

The History of Paid Family Leave Policies

Implications for Equitable
Implementation



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Executive Summary

Welcoming a new child is both joyful and resource intensive. For working parents, the birth of a new child necessarily involves time away from work—giving birth requires physical recovery, infants need constant care, and licensed child care providers generally do not accept infants younger than 6 weeks and have too few spots for infants older than 6 weeks.¹ While parents bond with and care for their new baby, families must still cover essential expenses for housing, food, utilities, and transportation in addition to new costs such as diapers.



These realities hold for all families, regardless of race, class, or the state in which they live. The vast majority of children are born to working parents and most parents continue to work after a child is born.² However, supports to take paid, job-protected leave from employment during this important period are disproportionately concentrated among White and high-earning families, and are currently guaranteed by law in only a few states.³

Paid family and medical leave (PFML) programs operate as an insurance program for these parents—prior to the arrival of a new child, parents and/or employers pay into a PFML program and later draw benefits to replace a portion of their wages while taking time to bond with their child and recover physically from birth.

Without access to job-protected and paid family leave, many working families in the US face lost wages and possible job loss at a critical time. Families with low incomes and low wealth have fewer resources to weather economic instability and data show that poverty rates spike in the months following the birth of a child.⁴

Because of overlapping systems of oppression, including discrimination in employment and education and unequal opportunities to build wealth, Black, Hispanic, and Native American families are less likely to have access to paid leave and less often able to afford unpaid leave.⁵

This historical analysis traces three key themes that have contributed to the current inequities in the accessibility and affordability of family leave:

1. Cultural depictions of families experiencing poverty and families of color as inherently deficient or less deserving of financial support have been used to justify welfare, work, wealth, and family policies that reinforce racial inequities.
2. Policies and practices excluding Black, Hispanic, and Native American people and women from higher-paying jobs, resulted in a segmented labor market with the overrepresentation of these groups in low-wage and less stable jobs with fewer benefits.
3. Centuries of race-based theft of wealth, exploitation of labor, and exclusion from opportunities to build wealth and human capital have led to a racial wealth gap in which the average White household holds six times the wealth held by the average Black household.⁶ Together with the wage gap, this means that families of color are less likely to have the resources needed to withstand lost income from unpaid leave or job loss.

State-level policymakers have the opportunity to address this gap in the social infrastructure and narrow racial disparities by implementing an evidence-based paid leave policy. By implementing statewide paid family and medical leave programs, families will have access to at least a portion of their wages while out on leave, funded by contributions by themselves and/or their employer.

Comprehensive family and medical leave policies that provide at least 6 weeks of paid leave for all new parents and at least 12 weeks for the parent who gave birth increase the length and likelihood of leave-taking, increase mothers' labor force participation, improve parents' mental health, and foster better child-mother relationships and child health.⁷

For a comprehensive review of the evidence on paid family leave policies, refer to the [Paid Family Leave Evidence Review](#).

Unpaid leave protected by federal law for some workers is not sufficient for most working families, but especially for families of color.

Only 56% of workers **qualify for job-protected, unpaid leave under FMLA**, which disproportionately benefits higher-income and White women.

Even when eligible, fewer Black, Hispanic, and Native American workers are able to afford unpaid leave (34%, 26%, and 36%, respectively) compared to White and Asian workers (43% and 44%).

73% of all civilian workers, and 86% of workers with annual earnings in the lowest quartile, do not have access to paid family leave through their employer.

Fewer than 1 in 3 Americans live in a state with a fully implemented state paid family leave program.

Key Terminology

Defining Equity and Racism

Racism is “a system of structuring opportunity and assigning value based on the social interpretation of how one looks (which is what we call “race”), which unfairly disadvantages some individuals and communities and unfairly advantages other individuals and communities.”⁸

Systemic racism is the interconnected nature of racism experienced at the individual (between people), institutional (within power systems), and structural (across society) levels. Together, these forms of racism operate to maintain and normalize a system which is harmful to some individuals and communities while unfairly benefitting other individuals and communities.⁹

Equity is practiced when (1) all individuals and populations are valued equally; (2) historical injustices are recognized and rectified; and (3) resources are provided according to need.¹⁰

Paid Leave Terminology

The Prenatal-to-3 Policy Impact Center focuses on the bonding leave component of paid family leave, rather than medical or caregiving leave, given the strong causal evidence available to date, the concentration of the evidence on outcomes related to the birth of a child, and the center’s focus on infants, toddlers, and their families. As such, the term “family leave” in this brief refers primarily to bonding leave, though we acknowledge that family leave is not exclusively used to care for and bond with new children.

Paid family leave refers both to paid bonding leave and paid caregiving leave.

- **Bonding leave** refers to leave-taking to care for a new child after birth, adoption, or foster care placement.
- **Caregiving leave** refers to leave-taking to care for a sick child, spouse, parent, or other family member or aging family member.

Medical leave refers to leave-taking (lasting weeks or months) to care for one’s own medical needs.

Overview of Family Leave Policy History

To understand the current paid family leave policy landscape, why it is inequitable, and what states can do to improve it, we must consider the history of policies related to leave, labor, and parenthood in the US. This history traces the origins of current disparities in access to paid family leave and related outcomes, with a focus on differences by race and ethnicity.

This rigorous historical analysis identifies three primary historical processes—dichotomous narratives about parenthood by race, occupational segregation, and the racial wealth gap—that contributed to the current inequities in accessibility and affordability of family leave. Together, they shape the present inequitable landscape of access to paid family leave. These processes were in turn based in the dehumanizing and interacting ideologies of colonialism, patriarchy, and White supremacy. Figure 1 provides several examples, discussed in greater detail in the proceeding sections, of each.



Through the late 20th century, policy and practice reinforced a cultural devaluation of labor performed by women and undermined the caregiving capacity of men. This emphasis on gender-based norms served to slow momentum for supporting the ever-increasing proportion of parents who occupy dual roles as worker and caregiver.

Despite calls for paid maternity leave as early as 1919, efforts in the US to secure paid family leave for workers stalled compared to those in other countries. As of 2023, the US is one of only seven nations without some form of national paid parental leave and is alone among Organization for Economic Cooperation and Development (OECD) member nations without a national paid family leave policy.

Figure 1. Historical Processes Related to Current Inequities in Family Leave

Differing cultural depictions of parenthood by race

Black and Native American family units were invalidated and separated through slavery and forced assimilation policies.

The White nuclear family with breadwinner father and caregiver mother has been reinforced as the ideal and granted rewards and protections through policy.

Black (and sometimes Hispanic) women have been subject to harmful stereotypes such as “mammies,” “hyperbreeders,” and “welfare queens.”

Occupational segregation by race and sex

Policies and practices of employers, and discrimination in labor unions, education, and training contributed to women and workers of color being concentrated in lower quality jobs.

Welfare reform in the 1990s induced recipients (disproportionately women of color) to accept low-wage, unstable employment.

Racial wealth gap

Land was stolen on a mass-scale from Native Americans.

White landowners were enriched by the forced and coerced labor of Black people, who were kept from effectively building and passing down their own wealth.

People of color were systematically excluded from large-scale wealth transfers in the 1950s that expanded the middle class.

Protections for American workers and, in turn, supports for working families, have slowly and unevenly expanded over the last 100 years. Policies and practices within government, organized labor and feminist movements, as well as broader culture often excluded Black, Hispanic, Native American, and other non-White groups from the benefits of worker protections and supports.

Table 1 presents a summary of key labor and family leave policies and illustrates the implications of policy design, some of which resulted in unequal access by design.

Table 1. Timeline of Key Federal Labor and Family Leave Policies

| Program – Policy | Effective Year | Target Population | Enforcement Authority | Worker Protection/Family Care Provisions | Access and Implementation |
|---|----------------|--|---|---|--|
| National Labor Relations Act (Wagner Act) | 1935 | Employees at private-sector workplaces. | Created the National Labor Relations Board as a federal agency to enforce labor protections. | Provided the right to seek better working conditions and designation of representation without fear of retaliation. | Among other groups, FLSA and the Wagner Act originally excluded agricultural and domestic service workers, occupations in which Black workers were concentrated due to widespread employment discrimination. |
| Fair Labor Standards Act (FLSA) | 1938 | Employees working in interstate commerce, or in the production of goods for interstate commerce. | Created the Wage and Hour Division of the US Department of Labor to administer and enforce the new law. | Set a minimum wage of 40 cents per hour and a maximum workweek of 40 hours (to be phased in by 1940), and restricted child labor. | |

| Program – Policy | Effective Year | Target Population | Enforcement Authority | Worker Protection/Family Care Provisions | Access and Implementation |
|---|----------------|---|--|---|---|
| Key Amendments to the FSLA | | | | | |
| FLSA Amendments of 1961 | 1961 | Workers employed in retail trade and construction. | Amended the FLSA. | Expanded coverage and raised the minimum wage to \$1.25 (phased in for all covered workers by 1965). | Employees in the newly covered industries were 90% White, this amendment did little to improve wages for workers of color. |
| Equal Pay Act of 1963 | 1963 | Female workers. | Amended the FLSA; enforced by the Department of Labor until 1979 when enforcement transferred to the Equal Employment Opportunity Commission (EEOC). | Prohibited employers from paying different wages for the same job on the basis of sex. | Required employers to give “equal pay for equal work” and gave women legal grounds to seek back pay in cases of discrimination. |
| FLSA Amendments of 1966 | 1967 | Workers employed on large farms, working for schools, hospitals, nursing homes, and other previously excluded service industries. | Amended the FLSA. | Substantially expanded minimum wage coverage through removing or narrowing exemptions. | The expanded coverage affected nearly one-third of Black workers, raising their wages, and narrowing the Black-White wage gap. |
| FLSA Amendments of 1974 | 1974 | Government and domestic service workers. | Amended the FLSA. | Expanded coverage and raised the minimum wage for nonfarm workers to \$2.30 (phased in by 1976). | Extended minimum wage coverage to domestic service workers, an industry that is majority women of color and previously excluded under the FLSA. |
| Title VII of the Civil Rights Act of 1964 | 1964 | Employers with at least 25 employees, with exemptions for religious organizations. | Created the Equal Employment Opportunity Commission (EEOC) to enforce Title VII. | Prohibited discrimination based on race, color, religion, sex, or national origin in hiring, firing, pay, conditions of employment, or promotion. | Ended legal discrimination in workplaces and labor unions and prohibited segregation in places of public accommodation; considered the end of the Jim Crow era. |

| Program – Policy | Effective Year | Target Population | Enforcement Authority | Worker Protection/Family Care Provisions | Access and Implementation |
|--|------------------------|--|--|---|---|
| Pregnancy Discrimination Act | 1978 | Workers who could become pregnant or had been pregnant in the past. | Amended Title VII of the Civil Rights Act of 1964. | Specified that pregnancy discrimination is a form of sex discrimination, and prohibited employment or workplace discrimination based on current, past, or potential pregnancy or medical conditions related to pregnancy and childbirth. Required employers and states to treat pregnancy and childbirth like any other temporary disability. | States with Temporary Disability Insurance (TDI) programs (California, Hawaii, New Jersey, New York, and Rhode Island) were required to start providing paid leave to pregnant workers to be used in the period immediately before and after birth. |
| Family and Medical Leave Act (FMLA) | 1993 | Employees of federal, state, or local government, and of all private employers with at least 50 employees. | US Department of Labor. | Required employers to provide 12 weeks of unpaid, job-protected leave to eligible employees who have serious health conditions, need to care for sick family members, and/or take care of new children (by birth, adoption, or foster care). | Workers ineligible for FMLA are more likely to be people of color, low-income, and in less stable jobs; workers of color who are eligible are less able to afford unpaid leave. |
| California Paid Family Leave | 2004 (Enacted in 2002) | Any California worker attached to the labor market prior to their family leave period, facing lost wages, and with sufficient prior earnings in a 12-month period. | Administered by the California Employment Development Department's State Disability Insurance (SDI) program. | Provided up to 6 weeks of Paid Family Leave payments, at a maximum rate of 55% of pre-birth earnings, to eligible workers who took time off work to care for a seriously ill child, spouse, parent, or registered domestic partner, or to bond with a new child. | First statewide program to provide wage replacement for workers taking bonding leave. Expanded paid leave benefits in California to non-birthing parents and extended paid leave available to birthing parents. The low wage replacement rate made leave unaffordable for workers with low wages. |
| Break Time for Nursing Mothers Act | 2010 | Employers with at least 50 employees, with exemptions for undue hardship. | Amended the FLSA. | Employers must provide a nursing parent reasonable break time and a private space (not a bathroom) to express breast milk. | Workers considered “exempt” under FLSA were not covered, which included most salaried workers, teachers, and farmworkers. |

| Program – Policy | Effective Year | Target Population | Enforcement Authority | Worker Protection/Family Care Provisions | Access and Implementation |
|--|----------------|-----------------------------|--|--|---|
| Federal Employee Paid Leave Act (FEPLA) | 2020 | Federal civilian employees. | Amended FMLA, administered by US Office of Personnel Management. | Provided up to 12 weeks of paid parental leave in connection with the birth or placement (adoption or foster care) of a child. | Provided paid family leave benefits to roughly 2 million federal employees (about 1.3% of the civilian workforce). Black, White, and Asian workers are overrepresented in the federal workforce, Hispanic workers are underrepresented. ¹¹ |

Consolidated Appropriations Act, 2023

| | | | | | |
|---|------|--|---|---|--|
| Pregnant Workers Fairness Act (PWFA) | 2023 | Employees of private and public sector employers with at least 15 employees, Congress, federal agencies, employment agencies, and labor organizations. | Enforced by the Equal Employment Opportunity Commission (EEOC). | Required covered employers to provide reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship. | Expanded job-protected unpaid leave to include all employees of businesses with fewer than 15 employees who may experience pregnancy, regardless of tenure in a job. This closed several gaps in the FMLA for birthing parents, but protections remain unpaid and do not cover non-birthing parents. |
| Providing Urgent Maternal Protections (PUMP) for Nursing Mothers Act | 2023 | Employers with at least 50 employees, with exemptions for undue hardship. | Amended the FLSA. | Extended eligibility for the rights to receive break time to pump and a private place to pump at work that is not a bathroom, that is shielded from view, and free from intrusion, and extended coverage to 1 year after a child's birth. | Extended protections to 9 million additional nursing or pumping parents who were previously excluded by loopholes in the 2010 Break Time for Nursing Mothers Act, including teachers and farmworkers. |

Early America (1600s – 1864)

During the colonization and subsequent development of the United States, enslaved, and later free, Black women were often coerced into caring for White children to the detriment of their own, leading to inequities in caregiving dynamics. Free women had few individual rights; their labor and any subsequent wages were the property of male family members.

The economic and cultural foundations of what is now the United States of America were heavily influenced by the norms of Western Europe and the dominant ideologies of White supremacy, colonialism, and patriarchy. European settlers and their descendants used dehumanization to justify the theft and violence perpetrated by them against Black and Native American people.

Woman employed as a domestic worker with small children at Meridian Hill Park in Washington, D.C. (Source: National Archives Catalog)



Since colonial times, policy and culture have normalized the exploitation of labor performed by Black people and the devaluation of labor performed by women; Black women (and their children) are most impacted by this intersection of racism and sexism.¹² Foundational inequities beginning in the nation's earliest days set the stage for disparities in systems of labor and wealth seen today.

The entrenchment of exclusionary systems of power in what is now the US began with the colonization of North America by Europeans, which resulted in the mass depopulation of Native Americans through devastating epidemics and violent conflict. Later, the US maintained a national policy of continuous expansion which conflicted directly with Native sovereignty and ultimately led to the genocide and displacement of Native American peoples.¹³ In turn, White colonists created wealth for themselves from the stolen land by imposing systems of private property ownership and extracting natural resources.

During the colonization of America the practice of slavery thrived, in which the inhumane conditions under which Black people were enslaved and transported across the Atlantic then forced to live in and labor under in America led to economic prosperity for White slave owners and the burgeoning nation. The legalized system of chattel slavery denied the humanity of Black people and the validity of Black family units.¹⁴ Specifically harmful to enslaved women was the commodification of Black motherhood.¹⁵ Through the practice of wet-nursing, enslaved Black women were forced to breastfeed the children of slaveholders while their own children went undernourished.^{16,17}

Historical demographers estimate that greater than one-third (35%) of children born alive to enslaved women died before reaching their first birthday.¹⁸ Scholars attribute this high infant mortality rate, which was roughly twice that of the US average at the time, to mothers performing hard labor up until the time of birth, returning to work shortly after birth, and chronic undernourishment of mother and child.¹⁹ Despite decreases in infant mortality overall, this racial disparity in the infant mortality rate (IMR) persists in the present. In 2020, the IMR in the Black non-Hispanic population in the US was 10.8 per 1,000 live births,ⁱ more than double the IMR of 4.6 in the White non-Hispanic population.²⁰

ⁱ Populations with similarly high rates of infant mortality were Native Hawaiian or Other Pacific Islander at 9.4 per 1,000 live births and Native Americans at 8.2 (see Jang and Lee, 2022).

In both colonial and industrial America, the White, married, nuclear family led by a man was seen as the fundamental unit of an orderly society.²¹ By law and custom, a married woman was considered subordinate to her husband and had few individual rights. Under this legal doctrine of coverture, the labor of a married woman and any earnings generated from it were the legal property of her husband (or her father if not married).^{22,23} Colonial legal records suggest one reason a man might be owed wages for labor his wife performed was if she provided midwifery or nursing services.²⁴ Birth and postpartum care at this time typically took place at home, aided by midwives or female family members.²⁵

In 1860, 88 percent of free men worked for pay, compared to 16 percent of free women (the free population at the time was 98% White).²⁶ However, researchers have estimated that an additional 41 percent of free women performed work in support of a family member's farm or business without taking a formal wage or reporting themselves as gainfully employed.²⁷

Especially following the specialization of labor during the Industrial Revolution, there was a cultural norm of "separate spheres," wherein public life, politics, and paid work were the domain of men, and work inside the home, especially caring for children, was seen as inherently feminine.²⁸ The naturalization of motherhood, or the idea that women had an inherent ability and innate desire to care for children, was used to justify the devaluation of women's labor.²⁹

For Black women, this idea was twisted into the racist stereotype of the "mammy," a caricature who chose to care for White children over her own out of love and loyalty rather than coercion.³⁰ This trope and others suggesting the inferiority of Black motherhood have been and continue to be used by White power structures to soften the atrocities of slavery and undermine Black family life.^{31,32}

Post Civil War and Turn of the 20th Century (1865 – 1913)

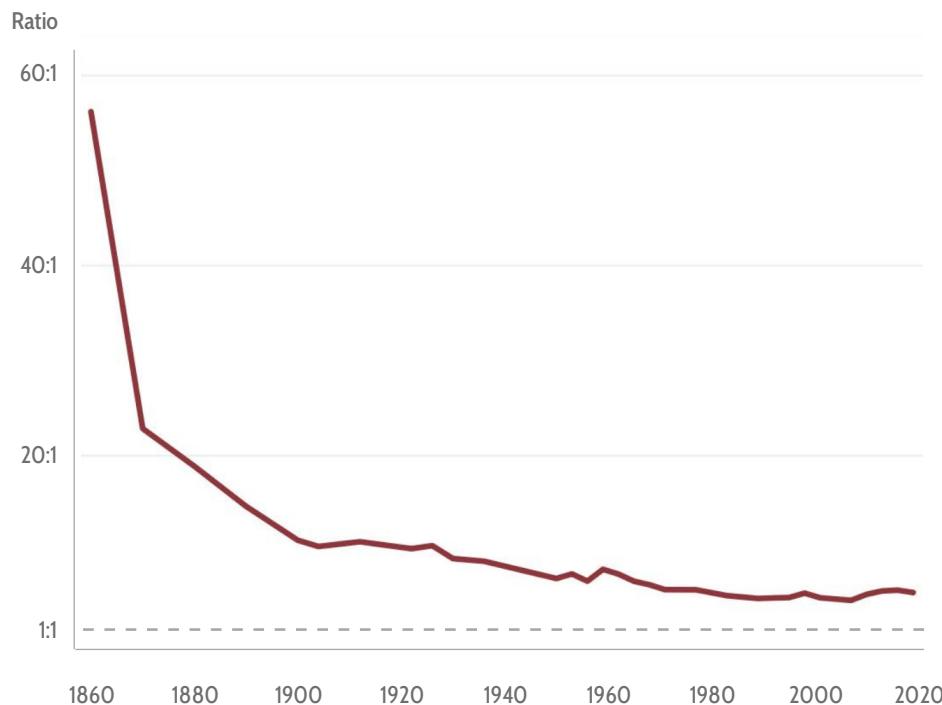
After the legal system of chattel slavery ended, states and institutions used segregation, racist pseudo-science, intimidation, and violence to maintain a racial caste system. The federal government also forcibly removed many Native American children from their families and placed them in boarding schools. At the same time, the medical field propagated untrue ideas about differences by race and class related to the need for postpartum recovery.

When chattel slavery ended in 1865, its harmful legacy and the ideology of White supremacy were not undone. This era replaced the legal statuses of enslaved and free with legally enforced social statuses that continued to be conferred by a person's race and ethnicity. Despite gains in wealth, wages, and mobility, Black Americans continued to face discrimination and danger at work, in health care, and in their communities.

Pregnant woman working at Globe Cotton Mill, Augusta, Georgia in 1909. According to reports, these women work until the day of childbirth. (Source: Library of Congress.)



Figure 2. White-Black Per Capita Wealth Ratio, 1860-2020³³



Through the 13th, 14th, and 15th amendments to the Constitution, the Reconstruction Act of 1867, and creation of the Freedmen's Bureau, Congress set terms for the readmittance of Southern states into the Union and provided resources to emancipated Black Americans and poor White Southerners following the Civil War.³⁴

The racial wealth gap, as measured by the ratio of White to Black wealth per capita, was reduced by half between 1860 and 1870, though White households still held more than 20 times the amount of wealth held by Black households (see Figure 2).³⁵ The racial wealth gap continues today; in 2019, White Americans held six times the wealth held by Black Americans.³⁶

Source: Derenoncourt et al. (2024). National Bureau of Economic Research.

The Reconstruction Era was short-lived; the Freedmen's Bureau was abolished in 1872, and remaining federal troops withdrew from the South in 1877, marking the end of Reconstruction. New laws, commonly referred to as Black Codes or Jim Crow laws, were put in place at the state and local levels to limit the economic, social, and civil lives of free people of color. Black people continued to experience overt discrimination, oppression, and racial terror as White people, particularly but not exclusively in Southern states, strived to maintain and enforce a racial caste system.^{37,38} Limited employment opportunities resulted in most Black women pursuing “gender-appropriate,” low-wage roles typically in the service of White, middle-class households.³⁹ By 1900, convergence in the racial wealth gap had started to slow.⁴⁰

At the turn of the 20th century, the size and composition of American urban populations were changing rapidly. Between 1900 and 1915, the US admitted over 15 million immigrants, particularly from Southern and Eastern Europe. This influx coincided with the start of the Great Migration, a mass movement of Black Americans out of the rural South.⁴¹ Both groups were drawn to cities in the North and Midwest by the hope of jobs in industry. By 1920, 51 percent of the US population lived in an urban area, up from 20 percent in 1860.⁴²

Fears about these newcomers contributed to the growing influence of eugenics, a form of scientific racism based on inaccurate ideas of genetic superiority and inferiority.⁴³ The socially constructed hierarchy of racial/ethnic categories, with US-born White at the top, followed by immigrant and ethnic White, and all people who were not considered White at the bottom,ⁱⁱ was reinforced by and reflected in the allocation of jobs and power within the labor movement.⁴⁴ Black migrants and recent immigrants were concentrated in low-wage factory jobs, working long hours in unsafe conditions.⁴⁵

ⁱⁱ The relative privileged or oppressed status of a group in the latter categories was influenced by the demographics in a given context and the degree to which that group was viewed as a threat to native-born White prosperity (see Restifo et al., 2019).

Outside of cities, agricultural land ownership by Black farmers peaked in 1910 at over 16 million acres.⁴⁶ However, Black farmers in the South were kept from accessing federal loans by discriminatory local administrators and faced land theft by way of “state-sanctioned violence, intimidation, and lynching.”⁴⁷ The vast majority of Black farmers were therefore limited to sharecropping, a system in which a landlord leased a portion of their land to the sharecropper in exchange for a portion of the tenant’s yield, keeping the tenant in a cycle of debt while the White landowner was enriched.⁴⁸

The federal government continued to violently oppress Native American tribes throughout this period as the US expanded into western territories.⁴⁹ Beginning in the late 19th century, the US government removed Native American children from their families and communities on a large scale, to be educated at government- and church-affiliated boarding schools in an attempted “cultural genocide.”⁵⁰ This practice of separating Native American children from their communities interrupted the intergenerational transmission of traditional childrearing practices and attempted to displace a cultural emphasis on extended family and community care in favor of the nuclear family structure.⁵¹

Birth and Postpartum

The vast majority of births still took place at home; only the poorest women gave birth in hospitals. Physician-attended home births became common for middle- and upper-class White women, whereas most Black and immigrant families continued to rely on midwives.^{52,53}

The same racial pseudo-science that had been used to justify slavery was used to support a double standard in obstetric care; a text on the specialty published in 1907 explained that “primitive” poor women had stronger bodies that could withstand activity after childbirth, whereas wealthier women had bodies weakened by education and therefore required prolonged bedrest during the postpartum period.^{54,55} This thinking reinforced a dichotomous view of motherhood and contributed to the socially constructed idea of women with higher socioeconomic status (who were overwhelmingly White) as more deserving of support and care.

World War I and the Progressive Era (1914 – 1920s)

The Progressive Era in the early 20th century was defined by the labor and women's movements, which worked to build political power for historically excluded groups and reform exploitative or exclusionary systems. However, institutional racism within these movements meant that political power (and benefits) remained concentrated within White constituencies.

By 1920, the American Federation of Labor (AFL) had emerged as the dominant national labor union.⁵⁶ Its predecessor, the Knights of Labor, had a policy of open membership and worker solidarity that was inclusive of all races and genders.^{57,58} In principle, the AFL had the same policy; in practice, it embraced nativism and focused on organizing unions of skilled craftsman, which systematically excluded Black workers and women.^{59,60} The AFL ignored the plight of Black workers and showed overt racism toward Asian workers.⁶¹ Exploiting the effects of wage discrimination and exclusion from unions, industrialists sometimes brought in lower-paid Black workers as "strike breakers," which compounded racial tensions.⁶²

Black women at work in lumber yards in 1919. (Source: US Department of Labor. Women's Bureau.)



Women at Work

In the early 1900s, approximately one in five women in the US participated in the paid labor force, though participation differed greatly by race.⁶³ Female labor force participation spiked during World War I (1914-1918) when the male civilian workforce was limited. In the 1920 Census, 21.9 percent of White women and 43.8 percent of Black women were recorded as “gainfully employed.”⁶⁴ Labor union membership among women also expanded during this time, driven by the organization of garment workers, but remained low overall; less than 8 percent of organized workers were women in 1920.⁶⁵

New analyses of historical data add nuance to our collective understanding of working-class women in the Progressive Era. An oft-repeated misinterpretation is that women workers at this time were overwhelmingly young and never married.⁶⁶ The presence of “marriage bars,” policies of employers not to hire married women and/or layoff single women who got married, suppressed labor force participation among married women.⁶⁶

However, digitized census records reveal that although formal labor force participation rates for married women with a spouse present were relatively low (7.6% in 1920), they accounted for 18.9 percent of the female workforce and ever-married (married with or without present spouse, widowed, or divorced) women made up greater than 40 percent of the female workforce in 1920.⁶⁷ Another study estimated that an additional 25 percent of women worked to support a family farm or business without taking a wage.^{iv,68} These findings underscore that marriage (and motherhood) and generating household income were not mutually exclusive activities.

ⁱⁱⁱ This is attributed to a change in Census taking in which women who were single, widowed, divorced, or whose marital status was unknown were collapsed into a single category of “unmarried” (DeVault, 2016).

^{iv} Individuals age 16 and over who lived in a household with a farmer (owner, tenant, or manager), merchant, self-employed craftsman, or boardinghouse keeper but did not have an occupation reported and were imputed to be related to the head of household (as opposed to a live-in servant or a roomer/boarder/lodger) were presumed to support, in some capacity, the self-employed occupation of that household member.

Race, Gender, and Political Power

In the early 20th century, women around the world pushed back against their historical exclusion from public life.⁶⁹ Maternalist politics embraced and reframed the cultural belief that women were naturally inclined toward caregiving and particularly sensitive to the needs of mothers and children as justification for women's inclusion in rather than exclusion from policymaking.^{70,71} Through organized advocacy, "municipal mothers," largely upper-middle-class White women, pushed for the establishment of kindergartens, a prohibition of child labor, and mother's pensions for mothers with low incomes who were widowed, deserted, or divorced.^{72,73}

At the same time, these wealthier White women resisted any protections for domestic service workers. The wealthier women decried the treatment of private homes as workplaces because their own participation in public life relied on household labor performed by working-class women, often women of color. Also, the appearance that "Progressive" women needed to be prevented by law from exploiting workers in their employ would have undermined the narrative of genteel motherhood. These efforts would go on to shape the labor reforms of the 1930s and contribute to domestic workers being excluded from key labor protections.

Following World War I, an international movement advocating for fair treatment of women in the labor force gained momentum. This movement led to the International Labor Organization's (ILO) adoption of the Maternity Protection Convention of 1919, which called for 12 weeks of paid maternity leave, free medical care during and after pregnancy, and job protection.⁷⁴ However, this convention was not a requirement of ILO membership and few countries ratified it at the time. In 1920, the US Department of Labor established the Women's Bureau to "promote the welfare of wage-earning women, improve their working conditions, increase their efficiency, and advance their opportunities for profitable employment."⁷⁵

Critically, 1920 also brought ratification of the 19th Amendment, legally granting women the right to vote. Race-based voting restrictions in the Jim Crow South (e.g., poll taxes, literacy tests, fraud and intimidation, and more) meant that the new right was only guaranteed for White women. Despite benefiting from decades of solidarity, White feminist reformers largely abandoned Black women upon gaining their franchise, beginning with ignoring calls for an investigation of voting rights violations experienced by Black women during the 1920 election.^{76,77,78}

American Federalism

American federalism, or the division and sharing of power between the national and state governments, is a founding principle of the US, codified in the 10th Amendment of the Constitution. The issue of Southern states maintaining chattel slavery and conflict over the expansion of slavery to new territories pushed federalism to its limit and led to the American Civil War.

Following the Union's victory and later in response to the Great Depression, the balance of power tipped somewhat toward the federal government, with increases in regulation, taxation, and spending. However, implementing authority for most public services, including the administration of many federally funded programs, remained with the states. This devolution of administrative power has led to wide variation in program implementation among states, which has important implications for the accessibility, generosity, and impacts of policies today.

The Great Depression and the New Deal (1930s)

Black workers were “first fired and last hired” when unemployment spiked during the Great Depression. Worker protections codified in the Social Security and National Labor Relations Acts of 1935 and the Fair Labor Standards Act of 1938 excluded occupations in which Black workers were concentrated.

Americans were impacted universally but unequally by the market crash of October 1929 and ensuing Great Depression. Already in an economically precarious position with limited ability to save or build wealth, Black workers were the first to be fired and the last to be hired as jobs became scarce.^{79,80} In Northern cities, the Black unemployment rate reached nearly 60 percent, more than double the rate for White workers.⁸¹

While the mothers are working in the fields, the preschool children of migrant families are cared for in the nursery school under trained teachers. Kern migrant camp, California. 1936. (Source: The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Photography Collection)



The New Deal

After his inauguration in 1933, President Franklin Delano Roosevelt (FDR) launched a suite of relief and employment programs known as the New Deal. The New Deal provided an injection of federal funds into the economy but did little to address, and in some ways exacerbated, existing inequities in access to jobs, training opportunities, and labor protections.

Discrimination made it difficult for Black workers to obtain direct relief and access jobs created by the New Deal; White workers were prioritized for any available jobs, even those that Black workers had previously been segregated into.⁸² The only job training and vocational programs available to Black workers were for low-skill and menial jobs; Black women were limited to domestic work and sewing programs, whereas White women received training in nursing and clerical work.^{83,84} Support for farmers was limited to landowners, which meant Black sharecroppers were excluded from assistance and many lost their livelihoods.^{85,86}

The FDR administration enacted three foundational labor laws in this decade: the Social Security Act of 1935, which established a federal system for old-age benefits, unemployment insurance, and Aid to Dependent Child (ADC); the National Labor Relations Act of 1935 (the Wagner Act), which protected workers' rights to unionize; and the Fair Labor Standards Act of 1938 (FLSA), which serves as the foundation of legal protections for American workers.

The FLSA established the 40-hour workweek, overtime protections, and the federal minimum wage, and heavily restricted child labor. These laws left millions of American workers uncovered, however, largely through the exclusion of agricultural and domestic workers.^v Although race-neutral in law, the impact was to disproportionately exclude Black workers, because these were two occupations in which Black workers (especially in the South) were concentrated. In 1940, 33 percent of working Black men worked in the agricultural industry and 36 percent worked in the service industry (for working Black women, the proportions were 16% and 74%, respectively).^{vi,87}

^v The US Department of Labor now uses the term "domestic service workers", defined as workers who "provide services of a household nature in or about a private home;" the term "domestic worker" reflects language used in the relevant policies.

^{vi} Although the data refer to non-White workers, the original author chose to use the term "Negro" throughout the article, as Black individuals made up more than 95 percent of non-White workers at the time.

There are competing theories among social science historians on the reason for these exclusions.^{vii,88,89} Southern Democrats, through party majority and individual seniority, held key leadership positions in Congress at the time and any New Deal policy would have required their support to become law. One theory is that the exclusions of agricultural and domestic workers marked an unspoken concession to Southern congressmen whose states had a vested interest in maintaining an unprotected, disenfranchised, and therefore exploitable class of mostly Black workers.⁹⁰ It would be 28 years before the minimum wage requirement of the FLSA was extended to include agricultural workers (1966) and 36 years before it included domestic service workers (1974); these groups continue to be exempted from overtime pay requirements.

Women picking carrots in New Jersey, 1938. (Source: Library of Congress)



^{vii} Alternate explanations include anticipated difficulties in administering programs to these groups (this discourse has focused on evidence from the Social Security Act), learning from and emulating similar policies in other countries, and a broader interest in distinguishing industrial jobs from agricultural jobs (which does not explain the exclusion of domestic service workers).

World War II and Postwar Period (1940s – 1950s)

World War II left many new mothers separated from their spouses and extended families and drew many mothers into the workforce. Supports for these parents expanded during the war and quickly contracted when it was over. After the war, wealth transfers such as the G.I. Bill were largely limited to White, middle-class families, which widened the racial wealth gap.

During World War II (WWII), the American economy and women's participation in the workforce grew significantly. The number of wage-earning women swelled by 7 million as women were recruited to fill jobs created to support the war effort and, to a lesser extent, those left vacant by the draft.^{91,92} Mothers of young children were recruited as a last resort, yet ultimately many mothers contributed to defense-related industries during WWII, which prompted the federal government to respond to their child care needs.⁹³ In 1943, federal funds allocated through the Lanham Act of 1940 began supporting subsidized child care in war-impacted areas so that mothers could work in war industries.^{94,95}

Children and a nurse at a child care center in New Britain, Connecticut. The center opened in 1942 and provided care for mothers engaged in work in the war industry.
(Source: Library of Congress)



Approximately 600,000 Black women were employed in wartime industries, but discriminatory practices caused Black women to be the last hired and the most likely to be assigned to unskilled or undesirable jobs (e.g., janitorial work, night shifts).⁹⁶ Black women also faced rampant workplace discrimination and harassment.⁹⁷

Mexican, Mexican American, and Native American women also played a sizable role in wartime production, with tens of thousands of women employed.^{viii} These women experienced discriminatory workplace practices as well but to a lesser degree overall than Black workers because of their relative proximity to Whiteness.^{98,99}

Women at work in a commercial laundry, approximately 1949.
(Source: Museum of History & Industry Collection)



^{viii} Mexican, Mexican American, and Native American women working in the defense industry were often categorized as "White" (as opposed to "Non-White"), making it difficult to accurately represent their contributions. See Escobedo, E. (2013) and Gouveia, G. M. (1994).

Postpartum Care in the Baby Boom

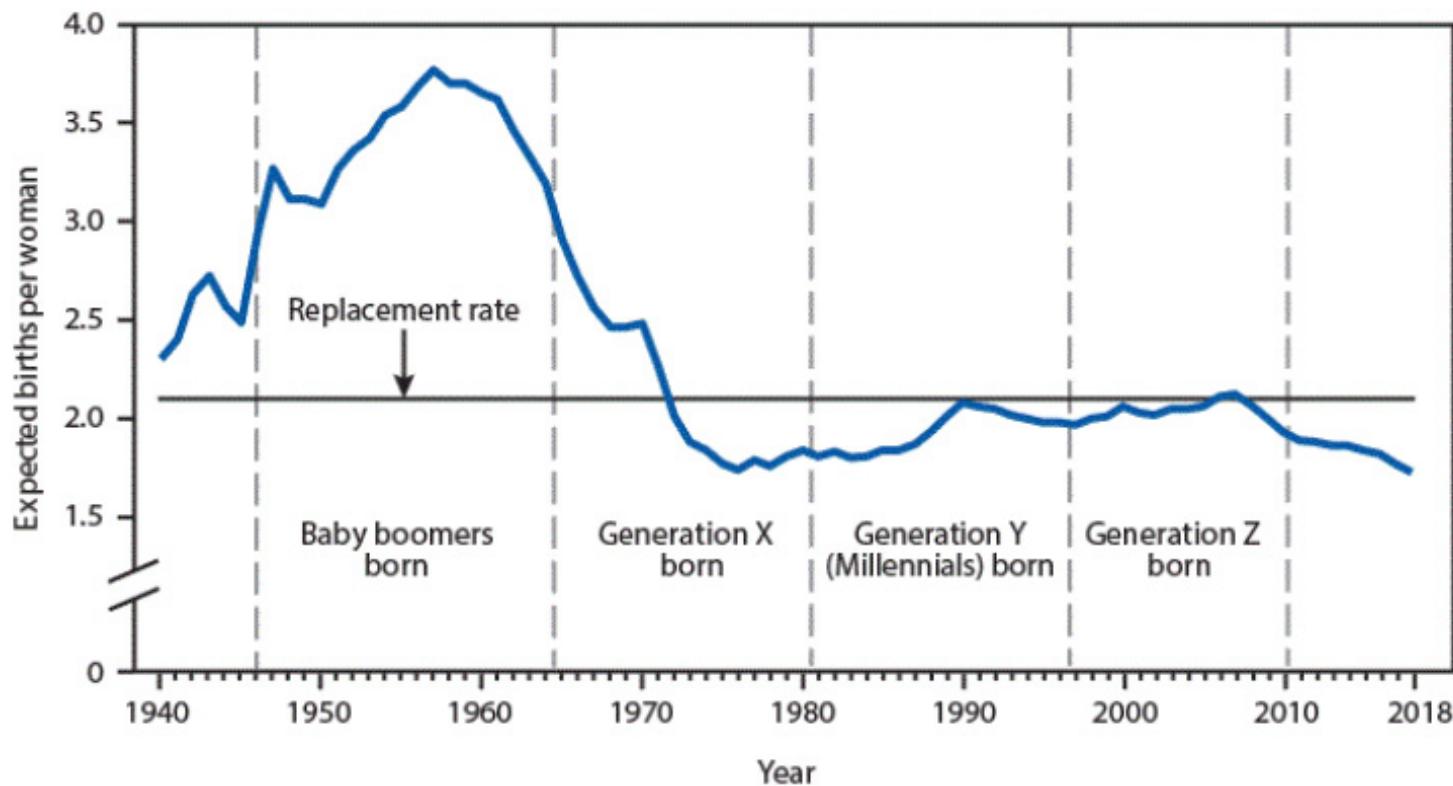
The post-war period is closely associated with the baby boom, a dramatic surge in fertility rates that resulted in baby boomers, the generation defined by the US Census Bureau as those born between 1946 and 1964. However, the total fertility rate had already started to climb by the time the US entered WWII in 1941 (see Figure 3).

The Selective Service Act of 1940 and uncertainty about how the draft might take a man's marital and parental status into account prompted 6.6 million marriages from 1941 to 1943, over 1 million more than what rates in the prior 2 decades would have predicted.¹⁰¹ Pronatalist rhetoric framed having and caring for children as a patriotic duty and many women relocated to military towns near their spouse's training base, leaving family and social supports behind.¹⁰² In light of this, the Emergency Maternal and Infant Care (EMIC) program was established in 1943 to support military wives with prenatal, birth, and postpartum care.¹⁰³

By 1945, the long-standing trend of more home births than hospital births had reversed, and three-quarters of births now took place in a hospital.¹⁰⁴ However, war-strained facilities short on medical staff and beds could not accommodate the standard 10-to-12-day postpartum hospital stay and many new mothers and their babies were discharged as soon as 2 days after birth. To support military spouses living away from their family and social support systems, the EMIC provided eligible mothers with six visits by a postpartum visiting nurse if both mother and baby were healthy and 12 visits if either was ill.

Another example of community care provided to military wives was postpartum convalescent homes where new mothers could recover under the supervision of nurses and share meals and housework with other residents. Although popular in England, there were only a few postpartum homes in the US, and they were never adopted widely.¹⁰⁵

Figure 3. Total Fertility Rate^{ix} in the United States, 1940-2018^{100,x}



Source: Centers for Disease Control and Prevention. (2020)

^{ix} Total fertility rate is the expected number of births that a woman would have over her lifetime if she experienced the current period's age-specific birth rates.

^x The replacement rate is the level of fertility at which a population exactly replaces itself from one generation to the next.

After the War

The sacrifices made by American families during WWII were regularly described as being “for the duration,” an explicit ask for commitment until victory and an implicit promise that any disruptions to the prewar social order would be promptly reversed.¹⁰⁶

After the war, some wartime industries were shut down and the women workers laid off; other women were encouraged and expected to vacate their jobs in favor of male veterans. This shift was most evident in government and manufacturing jobs hastened by formal and informal “veteran’s preference” rules, which gave returning G.I.s preference in hiring.¹⁰⁷ Women were expected to return to performing unpaid labor in the home (or underpaid labor in someone else’s). Despite the ongoing baby boom, child care centers funded through the Lanham Act closed in 1946 and the EMIC program ceased operations in 1949.¹⁰⁸

The postwar period initiated a slew of public policies that fostered economic growth and increased prosperity for many White Americans, but people of color continued to be actively excluded. The Servicemen’s Readjustment Act of 1944 (commonly known as the G.I. Bill) provided returning veterans with benefits such as college tuition, low-cost mortgages, and low-interest business loans. These subsidized loans accelerated the growth of a largely White middle class and allowed White families to build household wealth that could be transmitted across generations.

Although ostensibly inclusive of all servicemembers, administration of the G.I. Bill was devolved to state and local agencies. In the South, this meant that many Black veterans could not access G.I. Bill benefits due to discrimination, for example, in college admissions, hiring and loan decisions, and in state and local administration.

In this period, the total number of families benefiting from Aid to Dependent Children (ADC), the cash welfare program created in 1935, increased, as did the proportion of recipients who were Black. Southern legislators agreed to federal budget increases but demanded state control in return; this compromise allowed states to institute additional punitive policies that disproportionately affected Black families.

State ADC policies from the late 1940s to early 1960s included “man in the house” rules,¹⁰⁹ which denied aid to mothers who engaged in activities judged to be morally or sexually deviant, and farm policies, which restricted access to benefits during planting and harvest seasons to force Black recipients to engage in agricultural labor.¹⁰⁹ These punitive welfare policies were disproportionately implemented in areas with high Black populations and reinforced the harmful story of Black mothers as morally inferior to White mothers.¹¹⁰

¹⁰⁶ Also known as “substitute father” rules, these state policies barred mothers from receiving ADC if there was a non-disabled man living in the home, even as a boarder, who was not the father of her children. The policy assumed that any cohabiting man would be engaged in a romantic relationship with the mother and therefore should provide resources to support her children. Enforcement of these rules involved welfare workers making surprise visits to ADC recipients’ homes, sometimes in the middle of the night. See Floyd et al. (2021).

The Civil Rights Movement and a Changing Workforce (1960s – 1970s)

The Civil Rights period saw dramatic increases in labor force participation by Black and White women. Due to discrimination, however, gains in college attendance, professional degree attainment, and higher-wage professional jobs were greatest for White women. The Pregnancy Discrimination Act (PDA) of 1978 barred pregnancy discrimination in all states, and extended protections for unpaid medical leave for pregnant and postpartum workers in five states with existing Temporary Disability Insurance (TDI) programs.

During the 1960s and 1970s, a confluence of factors—federal bans on discrimination and expanded voting rights, the baby-boom generation entering adulthood, increased efficacy of and access to contraception, and victories of the Civil Rights and Women's Liberation movements—led to an electorate and a workforce that was larger and more representative than ever before.

Civil rights march on Washington, DC. (Source: Film negative by photographer Warren K. Leffler, 1963. From the U.S. News & World Report Collection. Library of Congress)



The Civil Rights Movement, a coordinated national campaign of nonviolent resistance, demonstration, and advocacy¹¹¹ that began in the mid-1950s, led to the passage of landmark legal protections in the 1960s. Foundational among these was the Civil Rights Act of 1964, which broadly prohibited discrimination on the basis of race, color, religion, or national origin.

Title VII of the Civil Rights Act barred discrimination by employers and labor unions, including in hiring, firing, promotion, pay, and terms and conditions of employment, and additionally prohibited discrimination in these areas on the basis of sex. These prohibitions built on protections codified in the Equal Pay Act of 1963, which guaranteed “equal pay for equal work,” and barred employers from paying a woman less than a man performing a comparable job.¹¹¹

To enforce these new employment protections, Title VII established the federal Equal Employment Opportunity Commission (EEOC). The enactment of legislation and creation of the EEOC did not end discrimination overnight but rather gave workers a legal mechanism to challenge discriminatory practices.

Cases decided by the US Supreme Court helped to clarify the implications of Title VII. For example, in 1971, *Phillips v. Martin Marietta*, the first sex discrimination case to be heard by the Supreme Court, ruled that not hiring mothers of preschool-aged children while hiring fathers with children of the same age violated the Civil Rights Act.¹¹⁴

Labor Market Segmentation

The theory of dual labor markets suggests that historical processes like those described here have created a primary and a secondary labor market that systematically differ in the worker recruited, skills demanded, stability, and rewards such as wages, benefits, and opportunities for promotion.¹¹² Within these two labor markets, occupational segregation creates stratification by race and gender and further reproduces inequities (e.g., lower wages, limited access to educational opportunities, wealth gap, etc.). Even as occupational segregation declined in the latter half of the 20th century, women and racial minorities remain disproportionately represented in the secondary market.¹¹³

¹¹¹ Although civil rights activists engaged in nonviolence, their calls for equal rights were frequently met with violence and racial terror carried out by state and local law enforcement and White citizens. Well known examples include the murder of three voting rights activists in Mississippi, violence against marchers at Selma by Alabama state troopers, and attacks on Black students participating in the Birmingham Children's Crusade.

Key amendments to the Civil Rights Act expanded and clarified the rights of women in education and employment.¹¹⁵ Title IX, included in the 1972 Education Amendments to the Civil Rights Act, barred sex-segregated curricula and expanded opportunities for women to attend college. The Pregnancy Discrimination Act (PDA) of 1978 amended Title VII to close a key loophole—the law clarified that pregnancy discrimination is a form of sex discrimination, and prohibited employment or workplace discrimination based on current, past, or potential pregnancy or medical conditions related to pregnancy and childbirth.¹¹⁶

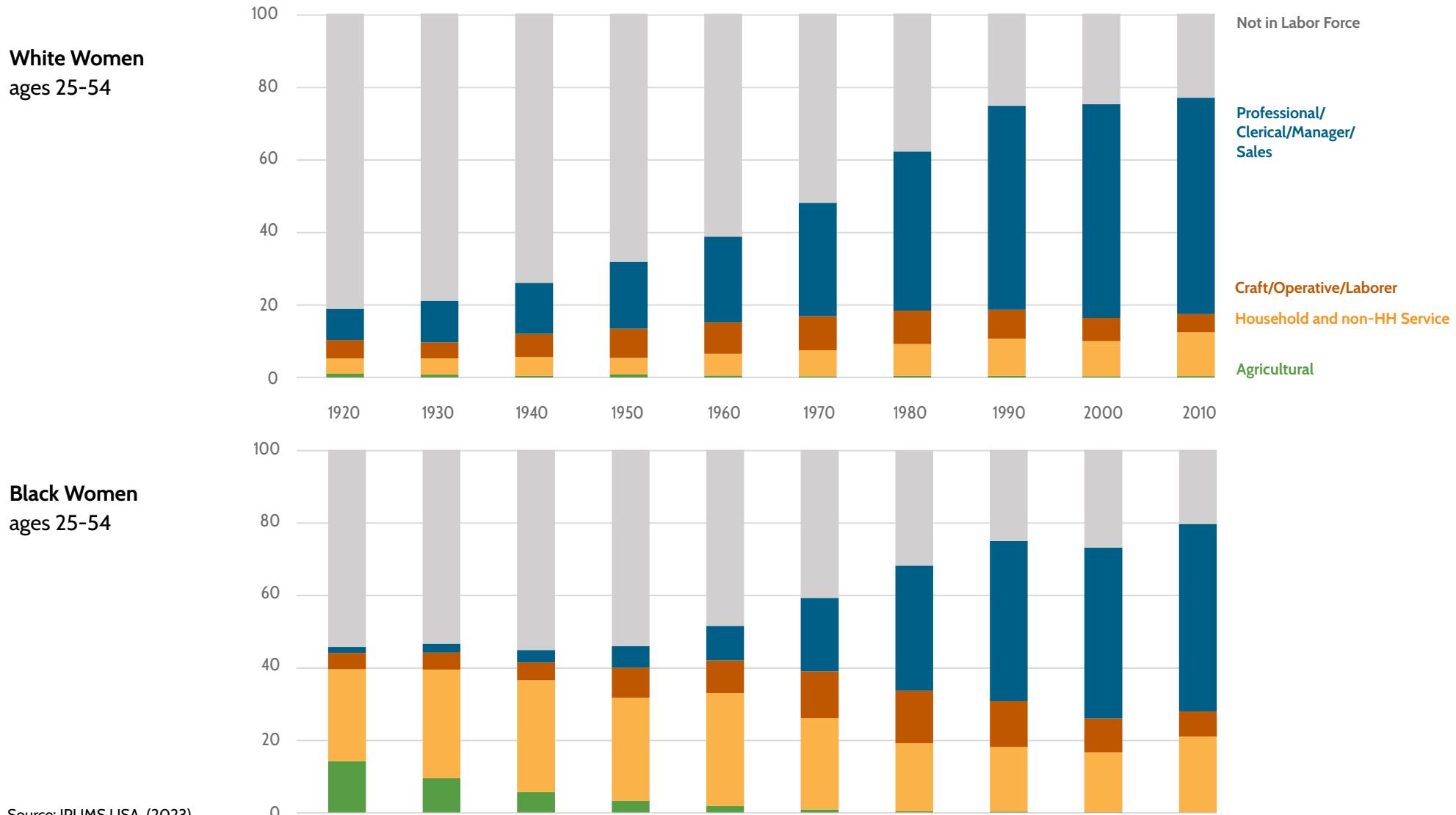
Critically, the PDA required that states and employers that provide workers with temporary disability insurance also provide benefits to workers who are temporarily unable to work due to pregnancy or childbirth. This new requirement meant that beginning in 1979, the five states with state Temporary Disability Insurance (TDI) programs (California, Hawaii, New Jersey, New York, and Rhode Island) provided paid leave to pregnant workers to be used in the period immediately before and after birth. Similar to programs today, TDI programs were supported by premiums paid by workers and/or employers and operated similarly to an insurance program.

At the time, approximately 50 percent of all women and more than 80 percent of working women in these states became eligible for TDI.¹¹⁷ Three decades later, California, New Jersey, Rhode Island, and New York would be the first four states to implement paid bonding leave to all parents, which functionally extended paid leave for parents who gave birth and offered leave to the second parent for the first time.

Concurrently, the advent of hormonal birth control, first approved by the Food and Drug Administration in 1960 and widely available to young, unmarried women by the early 1970s, led to later marriages and first births, increased college going, professional degree attainment, and labor force participation among women.^{118,119} Beginning in the late 1960s, state laws that allowed no-fault or unilateral divorce began to proliferate, which increased the labor force participation among both married and unmarried women.¹²⁰

Although both White and Black women saw dramatic increases in labor force participation in this period, gains in educational attainment and higher paying professional jobs went disproportionately to White women, whereas the largest proportion of working Black women continued to be employed in the household and non-household service sector until 1980 (see Figure 4).^{121,122}

Figure 4. Labor Force Participation and Occupational Distribution by Race, 1920-2010^{xiii,123}



^{xiii} Figure 4 presents patterns of occupational distribution by race prior to impacts of the COVID-19 pandemic.

In addition to the Equal Pay Act of 1963, this period saw several key amendments to the FLSA. Specifically, the 1966 amendments expanded minimum wage coverage to include workers employed on large farms, and those working for schools, hospitals, nursing homes, and other previously excluded service industries. Nearly one-third of Black workers in 1967 worked in one of these industries and this expansion of the minimum wage led to a narrowing of the racial wage gap.¹²⁴ Amendments in 1974 further expanded minimum wage coverage to include government and domestic service workers, the latter being majority women of color.

The Civil Rights Act also strengthened voting rights and supported the desegregation of education, prohibited segregation in places of public accommodation (hotels, restaurants, theaters, etc.), and, along with the Voting Rights Act of 1965, is considered the legal end of the Jim Crow era. In the 4 years following the Voting Rights Act, nearly 1 million Black voters were registered and the number of Black elected officials in the South more than doubled after the 1966 elections.¹²⁵



Controlling Rhetoric Leads to Controlling Policies

Even as families of color benefited from greater legal protections, they continued to face negative stereotypes, which were then used to justify destructive policies and practices. Harmful depictions of families of color reinforced existing racism in culture, which positioned White families and mothers as the ideal and other families as inferior and in need of policing or control.

Eugenacists in medicine and government, fretting over the falling fertility rates among White, middle- and upper-class women whom they considered most suitable for motherhood, characterized Black and Mexican American women by contrast as "hyperbreeders."¹²⁶ As a result, these groups, along with women who were Native American, incarcerated, institutionalized, or living in poverty, experienced disproportionate rates of coerced or involuntary permanent sterilization.^{127,128}

New harmful depictions of Black motherhood were perhaps spread most effectively by then-candidate Ronald Reagan. Throughout his unsuccessful 1976 campaign for the Republican presidential nomination, Reagan used details from the bizarre true crime story of prolific fraudster Linda Taylor (but never her name) to construct a racist myth of the "welfare queen," an implicitly Black woman committed to defrauding the American taxpayer, avoiding work, and neglecting her many children.¹²⁹

The use of controlling imagery of Black women with low incomes stoked widespread support for more restrictive welfare requirements.¹³⁰ A national poll that year indicated that 89 percent of Americans agreed that "the criteria for getting on welfare are not tight enough."¹³¹

Welfare Reform and the Evolution of FMLA (1980s – 1990s)

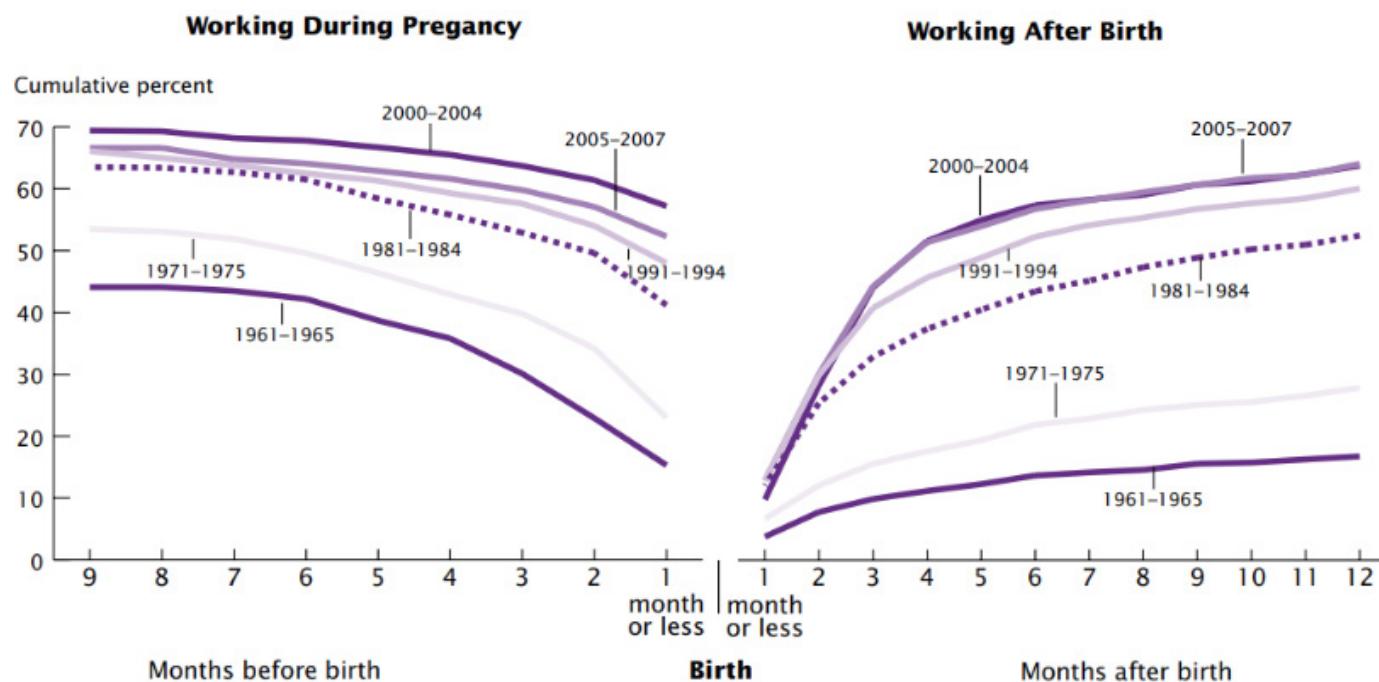
As women's labor force participation continued to rise, interest in the intersection of work and caregiving responsibilities also increased. The Family Medical Leave Act of 1993 (FMLA) offered the first federal protections for parents with a new child to take unpaid leave. However, restrictive eligibility criteria left workers who were disproportionately people of color unprotected. Even among those eligible for federal job protections under the FMLA, most workers lacked the resources to afford even 6 weeks of unpaid leave and Black, Hispanic, and Native American workers are less likely to be eligible for and able to access unpaid leave than their White or Asian counterparts.

Women's labor force participation continued to rise over this period and peaked in 1999 at 60 percent for all women over age 16 and 76.8 percent for women ages 25 to 54.¹³² Workers who became pregnant were also staying in the labor force later into pregnancy and returning sooner after birth and at higher rates (see Figure 5).¹³³ With these changes in employment patterns, interest in the intersection of work and caregiving responsibilities also increased.

Group holding sign "Welfare Reform with Heart" on sidewalk in Cincinnati, Ohio.
(Source: Cincinnati & Hamilton County Public Library, Genealogy and Local History Department)



Figure 5. Percentage of Women Working During Pregnancy and After First Birth, by Month Before or After Birth: Selected Years, 1961-1965 to 2005-2007¹³⁴



For information on sampling and nonsampling error, see <www.census.gov/sipp/sourceac/S&A08_W1toW3%285&A-1%29.pdf>.

Source: 1961-1965 to 1981-1984: U.S. Census Bureau, Current Population Reports, Series P23-165 (*Work and Family Patterns of American Women*), Table B-5; 1991-1994: P70-79 (*Maternity Leave and Employment Patterns: 1961-1995*), Figure 7; and 2000-2004 and 2005-2007: Survey of Income and Program Participation, 2008 Panel, Wave 2.

Source: U.S. Census Bureau. (2011)

The Family and Medical Leave Act

The bill that eventually became the Family and Medical Leave Act (FMLA) developed over 9 years and several iterations, which ultimately provided significantly weaker protections than envisioned by early advocates. Versions of the bill were introduced in Congress seven times and vetoed twice before the FMLA was signed into law in 1993.¹³⁵

In 1979, California passed a law that entitled all women to up to 4 months of unpaid leave for medical disability related to pregnancy or childbirth, without risk of losing their job.¹³⁶ Associations of employers challenged the law and it was overturned in 1984 by a federal district judge on the basis of sex discrimination in favor of women.¹³⁷ The law was ultimately upheld by an appellate court and the Supreme Court.

However, challenges to it and a similar law in Montana, combined with broader concerns that laws which singled women out for special treatment undermined the fight against discrimination, led some feminist advocates to prioritize a broader, gender-neutral policy for job-protected leave at the federal level.¹³⁸ Table 2 charts the evolution of the FMLA in Congress.

Proposed versions of FMLA were expanded to allow leave to be used for the care of an elderly parent or spouse, in addition to children, in 1987 and 1990, respectively, which secured support from the highly influential American Association of Retired Persons (AARP). However, as the coalition worked to attract bipartisan support, the length of job-protected leave covered by FMLA was shortened and eligibility criteria narrowed.

Table 2. Iterations of the Family and Medical Leave Act in Congress, 1985-1993¹³⁹

| House Bill | Co-sponsors | Matching Senate Bill | Small Business Exemption | Length of Unpaid Leave | Outcome |
|---|-------------|----------------------|------------------------------------|---|---------------------------------------|
| Parental and Disability Leave Act of 1985 | 45 | No | Less than 5 employees | 18 weeks over a 24-month period of parental leave for the birth, adoption or serious illness of a child, and 26 weeks over a 12-month period for worker's own serious illness | Died in committee |
| Parental and Medical Leave Act of 1986 | 126 | Yes | Less than 15 employees | 18 weeks over a 24-month period of parental leave for the birth, adoption or serious illness of a child, and 26 weeks over a 12-month period for worker's own serious illness | Reported to House, no floor vote |
| Family and Medical Leave Act of 1987 | 151 | Yes | As amended: Less than 35 employees | As amended: 10 weeks over a 24-month period of family leave for the birth, adoption or serious illness of a child or parent, and 15 weeks over a 12-month period for worker's own serious illness | Reported to House, no floor vote |
| Family and Medical Leave Act of 1990 | 151 | Yes | As amended: Less than 50 employees | As amended: 12 weeks per year for all covered circumstances, including care of a spouse experiencing serious illness | Passed both chambers, vetoed |
| Family and Medical Leave Act of 1991 | 180 | Yes | Less than 50 employees | 12 weeks per year for all covered circumstances, including care of a spouse experiencing serious illness | Passed both chambers, vetoed |
| Family and Medical Leave Act of 1993 | 170 | Yes | | | Passed both chambers, signed into law |

At the behest of Republican lawmakers and business associations, the exemption for small businesses was increased from those with fewer than five employees to those with fewer than 50. Additionally, to be eligible for protected leave, workers had to have worked for their current employer for at least 12 months in the past 7 years and for at least 1,250 hours in the 12 months preceding the leave.¹⁴⁰

On February 5, 1993, newly inaugurated President Bill Clinton signed the FMLA into law. The final version was celebrated as a victory for working families but fell far short of the 1985 bill; the FMLA guaranteed 12 weeks of unpaid, job-protected family and medical leave per year and covered less than half of American workers.¹⁴¹

The FMLA closed gender gaps in access to job-protected leave and was found to increase leave taking among women employed full-time,¹⁴² but the work hours requirement functionally excluded part-time workers who are more likely to experience job instability and have fewer household resources to weather economic instability such as job loss or lost wages.

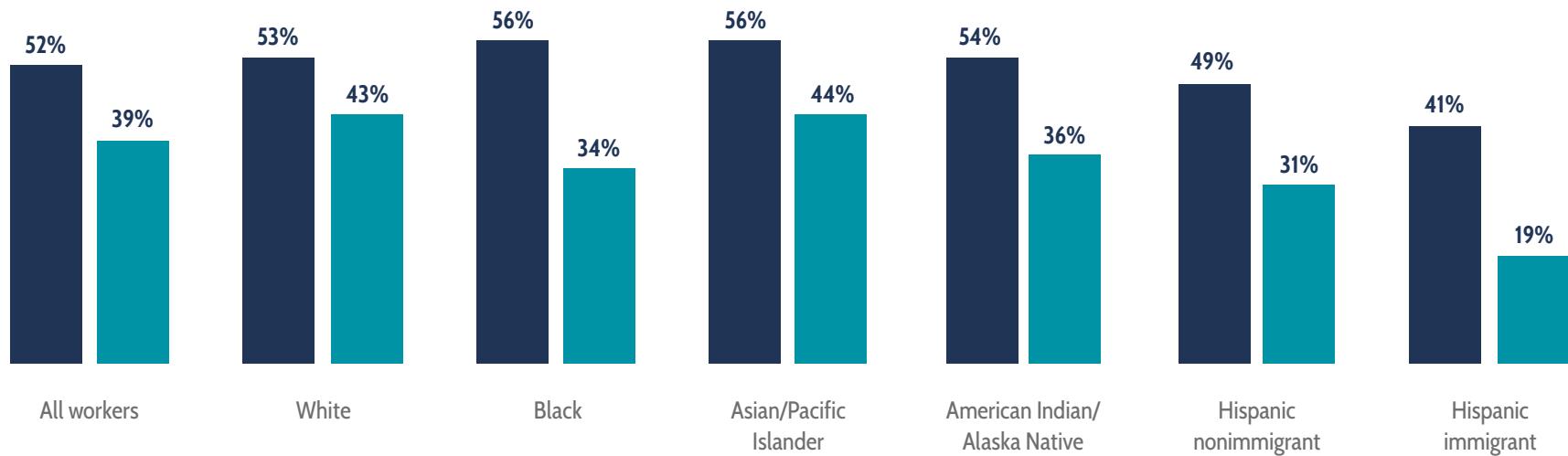
Because of historic and contemporary systems of oppression, including discrimination in employment and education and unequal opportunities to build wealth, eligibility for FMLA and the ability to afford to take unpaid leave still varies by race, ethnicity, and nativity. Black, Hispanic, and Native American workers are less likely to be eligible and able to afford unpaid leave than White and Asian workers, with Hispanic immigrants least likely of all groups to be eligible for job-protections and least able to afford unpaid leave.^{143,144,xiv}

^{xiv} Ability to afford unpaid leave was estimated by the percentage of workers for whom total family resources would remain at or above 200% of the Supplemental Poverty Measure after subtracting estimated lost wages from taking 6 weeks of unpaid leave under FMLA—the average amount of leave taken. (see Joshi et al., 2023).

Figure 6. Percent of Workers Who Are Eligible for FMLA and Can Afford Unpaid Leave¹⁴⁵

■ Eligible

■ Eligible and can afford
6 weeks unpaid leave



Note: Excludes self-employed workers.

Source: diversitydatakids.org calculations of the Current Population Survey Annual Social and Economic Supplement, 2018–2022. Available at https://data.diversitydatakids.org/dataset?vocab_Subtopic=FMLA; Joshi et al. (2023)

Welfare Reform

Often referred to as the Reagan Era, the 1980s set a new course for American conservatism; social policy at the time emphasized the need for a path out of poverty through work that would reduce so-called welfare dependency and a desire to revive federalism through increased devolution of power to states.¹⁴⁶ Although welfare reforms increased employment and labor market attachment for parents, suppressed wages and unstable jobs meant that employment alone was not sufficient to lift most families out of poverty.¹⁴⁷

The 1990s started with a recession that caused AFDC rolls to swell and heightened concerns about the cost of cash welfare; in 1992, then-candidate Bill Clinton promised to “end welfare as we know it.”¹⁴⁸ Changes to income support programs, specifically expansions to the federal earned income tax credit (EITC) in 1990 and 1993 and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, further tied receipt of income assistance to work. PRWORA replaced AFDC with the more stringent Temporary Assistance for Needy Families (TANF) and gave states greater discretion and autonomy over program spending and implementation.

To maintain eligibility for cash welfare, TANF recipients had to work or engage in approved welfare-to-work activities (e.g., vocational training) for a minimum number of hours per week. These work requirements pushed TANF recipients, disproportionately single mothers of color, to accept any job they could be hired for, regardless of pay or conditions, to maintain their benefits.¹⁴⁹ Studies show that parents that left TANF due to employment were in low-paying, unstable jobs with household incomes below the federal poverty level.¹⁵⁰ This exacerbated existing labor market segmentation and pushed workers into jobs that were unlikely to be eligible for FMLA protections.

Paid Family Leave in the 21st Century (2000s – Present)

In the 21st century, new paid family leave policies at the state and federal levels suggest the start of a new era for American families. Due to occupational segregation and a patchwork of state policies, workers of color are still more likely to work in unstable or part-time jobs and therefore least likely to receive job-protected, paid leave following a birth, adoption, or foster placement.

The turn of the millennium brought with it the first statewide paid family leave policy and a slowly building momentum and expanding evidence base in support of this insurance program for working families.

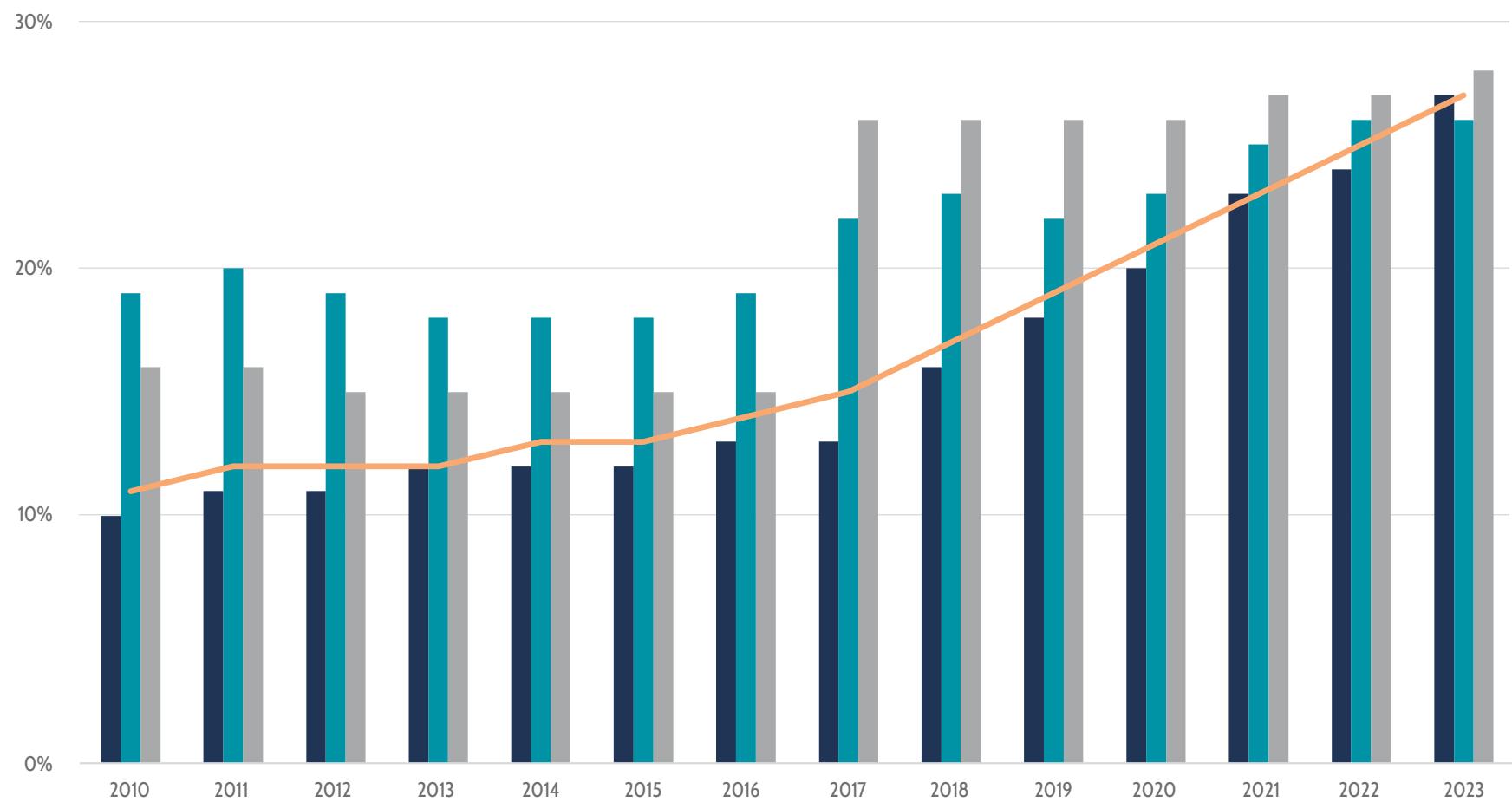
In the absence of a federal law mandating paid family leave and before states began enacting their own policies, the only workers with access to paid family leave were those for whom their employer provided it voluntarily. In 2005, fewer than 7 percent of private industry workers had access to paid family leave benefits through their employer.¹⁵¹ In 2023, the portion of private industry workers covered by an employer-provided paid family leave benefit was 27 percent (see Figure 7).¹⁵²

Parent with child showing “Paid Family Leave” campaign sticker.
(Source: The Washington Post, Getty Images)



Figure 7. Percent of Workers With Access to Paid Family Leave Through Their Employer, 2010–2023¹⁵³

All Civilian Workers
Local Government
State Government
Private Industry



Source: Bureau of Labor Statistics, U.S. Department of Labor. (2023)

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State and local governments have historically led the way in providing paid family leave to public employees, with private industry employers following. As of October 2025, all but 6 states provide or will soon provide paid family leave to eligible public employees. (Alaska, Hawaii, Montana, North Dakota, West Virginia, and Wisconsin).¹⁵⁴

Employer-provided benefits are concentrated among those with higher earnings; 14 percent of workers with wages in the lowest quartile of annual earnings had access to paid family leave through their employer in 2023, compared to 41 percent of workers with wages in the highest quartile.¹⁵⁵ Access to employer-provided benefits also varies by firm size, in states without a comprehensive paid family leave policy, small businesses often cannot afford to provide the same benefits as large employers, which hurts their competitiveness for labor and leaves the parents they employ, who are disproportionately Hispanic and foreign-born, uncovered.¹⁵⁶

As a result of occupational segregation, these systematic differences are reflected in inequitable access to paid leave benefits by race and ethnicity. Based on a nationally representative survey fielded in December 2021, the Urban Institute found that 41.2 percent of Hispanic or Latinx working-age adults who work for an employer (are not self-employed or freelance workers) had access to any paid leave for the birth

or adoption of a child. This number is compared to 51.5 percent for Black, non-Hispanic workers, 56.5 percent for White, non-Hispanic workers, and 60.2 percent for non-Hispanic workers of other races or more than one race.¹⁵⁷ Even among the group reporting the greatest access, two-fifths are without any access to paid family leave.

According to analyses of nationally representative data for the years 2006 to 2008 by the US Census Bureau, 51 percent of women who worked during pregnancy used at least some paid leave in the 12 weeks following a first birth (including paid parental, sick, vacation, or other leave). One-fifth of women (22%) quit their jobs, 42 percent used unpaid leave, 10 percent used short-term disability leave, and 5 percent were let go from their jobs.^{xv,158}

In addition to a spike in unemployment rates, the Great Recession (December 2007 – June 2009) led to a permanent increase in involuntary part-time work and women of color were the most likely group to be employed in this type of arrangement.^{xvi,159} The prevalence and persistence of involuntary part-time work has important implications for family leave because part-time workers are largely excluded from the job protections guaranteed by the FMLA and are unlikely to receive paid leave benefits through their employer, exacerbating racial disparities in access to family leave.

^{xv} The sum of these percentages exceeds 100 percent because respondents could report multiple leave arrangements used in the 12 weeks following birth, e.g. a mother used a combination of paid and unpaid leave.

^{xvi} Involuntary part-time workers are those who report working part-time but also report a preference to work full-time.

State Paid Leave Policies

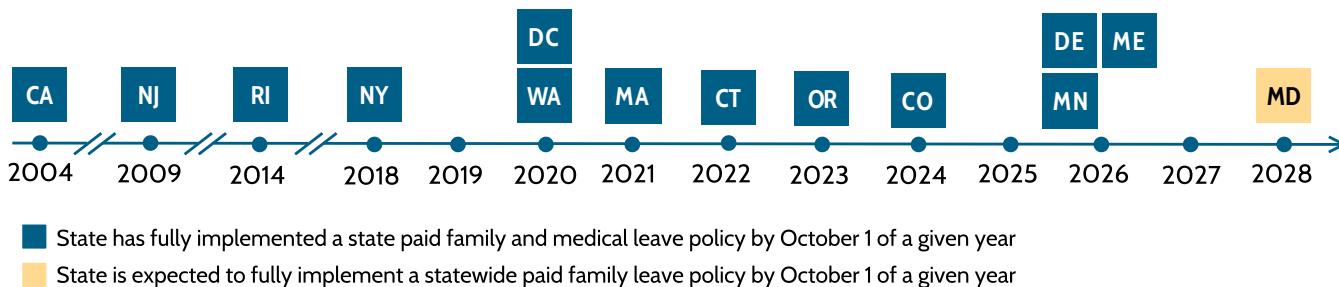
In 2002, California became the first state to enact a statewide paid family leave policy, which required employees to contribute a small portion of their wages to fund the program (not to exceed 1.5% of wages to jointly fund paid family and medical leave).¹⁶⁰ In 2004, nearly every worker in the state gained access to 6 weeks of leave reimbursed at 55 percent of their weekly earnings (up to a maximum weekly benefit, in addition to paid leave available to parents who gave birth through California's pre-existing temporary disability insurance (TDI) policy).¹⁶¹

The low wage replacement rate made taking leave unaffordable for workers with low wages and low uptake among families most in need of support dampened the policy's effects.¹⁶² The next state to enact a paid family leave

policy was New Jersey in 2008, which also had TDI in place for parents who give birth. State implementation of statewide paid family leave programs increased substantially beginning in 2020.

As of January 2026, only 11 states and the District of Columbia had fully implemented a comprehensive paid family leave program—California, New Jersey, Rhode Island, New York, Washington, Massachusetts, Connecticut, Oregon, Colorado, Delaware, Minnesota, and the District of Columbia (Figure 8).^{xvii,163,164} Maine will also implement a comprehensive paid family leave program beginning May 2026; Maryland will implement a program in 2028. Together, the population of these states includes fewer than one in three Americans.¹⁶⁵ Variation in state policies is discussed in greater detail below.

Figure 8. Implementation Timeline of State Paid Family Leave Policies



Note: The first four states (California, New Jersey, Rhode Island, and New York) to adopt a paid family leave program, did so by amending pre-existing Temporary Disability Insurance laws, which provide paid medical leave. The dates listed on the timeline above indicate the year paid family leave benefits became available to families in those states.

Source: Prenatal-to-3 Policy Impact Center, Vanderbilt University, Prenatal-to-3 State Policy Roadmap: state paid family and medical leave laws. For more details, please see Methods and Sources documentation for the Roadmap.

^{xvii} Five other states have enacted legislation creating such programs, but they are not yet implemented and paying benefits as of early 2024. New Hampshire enacted legislation to create a paid family and medical leave insurance plan that may be purchased, voluntarily, by employers or certain employees (see Donovan, 2023).

Increasing Public Support for Paid Leave and Federal Policy Actions

Public interest in paid family leave policies continued to climb in the 2010s. Beginning in 2015, President Barack Obama used executive orders and State of the Union addresses to push for paid sick and family leave for workers, but Congress did not respond to his calls for legislative action.

A 2016 survey by Pew Research Center found that 82 percent of Americans agreed that mothers should receive paid leave following birth or adoption of a child and 69 percent agreed that fathers should receive the same, but respondents were split evenly on whether paid leave should be a federal government mandate.¹⁶⁶

Avoiding the issue of a mandate for private employers, Congress passed legislation to provide paid parental leave to civilian employees of the federal government in 2019. The Federal Employee Paid Leave Act (FEPLA) amended the FMLA to provide up to 12 weeks of paid parental leave to covered federal employees in connection with the birth or placement (by adoption or foster care) of a child, beginning October 2020.¹⁶⁷ FEPLA has mixed implications for racial equity; at the time the law was implemented, Black, White, and Asian workers were overrepresented in the federal workforce and therefore disproportionately benefited from the expansion of paid parental leave for federal workers, whereas Hispanic workers were underrepresented.¹⁶⁸

As part of the National Defense Authorization Act of 2022, Congress significantly expanded paid parental leave for members of the armed forces. The new policy provides 12 weeks of paid leave for all service members who become parents through birth, adoption, or foster care, doing away with a prior differentiation between primary and secondary parents.¹⁶⁹

The COVID-19 pandemic threw into sharp relief the many insufficiencies in supports for working families and the impact of occupational segregation. According to Google Trends, the highest recorded interest in “paid family leave” as a web search term in the US between 2004 and 2023 was recorded in March 2020, the start of pandemic-related shutdowns in the US.¹⁷⁰ Sometimes called the “she-cession,” job losses in the first year of the pandemic went disproportionately to women and unemployment rates were higher for Black and Hispanic women.¹⁷¹ The pandemic also highlighted racial disparities in job quality.^{172,173}

In 2021, President Joe Biden introduced the Build Back Better Framework, a suite of major public investments that originally included 12 weeks of paid family leave. Although components of the framework were signed into law, many of the social infrastructure policies, including paid family leave and universal child care, were jettisoned to gain sufficient votes in a narrowly divided Senate.¹⁷⁴

Passed with broad bipartisan support in December 2022, the Pregnant Workers Fairness Act (PWFA), closed key gaps in the FMLA for birthing parents. The PWFA, the final regulations for which became effective on June 18, 2024, requires employers with 15 or more employees to make reasonable accommodations for employees who have a known limitation stemming from pregnancy, childbirth, or related medical conditions unless the accommodation poses an undue hardship to the employer, regardless of the employee’s tenure with the job or employer.

Accommodations include providing unpaid, job-protected leave to recover from childbirth. This dramatically expands access to job-protected, unpaid leave for employees of small businesses or with frequent job changes, who are excluded under the FMLA. However, the PWFA is unpaid and does not cover bonding leave, therefore excluding parents who did not give birth.

Additionally, since 2013, Democratic lawmakers have introduced legislation to provide 12 weeks of paid family and medical leave to care for a new child, one’s own medical condition, caregiving for a family member with a medical condition, as well as for military families during deployment and for survivors of domestic violence.¹⁷⁵ To date, the bill has not received bipartisan support and efforts to pass the legislation has stalled in committees.

Present Day

In the absence of a federal paid leave policy, access to paid leave remains limited to those who live in states with statewide paid family and medical leave programs or who work for employers providing these benefits (e.g., employer paid leave policies, short term disability insurance for birth/recovery). State policies generally have more inclusive eligibility criteria than FMLA and cover bonding leave equally for parents who give birth and second parents.¹⁷⁶ However, there is significant variation in the design and implementation of state paid family leave policies that have important implications for who is eligible for paid family leave and can afford to use the program as needed.

When designing paid family leave programs, state policymakers have a range of choices that define program eligibility, benefits, funding, and administration. When setting eligibility requirements, states decide the sectors of work covered under the leave program; standards for employee eligibility related to work hours, earnings, and/or tenure; and the parameters around qualifying relationships covered by leave.

States also set regulations on program benefits which determine the duration of leave and how it is taken (e.g., continuously or intermittently), generosity of wage replacement, and job protections while on leave. States also determine who pays for leave programs—workers, employers, or both, and how much each contributes to the program. Finally states also decide which agency or department administers paid family leave as well as public outreach and education, application procedures, and evaluation of the program. Decisions on these state policy levers impact program design and implementation—both individually and as a collective policy system.

Learn more about policy variation and recent actions related to state paid family leave policies in the [Prenatal-to-3 State Policy Roadmap: Paid Family Leave](#).

Family Leave Policy in Context

A Tale of Two Families

Imagine two working families preparing to welcome a new child and living in a state without a state paid family leave program.

The first family has some household wealth such as savings and a car that is paid for, and both parents have jobs in what economists call the primary sector. This means they are more likely to have higher pay, a regular schedule, opportunities for advancement, and employer subsidized benefits like paid time off or paid family leave.

The second family rents an apartment, has monthly car payments, and has a few hundred dollars or less in savings. Both parents work in what economists call the secondary sector—these are jobs that have lower pay, are more vulnerable to unpredictable work schedules, and are less likely to receive benefits other than pay. Because of systemic racism, families like this one are disproportionately Black, Hispanic, or Native American.



The first family is eligible for federal job protections and might be able to afford unpaid leave by relying on only one parent's earnings or dipping into savings but will not need to because they have paid leave as a benefit through their employer. They may also receive financial or caregiving support from family members with greater household resources.

The second family is less likely to be eligible for federal job protections and cannot afford their basic expenses on only one parent's earnings. Without job protections, a parent that takes extended bonding leave will likely lose their job. This family will deplete their savings and may fall behind on bills or need to apply for public assistance; data show that poverty rates spike in the months following the birth of a child.¹⁷⁷

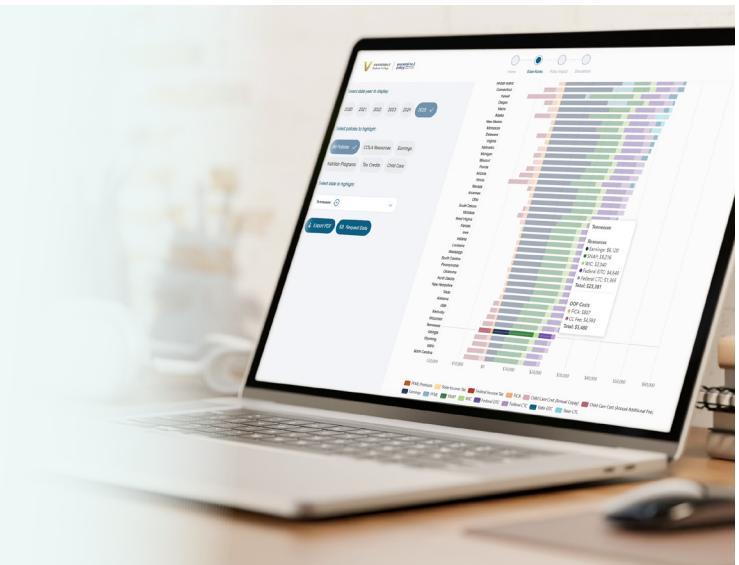
Because of very different cultural depictions of parenthood by race and class, the parents from the first family are typically viewed as "good" parents for taking time off to care for their newborn, whereas the parents from the second family are often viewed as "bad" parents who are failing to support their child financially.

These two families started with different sets of resources, but the lack of a state paid family leave policy exacerbated the differences in their experience of caring for a new child. By implementing an evidence-based state paid family leave program for all workers, and complementary policies like raising the state minimum wage or enacting a state earned income tax credit, states can support all families, not only those with the greatest resources.

Policy Impact Calculator

To learn more about the impact of paid family leave on family resources, check out the [Policy Impact Calculator](#).

The Policy Impact Calculator is an interactive tool to see how wages, paid leave, nutrition programs, child care subsidies, and tax credits shape the financial resources available to families with young children—state by state. See how your state ranks, see comparisons over time and across states, and simulate policy changes.



Looking Forward

As more states consider enacting a comprehensive paid family and medical leave policy or look to strengthen existing policies, there are multiple levers policymakers may incorporate to adequately support all families and potentially reduce racial disparities in access to paid leave and its benefits.

State-level opportunities to strengthen paid family leave programs:

1. Institute more inclusive eligibility requirements.
 - Define eligibility broadly to cover more workers in businesses of all sizes.
 - Link benefits to workers to allow all work history for covered employers to count toward benefit eligibility.
 - Include diverse family structures in the definition of relationships that qualify for bonding leave.
2. Offer an evidence-based benefit of at least 6 weeks of paid family leave for all parents and at least 12 weeks for parents who give birth.
3. Ensure leave is job-protected.
4. Compare the policy design tradeoffs that impact how much different workers will be paid on leave to provide the greatest assistance to those with the fewest resources.
5. Distribute the burden of funding the program benefits across workers and employers.
6. Limit administrative burden for families.
7. Invest in public awareness campaigns.

Though additional research is necessary to determine the most effective policy design choices, state leaders can consider these approaches to strategically address current inequities. In some cases, singular actions will improve individual aspects of the system, but state leaders should consider simultaneously implementing a suite of policy choices designed to improve overall effectiveness of programs.

We strongly recommend that state efforts, guided by the voiced needs of families, are rigorously evaluated. Evaluation will build the evidence base and guide future reforms. Read on for details on each policy opportunity, including state policy spotlights and areas for future research.

1. Institute more inclusive eligibility requirements.

As noted earlier, many workers lack access to paid leave programs because they don't work for an employer or live in a state with an existing paid leave program. These workers may have access to a short-term disability plan to cover the physical recovery from childbirth or need to rely on the unpaid, job-protected leave provided by the Family Medical Leave Act (FMLA).

However, eligibility criteria of the FMLA exclude most part-time and seasonal workers, self-employed workers, and employees of small employers (those with fewer than 50 employees). Not only is a large portion (44%) of the workforce excluded from accessing unpaid leave

benefits through FMLA, but these exclusions have implications for racial equity, given that women of color are the most likely group to be employed in involuntary part-time work, and Hispanic and foreign-born parents disproportionately work for smaller firms.^{178,179}

To prevent and address challenges accessing paid family leave, state policymakers can intentionally design paid family leave programs to include the groups that are currently left unprotected by federal legislation. For example, reducing or removing minimum requirements for hours worked or earnings in the past year and expanding coverage to employers of every size allow for all workers to pay into and access the benefit when they need it.

Including all employers regardless of firm size and allowing self-employed workers to opt in to a statewide program can ensure that those who work for small businesses are not left out. Often cost is a concern for small businesses, but, payroll premiums for business are typically about 0.46% in states with employer premiums¹⁸⁰ and in several states, small businesses are exempt from paying employer premiums, reducing the cost burden to businesses.¹⁸¹ Additionally, businesses also benefit from the increased likelihood of employees returning to pre-birth employers.¹⁸² A statewide family leave policy inclusive of small businesses allows them to compete with big firms that can self-fund a family leave benefit for their employees.

State Policy Spotlight **Connecticut**

In **Connecticut**, almost all businesses with one or more employee working in the state are considered covered employers. Sole proprietors and self-employed individuals may opt in to coverage.¹⁸³



Furthermore, states can also remove or refrain from implementing eligibility requirements that may hinder access to paid family leave when an employee changes jobs or balances multiple part-time positions. States can make benefits portable, meaning that employee benefits are linked to the worker, regardless of their employer such that benefits accrued can be transferred without interruption when an individual changes employers. Medicare and Social Security are examples of federal programs with portable benefits.



State Policy Spotlight

Defining Covered Relationships

Most states with a paid family leave policy use an earnings threshold, or minimum earnings required, rather than tenure or hours requirements as a condition of eligibility. Many of these states (**California, Colorado, Connecticut, Maine, Minnesota, and Oregon**) also allow earnings to be combined across employers, making the benefit portable and part-time worker friendly. California has the most inclusive earnings threshold of any state—a worker must earn just \$300 in the past year, which can be combined across multiple employers, to qualify for paid leave, although benefits at this income level are minimal.

The FMLA lacks portability, in that it requires workers to have worked for the same covered employer for at least 12 months in the last 7 years and to have worked 1,250 hours (not including paid or unpaid leave) in the 12 months prior to taking leave. Even if a worker begins working for another covered employer, FMLA requires that the eligibility criteria reset at the worker's current employer. Under these eligibility criteria, 21 percent of workers are ineligible for FMLA because of insufficient employment tenure or hours worked, and an additional 7 percent are ineligible because of tenure or hours and the size of their employer.¹⁸⁴

Workers under the age of 35, women, workers of color, and workers with lower wages are all more likely to experience job changes and report a tenure of 12 months or less at their current job.¹⁸⁵ By making paid leave benefits portable, state policies can ensure that workers who have experienced a job change can still access this important benefit, which they paid into at a previous employer. If a state chooses to require a minimum number of hours or months to have been worked within a given period, it could also allow workers to combine hours worked across multiple employers to meet the state's eligibility criteria.

Defining who is covered to take bonding leave is also an opportunity to be inclusive of diverse family structures.^{xviii} Depending on family structure and circumstances, one of the adults caring for a new child may not be that child's biological or legal parent, but rather an aunt, uncle, grandparent, unmarried partner of a parent, or some other arrangement.



State Policy Spotlight **Oregon**

Oregon's paid family leave policy defines a child as including a biological, adopted, or foster child; a stepchild; a legal ward of the covered individual or their spouse or domestic partner; or a child to whom the covered individual or their spouse or domestic partner stands in loco parentis. Oregon statute defines bonding leave as time taken "to care for and bond with a child during the first year after the child's birth or during the first year after the placement of the child through foster care or adoption."¹⁸⁹

Maine, Washington, Colorado, and Connecticut have similarly inclusive definitions of relationships that qualify for bonding leave.

The FMLA defines a child broadly to include a variety of caregiving relationships and covers leave to bond with a biological child, an adopted child, a foster child, a stepchild, a legal ward, or a child of a person who is standing in loco parentis (in the role of a parent) to the child. FMLA regulations define in loco parentis as including those with day-to-day responsibilities to care for and financially support a child.^{186,187} States can use FMLA regulations as a template to clearly define those who would qualify for paid leave to bond with a new child.¹⁸⁸

^{xviii} Qualifying relationships for bonding and caregiving leave may differ.

2. Offer an evidence-based benefit of at least 6 weeks of paid family leave for all parents and at least 12 weeks for parents who give birth.

The most rigorous body of evidence to date reveals that a paid family leave program that covers at least 6 weeks for all parents and at least 12 weeks for parents who give birth generates beneficial outcomes for young children and their families. These programs increase the likelihood and length of leave-taking, reduce racial disparities in leave-taking, and improve maternal labor force attachment, postneonatal infant mortality, parent and child health, and nurturing and responsive parenting.



State Policy Spotlight

An Expanding Evidence Base

Most of the strong causal research to date has assessed the efficacy of **California's paid family leave policy**, which provided 6 weeks of benefits to all new parents from 2004 to 2020. Although most states now cover 12 or more weeks of paid leave for all parents, these more recently enacted programs have not yet been rigorously studied to indicate if they provide additional benefits to parents and children. As more states adopt paid family and medical leave programs, there will be new opportunities for researchers to evaluate different benefit characteristics.

As of January 2026, most states that have adopted paid family leave programs (12 out of 14) offer 12 weeks of paid family leave for all covered employees; only California and Rhode Island^{xix} (8 weeks) provide workers who did not give birth with less.¹⁹⁰ These two states are among the five with state Temporary Disability Insurance (TDI) programs (California, Hawaii, New Jersey, New York, and Rhode Island), which provide paid leave to pregnant workers to be used in the period immediately before and after birth. In California, data show that most female workers using paid bonding leave also take leave through California's State Temporary Disability Insurance, therefore extending their total period of paid leave beyond 8 weeks.¹⁹¹

^{xix} In 2024, Rhode Island enacted legislation to gradually increase the paid family leave available to all parents from 6 weeks to 7 weeks in 2025 and to 8 weeks in 2026.

3. Ensure leave is job-protected.

Job protection benefits require that an employer place a worker in the same or a comparable position when the worker returns from leave and protect the worker from retaliatory action by an employer. Job protection allows workers to feel secure when taking paid leave, which may increase take-up and support long-term economic stability for all workers.

Without job protections, workers who need to take leave may quit their job, be fired or laid off, or take less leave than they otherwise would. In a qualitative study of 75 mothers with lower incomes who used state paid family leave to bond with their newborn, 13 percent reported that they were fired or laid off before or after childbirth; an additional 17 percent quit their jobs, with at least some portion quitting in anticipation of being fired.¹⁹²



State Policy Spotlight

Delaware

Delaware is one of the states that includes job protections in the state's paid family and medical leave policy (enacted in 2022, effective January 1, 2026) so that protections apply to every worker who is eligible for paid leave. In addition, Delaware requires employers to provide continuous health care benefits while an employee is using paid leave and bars retaliation or discrimination against leave-takers.¹⁹⁷

The federal FMLA and PWFA provide unpaid, job-protected leave for eligible workers. Unfortunately, 44 percent of workers do not qualify for FMLA due to tenure or employer size requirements and PWFA only protects leave related to pregnancy or giving birth. To fill in the gap, most state paid family leave programs (10 out of 14 as of October 2025) include job protections as part of paid leave legislation. The remaining states provide job protections to a subset of workers eligible for paid leave benefits through separate state legislation.¹⁹³

State-enforced job protections for leave takers are especially important for workers with lower or unstable earnings, part-time workers, and employees of small businesses who are less likely to be guaranteed job protections through FMLA. These differences in job protections have implications for equity because Hispanic and foreign-born parents disproportionately work for smaller firms and women of color are the most likely group to be employed in part-time work.^{194,195} A survey of parents working in the private sector in the California Bay Area found that 70 percent of non-Hispanic White parents were covered by job protections, compared to 58 percent of non-Hispanic Black parents and 54 percent of Hispanic parents.¹⁹⁶

New parents who take leave to recover from giving birth are protected from termination or retaliation under the PWFA. However, the PWFA does not apply to bonding leave or to parents who did not give birth.

4. Compare the policy design tradeoffs that impact how much different workers will be paid on leave to provide the greatest assistance to those with the fewest resources.

States determine the amount of workers' wages replaced while on leave (the program benefit) through a series of policy choices, including the (a) wage replacement rate(s), (b) wage replacement structure, and (c) the maximum benefit (see key terminology below). States should consider trade-offs between various options during policy design.

State policymakers can combine these choices to replace the wages of workers with lower earnings at a higher rate; such a design would be more equitable in that it would target the greatest assistance to those with the least resources, such as those with the low levels of savings or household wealth.

Workers who earn lower wages rely on a larger portion of their income to pay for regular household expenses. Paid leave programs that replace a higher portion of their earnings while on leave ensure all eligible workers can afford to take leave and care for their family, thus promoting more equitable access to paid family leave. A review of evidence from other OECD member countries suggests that a wage replacement rate of at least 80 percent of wages is necessary for families with low- and middle-incomes to meet their essential needs.¹⁹⁸ As of October 2025, state paid family and medical leave programs provide 60 to 100 percent of wages for workers earning the lowest wages, leading to lost income at a critical time for many workers, even those benefiting from a program.

Key Terminology

Wage replacement rate refers to the percentage of a worker's usual earnings received while on leave.

Wage replacement structure refers to how the wage replacement rate is calculated.

- **Flat wage replacement** refers to a wage replacement structure where everyone receives the same percentage of their earnings. For example, all workers receive 85% of their average weekly earnings up to a maximum benefit.
- **Marginal wage replacement** refers to a wage replacement structure where wages are replaced different rates, typically under which workers who earn lower wages receive a greater portion of their wages than higher earners. For example, a worker's wages are replaced at 100% up to 50% of the state average weekly wage and then are replaced at 50% above this until a maximum benefit.

Maximum benefit refers to the maximum weekly benefit a worker may receive while on paid leave. The benefit may not exceed this amount, even if a worker's typical earnings are greater than the maximum benefit.

States also decide whether to replace all wages up to a maximum benefit at the same rate or at a different rate depending on earnings. Different structures have different implications for families based on earnings. Flat wage replacement rates mean that everyone receives the same percentage of their earnings up to a maximum benefit, whereas marginal rates typically replace wages at a higher percentage up to a certain threshold of wages and then drop to a lower rate for all earnings above the threshold, similar to a marginal tax rate.¹⁹⁹

Under a marginal rate structure, workers who earn lower wages typically receive a greater portion of their wages than higher earners, because more of their earnings are subject to higher replacement rates as compared to under flat wage replacement structures. In a marginal-rate design, the threshold at which states set their initial rate change determines the proportion of workers who receive the most generous wage replacement.

All states set a maximum benefit amount that a worker may receive while on leave, typically set as a weekly dollar amount. As of October 2025, states' maximum weekly benefits range from \$900 to \$1,681 per week. In almost every state (13 of 14 states), a worker would need to earn greater than the national median wage for full-time workers (\$61,440 annually or \$1,182 weekly in 2024) to reach a state's maximum weekly benefit.



State Policy Spotlight **Minnesota**

Minnesota has a relatively high wage replacement rate (90%) for families with the lowest incomes. The state also has two points at which the replacement rate changes. As a result, a family's effective wage replacement rate decreases more gradually as earnings increase, compared to states with marginal-rate structures and only one point of rate change.

5. Distribute the burden of funding the program benefits across workers and employers.

State paid family and medical leave programs are self-sustaining, funded through small worker and/or employer contributions (also called premiums) collected by the state via payroll deductions.^{xx} States are increasingly designing policies that require all workers and employers to contribute to funding the costs of paid family leave, rather than funding the benefit through employee contributions only. In this case, states also decide how to split the funding cost between workers and employers.

Most states place a cap on contributions such that premiums are not collected on earnings above a set threshold (e.g., the Social Security contribution base, the maximum income on which a worker's Social Security tax is imposed, or a similar threshold).²⁰⁰ Once a worker's earnings hit this threshold, they no longer pay a tax on earnings above this point. This means that very high earners contribute less as a share of their earnings as compared to those for whom 100 percent of their earnings are below the threshold.

Learn more about funding mechanisms in our report, [Funding Mechanisms for State Paid Family and Medical Leave Programs](#) (January 2025).

This policy choice raises several tradeoffs to consider. Because wage replacement for high earners will likely equal the maximum benefit, their contribution through premiums would be proportionate to the benefit they receive despite being low relative to their earnings (and therefore regressive, meaning low-income workers contribute a larger percentage of their earnings compared to middle- and high-income).

However, if every dollar of their earnings was subject to the payroll tax, then the overall premium rate would be lower for everyone and proportionate to each worker's earnings, regardless of total income (which includes other sources of income not from wages or salary from a job, or from self-employment). A lower premium rate may be most meaningful to workers with the lowest wages, who rely on more of their paycheck to cover basic expenses. In most states, employee contributions are about 0.6% of wages or less.



State Policy Spotlight California

On January 1, 2024, **California** policymakers implemented [S.B. 951](#) to eliminate the wage ceiling, or maximum wage, on paid family leave contributions. By applying the premium to all wages earned, those with very high earnings now contribute at the same rate as other workers. In addition, the state can now lower the premium rate for all contributors and still generate the same revenue as it had with the contribution cap in place.

^{xx} Although states have often allocated general revenue to support startup costs, ongoing funding from the state is not necessary.

6. Limit administrative burden for families.

Administrative burden is the accumulation of costs that individuals experience when trying to access a public service, including time, money, and psychological distress, among others.²⁰¹ Reducing barriers to accessing paid family and medical leave benefits can support higher rates of leave-taking among eligible families. State systems and infrastructure to support paid family leave benefits will naturally evolve over time. Taking a user-centered approach and regularly seeking feedback on the experience of applying for and maintaining benefits can help inform ongoing adjustments.²⁰²

As an example, a strategy to reduce administrative burden is to not require a waiting period, which requires an employee to use accrued sick or vacation leave or take unpaid leave prior to accessing paid family and medical leave benefits.

Taking steps to reduce administrative burden for the worker and the state during the claims process may reduce the likelihood that someone misses out on benefits for which they are eligible and that they have paid into. Using a simple, one-time application for benefits that covers the full duration of covered leave reduces the burden on parents and should reduce the likelihood that someone erroneously loses benefits.²⁰³



State Policy Spotlight **New Jersey**

New Jersey developed a helpful [Maternity Coverage Timeline Tool](#), available in English and Spanish, that allows new parents to estimate the dates for which they will be covered by the state paid leave benefit. The state also developed a [Toolkit](#) to help employers and human resources professionals provide accurate information and support to employees.

7. Invest in public awareness campaigns.

In states with paid family leave policies, survey data suggest that fewer than half of workers are aware of the policy, and that this lack of knowledge is more common among younger workers; non-White workers; and those with less education, lower household income, or no access to employer-provided paid leave benefits.^{204,205,206,207} One component of administrative burden is learning costs, or the time and energy necessary to learn that a program exists and determine your eligibility.²⁰⁸

States can reduce learning costs by investing in public awareness campaigns. Partnering with employers and community-based organizations (CBOs) to connect families with information or navigators can support enrollment. Policymakers should consider populations in their state who are most likely to face barriers in learning about or accessing paid family leave when designing outreach efforts. Intentional outreach efforts could include making webpages and materials available in multiple languages and fully accessible from a mobile phone or tablet, rather than only on a desktop computer.



State Policy Spotlight

New Jersey

The **New Jersey Department of Labor and Workforce Development** (NJDOL) Department has a multi-pronged strategy to support public awareness of the state paid leave benefit. The strategy includes having a dedicated Director of Strategic Planning and Outreach; training CBOs, other state agencies, and state-funded service providers to spread the word and assist workers with applications; and advertising via public transit buses.^{209,210}

Conclusion

The history of leave, labor, and parenthood in the US provides important context for the current paid family leave policy landscape. Even as policies in the US have shifted toward greater equality under the law, the harms of the past are still observable in present disparities.

Policies including slavery, Jim Crow, and a lack of access to loans for housing and education diminished opportunities for Black families to build wealth compared to White families and contributed to a persistent racial wealth gap. A lack of household wealth means there are limited or no reserves available to cover lost income, which increases economic precarity.

We observe that racism, sexism, and classism interact to shape American culture, policies, and political movements. This has created a modern-day labor market that is segregated more subtly than that of the 1820s or 1920s but echoes the same structural preferences for rewarding Whiteness and maleness.



Although women and workers of color have experienced increases in employment in “good jobs” (jobs in the primary labor market) since the 1970s, both groups remain overrepresented in the lowest-paying jobs, which are less likely to have benefits like paid parental leave.

Finally, the historical analysis traces the proliferation of negative and harmful stereotypes about Black, Hispanic, Native American, and poor families, and especially Black mothers—stereotypes that suggest they are less deserving of rest, support, and self-determination. These ideas manifest in policies that disproportionately exclude these groups from protections extended to White, middle- and upper-class families.

Paid family leave provides an essential support for all families with a new child but is especially critical for families with low incomes who cannot afford lost wages to take unpaid leave. Yet, the long-standing inequities in the design and implementation of federal labor and leave policies, inadequately support families and have created wide variation between states, which disproportionately harms Black, Hispanic, and Native American families.

In the absence of federal legislation, states have options now to enact paid family leave policies that mitigate rather than exacerbate racial inequities in labor and leave policies and improve the lives of all working families. Although more research is still needed to determine the most effective solutions, the historical context provided here can guide efforts toward a more equitable system of family support policies.

Additional Resources

Prenatal-to-3 Policy Impact Center: [Evidence Review: Paid Family Leave](#)

Prenatal-to-3 Policy Impact Center: [2025 Paid Family and Medical Leave State Policy Roadmap](#)

Child Trends: [Recommendations for Creating Equitable and Inclusive Paid Family Leave Policies](#)

Robert Wood Johnson Foundation: [Improving Access to Paid Family Leave to Achieve Health Equity](#)

New America's Better Life Lab and New Practice Lab: [Implementing Paid Family and Medical Leave: Lessons for State Administrators from Research in New Jersey](#)

National Partnership for Women and Families: Meeting the Promise of Paid Leave: [Best Practices in State Paid Leave Implementation](#)

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The Prenatal-to-3 Policy Impact Center aims to accelerate states' equitable implementation of evidence-based policies that help all children thrive from the start. Based in Vanderbilt University's Peabody College of Education and Human Development and led by Dr. Cynthia Osborne, Professor of Early Childhood Education and Policy, the Center's team of researchers and nonpartisan policy experts works with policymakers, practitioners, and advocates to navigate the evidence on solutions for effective child development in the earliest years.