct cost to businesses, because it is entirely funded by a small (up to 60 cents per week) tax on employees.^[lxvi] The paid family leave program is a part of the temporary disability insurance program that is common in many states.^[lxvii] A lot of these programs are in the early stages so it is hard to know the impact, however, most employers have either a positive or neutral view of employees taking leave.^[lxviii]

New Jersey studies have also found promising results for their paid leave law. In this New Jersey study a researcher interviewed eighteen businesses on the effects of the New Jersey policy.^[lxix] Most of the owners or human resources managers stated that paid leave did not adversely affect how they do business.^[lxx] Not a single company felt it affected turnover or productivity.^[lxxi] And while some had feared employees would take advantage of the program, no one knew of any instances of abuse happening.^[lxxii]

Paid leave further serves as a financial relief to many employees. Since New Jersey residents have paid leave, they do not have to succumb to these financial predicaments. A study found that men who report using paid family leave have a “significantly lower likelihood of receiving income from public assistance, lower average amounts of welfare income, and a lower likelihood of receiving food stamp income, relative to men who report not taking leave.”^[lxxiii]

C. **New York**

New York is the most recent state to implement a state leave policy. The new law will entirely be implemented by

year 2021^[lxxiv], guarantee twelve weeks of paid leave to working parents and applies to small businesses as well as large companies.^[lxxv] It covers the private sector while allowing public sector unions the option to opt in.^[lxxvi] Workers paid at or below the state average weekly wage will receive two-thirds of their average pay while on family leave.^[lxxvii] The program will be capped at the state average weekly wage rate.^[lxxviii] The system is designed to be paid for with insurance-style funds made up of fees deducted from employees' wages, rather than costing companies directly.^[lxxix] This equates to approximately seventy cents a week deduction.^[lxxx] This benefit will be available to employees starting in 2018 with the greatest benefits being offered in 2021.^[lxxxi]

IV. TRUMP'S PLAN IN COMPARISON TO FINLAND AND GERMANY

A. Finland

The right to family leave is regulated in Chapter 4 of the Employment Contracts Act. The Act provides for 18 weeks of maternity leave.^[lxxxii] While on leave the mother receives benefits in the form of "earnings-related," which means that benefits are dependent upon the income of the mother.^[lxxxiii] Expectant mothers must start maternity leave no earlier than 50 and no later than 30 working days before they are due to give birth.^[lxxxiv]

Finland statutorily provides fifty-four days (equivalent to nine weeks) of leave.^[lxxxv] Fathers are allowed to take one to eighteen days of their leave in conjunction with the mother's leave.^[lxxxvi] In order to receive benefits a father must live with the child's mother.^[lxxxvii] To circumvent this eligibility requirement, there is parental leave which starts 75 days after the child's birth.^[lxxxviii] The parent receives one hundred and fifty-eight working days, to be taken after the end of Maternity leave.^[lxxxix]

Leave is funded through Finland's social security system.^[xc] The program is financed jointly by employers and income tax payers.^[xci] Under the Employment Contracts Act, the employer has no duty to pay wages for the time of family leaves, the employee receives 70% of their wages from the program.^[xcii] However, according to some collective agreements the employee is entitled to full pay for the first two or three months of the maternity leave.^[xciii] Furthermore, the parents of small children have a right to a four days' temporary child care leave in case of a sudden illness of the child, as well as a right to shortened working hours until the child goes to school.

B. Germany

Female employees are entitled to their full salary during their maternity leave.^[xciv] Mothers begin their leave no later than six weeks before the expected due date ending eight weeks after childbirth.^[xcv] Mothers are required to take no less than eight weeks leave from work after childbirth.^[xcvi] In total, mothers have access to fourteen weeks of leave. Leave is available to all female employees, including those employed part-time. In the case of multiple births, or premature births, the amount of leave may be lengthened.

Statutorily, there is no paternity leave. However, German law does allow both parents to claim parental leave. Parents are entitled to up to three years after childbirth (for each parent), of which 24 months can be taken up to the child's eighth birthday.

Payments to the employee are made partly by the statutory health insurance provider and partly by the employer.^[xcvii] During the employee's pregnancy and during a period of four months after childbirth, no termination of the employment relationship by the employer is permissible.

V. POTENTIAL PROPOSAL

President Trump's plan does not compare well internationally or domestically; offering the least amount of leave time, benefits, and job security. It leaves men in the unfortunate position of not having paid leave; unable to receive the benefits and time they need to be productive members of their family and household.

As stated, six weeks is the minimum amount of time needed to recover from the literal trauma of bringing a new life into the world. President Trump's leave plan does not give ample time for the mother to actually bond with her newborn. It also does not take into account, complications during childbirth or if a woman has caesarian. Women who experience any one of the above problems would need more than six weeks to recover from such injuries. The President's plan does not offer this flexibility.

Additionally, employers that already have maternity leave policies are not required to comply with the Trump plan but may opt -in to the plan. This will leave many women in the same position. They may not have ample time to

recover and bond with their newborn. Employers' plans may not provide the flexibility to accommodate complications that may arise during childbirth. Also it will leave many women with insufficient money to take the leave they need. What if a woman has three months of maternity leave through her employer but only one month is paid? The plan does not account for situations such as these.

Furthermore, using unemployment insurance (UI) is an ineffective way of providing benefits. UI programs are maintained on the state level, and thus benefits are based on the state in which the beneficiary lives in. Moreover, even though UI systems take into consideration the beneficiary's salary, all states have a cap and these caps differ from state to state. For example, the state of Florida's unemployment has a cap of \$275 weekly.^[xcviii] This equates to about \$1100 in a month. If one has new expenses of a newborn, other children to care for, on top of rent and other utilities, this will not be enough for a lot of families. A program that is based on an individual's actual salary will provide a better guarantee of income to families.

Ideally, the Finnish model would be the most beneficial to working parents. It provides them with ample time to bond with the newborn and to recover personally. It also provides women with the ability to extend their leave in the case of multiple births or complications during delivery.^[xcix] Although it does not provide full salary like Germany, it is near it and what I believe to be a good compromise for those worried about increased taxes. It additionally does not place a financial burden on employers.

This policy is the most ideal for working parents. With that said, I do not believe this particular policy will succeed in the United States' rigorous process of a bill becoming a law. An example can be seen with the FMLA. The FMLA was modeled after the German policy of leave but the FMLA is a shell of the German policy and, as stated above, does not provide the safety net it was initially designed to provide.

In order to maximize the potential for passing legislation, it is important to look within our own borders. Although the United States does not have a federally mandated maternity leave, there are states that have functioning maternity leave policies. Previous articles believed that paid leave was not in our future.^[c] I would propose that it is. Most citizens are in favor of some form of parental leave.^[ci] Although the Republican Party does not support paid maternity leave, the President does. The President may be the necessary voice in the Republican Party to garner the necessary interest and motivation to make a more accessible and impactful paid leave policy possible.

If the adoption of Finland's policy is not possible, New York's policy would be most ideal. By offering twelve weeks of paid leave New York offers one of the longest paid leaves among the states. Additionally, all twelve weeks are job-protected. Although California provides sixteen weeks of paid leave there is no guarantee that all sixteen weeks will be job protected. It also gives the most coverage by making small and large companies eligible for the plan and allowing government agencies the ability to opt into the leave program. It also allows employees to take this leave in conjunction with work sick leave so that they can receive their full salary.

Additionally, it takes away the concern of imposing strains on small businesses. The program is funded through employees and existing governmental programs. The concerns about employers and potential discrimination in the workplace should be taken seriously as these concerns are echoed by many. By using an insurance program, New York addresses these concerns and alleviates financial burdens from employers.

VI. CONCLUSION

Trump may be a pioneer in the Republican party but not on the global stage. Republicans believe that parental leave is good for workers but fear the potential negative consequences to the American business. As illustrated throughout the article, those fears can be dissuaded and business owners will not suffer but instead will continue to succeed and grow by supporting their valued employees which will in turn foster loyalty. Looking both abroad and domestically shows lawmakers that it is possible to have a functioning parental leave program and economy. New York's new parental leave promises the best compromise for a Republican Congress to support and for working parents to have effective and meaningful legislation. In order for this society to endure, working parents must continue to produce babies. It is important that Congress finally give them, and businesses, the support they need to continue in the workforce.

^[i] 29 U.S.C.S 2611.

^[ii] Ashley Kaplan, *Infographic: What Businesses Need to Know about the FMLA*, FMLA101.com (February 5, 2013).

^[iii] See *Donald Trump Unveils Child-Care Policy Influenced by Ivanka Trump*, Washington Post, September 13, 2016, <https://www.washingtonpost.com/news/post-politics/wp/2016/09/13/donald-trump-joined-by-ivanka-trump-to-outline-child-care->

[policy/?utm_term=.5b69d5e01eb8.](#)

[iv] Lawrence M. Berger et al., *Maternity Leave, Early Maternal Employment and Child Health and Development in The US*, 115 *The Econ. J.* F29 (2005).

[v] *Id.*

[vi] *Id.* at 38.

[vii] Kendall Shortway, *The United States and Swaziland; The Case for Paid Maternity Leave and Protection against Pregnancy Discrimination*, *The Ark. J. of Soc. Change and Pub. Serv.* (2015).

[viii] Rona Kaufman Kitchen, *Missing the Mark: How FMLA's Bonding Leave Fails Mothers*, 31 *Hofstra Lab. & Emp. L.J.* 303.

[ix] Gillian Lester, *A Defense of Paid Family Leave*, 28 *HARV. J.L. & GENDER* 1, 18 (2005).

[x] *Id.* at 39.

[xi] *Id.* at 39.

[xii] Shortway, *supra* note xiv; Pinka Chatterji & Sara Markowitz, *Does the Length of Maternity Leave Affect Maternal Health?*, *Nat'l Bureau of Econ. Res.* 2 (2003).

[xiii] Human Rights Watch, *supra* note __, at 38.

[xiv] Chatterji, *supra* note xix, at 26-27.

[xv] Note: A 2012 Department of Labor study found that fewer employers offer paid parental leave for men than for women, and also that fewer men report receiving paid parental leave than women. See United States Department of Labor, *Paternity Leave: Why Parental Leave for Fathers is so Important for Working Families*, <https://www.dol.gov/asp/policy-development/PaternityBrief.pdf> (last visited April 23, 2017).

[xvi] United States Department of Labor, *Paternity Leave: Why Parental Leave for Fathers is so Important for Working Families*, <https://www.dol.gov/asp/policy-development/PaternityBrief.pdf> (last visited April 23, 2017).

[xvii] *Id.*

[xviii] Anna Sarkadi et. al, *Fathers' involvement and children's developmental outcomes: a systematic review of longitudinal studies*, *Acta Paediatrica* 153.

[xix] T.J. Keefe, *Leave and Marriage: The Flawed Progress of Paternity Leave in the U.S. Military*, 58 *Wm. & Mary L. Rev.* 610, 614.

[xx] *Id.*

[xxi] Huerta, M. et al. (2013), *Fathers' Leave, Fathers' Involvement and Child Development: Are They Related? Evidence from Four OECD Countries*, *OECD Social, Employment and Migration Working Papers*, No. 140, OECD Publishing, Paris 22, <http://dx.doi.org/10.1787/5k4dlw9w6czq-en>.

[xxii] *Id.*

[xxiii] *Id.*

[xxiv] *Id.*

[xxv] T.J. Keefe, *Leave and Marriage: The Flawed Progress of Paternity Leave in the U.S. Military*, 58 *Wm. & Mary L. Rev.* 610, 614.

[xxvi] Sarkadi, *supra* note xxv.

[xxvii] Elly-Ann Johansson, *The Effect of own and Spousal Parental Leave on Earnings*, *Institute for Labour Market Pol'y Evaluation* 28.

[xxviii] *Id.* at 4.

[xxix] United States Department of Labor, *Paternity Leave: Why Parental Leave for Fathers is so Important for Working Families*, <https://www.dol.gov/asp/policy-development/PaternityBrief.pdf> (last visited April 23, 2017).

[xxx] *Id.*

[xxxi] International Labour Organization, *Maternity and Paternity at Work Law and Practice Across the World*, 51, http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_242615.pdf (hereinafter ILO).

[xxxii] Donald J. Trump for President, Inc., *Fact Sheet: Donald J. Trump's New Child Care Plan*, https://assets.donaldjtrump.com/CHILD_CARE_FACT_SHEET.pdf (last visited March 15, 2017).

[xxxiii] *Id.*

[xxxiv] *Id.*

[xxxv] Steven K. Wisensale, *Family Leave Policy: The Policy Economy of Work and Family in America*, 30 (2001).

[xxxvi] *Id.*

[xxxvii] *Id.*

[xxxviii] *Id.* at 33-34.

[xxxix] 42 U.S.C.S. § 2000e

[xl] Annie Pelletier, *The Family Medical Leave Act of 1993-Why Does Parental Leave in the United States Fall so Far Behind Europe?*, 42 *Gonz. L. Rev.* 547 (2007); see H.R. REP. No. 103-8(1), at 10 (1993).

[xli] 42 U.S.C.S. § 2000e(k).

[xlii] Wisensale, *supra* note xlii, at 46.

[xliiii] *Id.*

[xliv] *Id.*

[xlv] *Id.*

[xlvi] *Id.*

[xlvii] Wisensale, *supra* note xlii, at 47.

[xlviii] Cristina Marcos, *GOP Pans Push for Paid Leave*, *The Hill*, (Jan. 22, 2015 6:00 AM), <http://thehill.com/regulation/230359-gop-pans-push-for-paid-leave>.

[xlix] Andrea Flynn, *A GOP-Style Approach to Parental Leave: And Why it Fails*, *The Atlantic* (Oct. 7, 2015) <http://www.theatlantic.com/business/archive/2015/10/rubio-parental-leave/409285>. See Marco Rubio for President, *Strengthening Middle-Class Families in The New American Century*, <http://static.politico.com/28/8a/9fd713d342aab969d87b6e2b11d3/mr-family-leave.pdf>, (last visited Dec. 21, 2016).

[l] Joanna Walters, *How New York's Paid Family Leave is a Revolutionary Step for Employees*, *The Guardian* (April 1, 2016 4:11 PM), <https://www.theguardian.com/us-news/2016/apr/01/new-york-paid-family-leave-minimum-wage-raise>; Sarah Fass, *Paid Leave in the States A Critical Support for Low-wage Workers and Their Families*, 1, 6 (2009) <http://paidfamilyleave.org/pdf/PaidLeaveinStates.pdf>.

[li] Kelly Bedard & Maya Rossin-Slater, *The Economic and Social Impacts of Paid Family Leave in California*, Report for the California Employment Development State of California Employment Development Department, *About Paid Family Leave*, (Nov. 30, 2016), http://www.edd.ca.gov/disability/About_PFL.htm.

[lii] *Id.*

[liii] Lyndsey Gilpin, *10 Things You Need to Know About Maternity Leave in the US*, TechRepublic (May 8, 2015 12:00 AM), <http://www.techrepublic.com/article/10-things-you-need-to-know-about-maternity-leave-in-the-us/>.

[liv] Lisa Guerin, *Maternity Leave and Paid Time Off for Pregnancy in California*, NOLO: DisabilitySecrets (last visited Dec. 4, 2016), <http://www.disabilitysecrets.com/resources/disability/disability-rights/maternity-leave-rights-in-california#>.

[lv] Kelly Bedard & Maya Rossin-Slater, *The Economic and Social Impacts of Paid Family Leave in California*, Report for the California Employment Development State of California Employment Development Department, *About Paid Family Leave*, (Nov. 30, 2016), http://www.edd.ca.gov/disability/About_PFL.htm.

[lvi] *Id.*

[lvii] *Id.*

[lviii] *Id.*

[lix] Gilpin, *supra* note lxiv.

[lx] **Sharon Lerner**, *Is Paid Family Leave Bad for Business?*, CNN (last updated June 23, 2014, 8:07 AM), <http://www.cnn.com/2014/06/18/opinion/lerner-paid-family-leave/index.html>.

[lxi] *Id.*

[lxii] Maya Rossin-Slater et al. (Dec. 2011), *The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes*, National Bureau Of Economic Research, 16, <http://www.nber.org/papers/w17715.pdf>.

[lxiii] *Id.*

[lxiv] *Id.*

[lxv] **Lerner**, *supra* note lxxi.

[lxvi] *Id.*

[lxvii] Rebecca Ray et al, *Parental Leave Policies in 21 Countries Assessing Generosity and Gender Equality*, CTR FOR ECON. AND POL'Y RES 2 (2008).

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