

# **The Part-Time Worker Bill of Rights Act: Promoting Fair Treatment for Part-Time Work**

**Almost 33 million working people in the United States—about one in five—work part time, and more than six in ten part-time workers are women.<sup>1</sup>** Many people work part time to support their families while caring for loved ones, going to school, or attending to other obligations, but are penalized for choosing part-time work in terms of pay, benefits, and opportunities to advance. And for many others, working part time isn't a choice at all: some employers, especially in low-wage service industries, rarely offer full-time positions, and some employees—especially women—find that caregiving or other responsibilities preclude full-time work.<sup>2</sup>

**Relative to their full-time counterparts, part-time employees frequently make less per hour, face unpredictable schedules, lack access to important workplace benefits, and are denied promotion opportunities.** New research from the Economic Policy Institute indicates that, across occupations, part-time workers are paid nearly 20 percent less per hour than their full-time counterparts.<sup>3</sup> Working part time more than doubles the likelihood of having work hours that vary weekly,<sup>4</sup> and employers are more likely to give part-time employees short notice of their work schedules.<sup>5</sup> Part-time workers also frequently lack access to employer-sponsored benefits such as health insurance, retirement benefits, and paid—or even unpaid—time off.<sup>6</sup> And research shows that employers are more likely to promote full-time workers than part-time workers.<sup>7</sup>

**For millions of people across the country, working part time is not a choice.** About 4.4 million part-time workers—more than one in eight—work part time “involuntarily” (as defined by the Bureau of Labor Statistics) and would prefer full-time work.<sup>8</sup> And this estimate does not capture people who want to work part time but receive fewer hours than they are seeking from their employer—a scenario that is common in many growing, low-paid service sector jobs. For example, surveys of hourly retail and food service employees in multiple jurisdictions show that among those working fewer than 30 hours per week, at least six in ten want to work more hours.<sup>9</sup> New research from the Center for Law and Social Policy indicates that up to 40 percent of all people working part time would prefer more hours, including half of people working part time in service occupations.<sup>10</sup> In addition, for some people—especially women—the “choice” of part-time work may be forced by high child care costs or inflexible and unpredictable work schedules.<sup>11</sup>

With low pay, volatile work hours and incomes, and little opportunity to advance in the workplace, part-time workers struggle to make ends meet. The challenges of part-time work have severe consequences for working families—even as people working part-time are increasingly primary earners for their households.<sup>12</sup> About one in seven part-time workers (15 percent) lives in poverty—over four times the rate of poverty experienced by full-time workers.<sup>13</sup> The economic hardship that many women of color and their families face is particularly pronounced: one in four Black and Native American women working part time, and one in five Latinas working part time, lives in poverty.<sup>14</sup> Addressing this reality, and improving the quality of part-time work, is key to promoting family economic security and to reducing gender and racial income disparities.

**The Part-Time Worker Bill of Rights would expand workplace protections and access to benefits for people working part time, helping them support themselves and their families.** The Act would provide part-time employees with:

- **PART-TIME PARITY:** For jobs that require substantially similar skills, responsibilities, and duties, employers would be required to treat part-time and full-time employees equally, including with regard to wages, ability to accrue benefits, and eligibility for promotions.
- **ACCESS TO HOURS:** Some employers spread hours among a large pool of part-time staff in order to “flex up” on short notice, rather than offering stable, full-time positions.<sup>15</sup> By requiring large employers to offer additional available hours to their qualified existing employees before hiring new employees, temporary employees, or contractors to work those hours, the law would promote more adequate hours for part-time employees and full-time work for people who want it.
- **EMPLOYER PENSION PLANS:** The Act would modify the Employee Retirement Income Security Act of 1974 (ERISA) to allow part-time workers who have worked at least 500 hours for two consecutive years to access the employer-sponsored retirement plans available to full-time workers.
- **FAMILY AND MEDICAL LEAVE:** Access to leave—both paid and unpaid—is notably lacking in the U.S., especially for part-time workers. The Act would eliminate the “hours of service” requirement from the Family and Medical Leave Act (FMLA), which would allow any employee who has worked for their employer for least 12 months—regardless of how many hours they work per week—to be eligible for unpaid leave under the FMLA.

## SCHEDULES THAT WORK ACT

In addition to lower pay and fewer benefits, part-time workers often experience unpredictable and unstable work schedules. “Just-in-time” scheduling practices frequently use algorithms to base workers’ schedules on perceived consumer demand and maximize flexibility for the employer at the expense of the employee.<sup>16</sup> As a result, employees often have little notice of their work schedules, experience last-minute shift cancellations that deprive them of vital income, and are assigned to “on-call” shifts that leave them in limbo, not knowing whether they will be required to report to work. Part-time workers are more likely than full-time workers to have erratic hours resulting in volatile incomes, which can lead to increased economic hardship, including hunger and housing insecurity.<sup>17</sup>

The **Schedules That Work Act**, sponsored by Senator Elizabeth Warren and Representative Rosa DeLauro, would combat employers’ use of unfair scheduling practices and promote the stability that working families need. The Act would give employees across industries a right to request a schedule that works for them and restrict the use of “clopening”—where employees work the closing shift one night and the opening shift the next morning. For hourly workers in certain industries where abusive scheduling practices are especially common, the Act requires two weeks’ advance notice of work schedules along with compensation for last-minute changes and cancelled shifts.<sup>18</sup>

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Together, the Part-Time Worker Bill of Rights and the Schedules that Work Act will create federal protections to establish a fair workweek for people working in low-paid and hourly jobs, improving job quality and promoting equity in the modern economy.

- 1 NWLC calculations based on American Community Survey (ACS) 2018 using Steven Ruggles et al, Integrated Public Use Microdata Series (IPUMS) USA: Version 9.0 [dataset] (Minneapolis, University of Minnesota, 2019). Figures are for 2018. The U.S. Bureau of Labor Statistics (BLS) defines part-time work as less than 35 hours per week. See BLS, Handbook of Methods: Current Population Survey, at 4-5, <https://www.bls.gov/opub/hom/cps/pdf/cps.pdf>.
- 2 See generally CLAIRE EWING-NELSON, NWLC, PART-TIME WORKERS ARE PAID LESS, HAVE LESS ACCESS TO BENEFITS—AND MOST ARE WOMEN (Feb. 2020), <https://nwlc.org/resources/part-time-workers-are-paid-less-have-less-access-to-benefits-and-most-are-women/>.
- 3 LONNIE GOLDEN, ECON. POLICY INST., PART-TIME WORKERS PAY A BIG-TIME PENALTY: HOURLY PAY-AND-BENEFITS PENALTIES FOR PART-TIME WORK ARE LARGEST FOR THOSE SEEKING FULL-TIME JOBS AND FOR MEN, BUT AFFECT MORE WOMEN (Feb. 2020), <https://www.epi.org/publication/part-time-pay-penalty/>. See also EWING-NELSON, *supra* note 2.
- 4 LONNIE GOLDEN, ECON. POLICY INST., STILL FALLING SHORT ON HOURS AND PAY (Dec. 2016), <http://www.epi.org/files/pdf/114028.pdf>.
- 5 See, e.g., SUSAN J. LAMBERT, PETER J. FUGIEL & JULIA R. HENLY, UNIV. OF CHICAGO, PRECARIOUS WORK SCHEDULES A EARLY-CAREER EMPLOYEES IN THE US: A NATIONAL SNAPSHOT 6 (Aug. 2014), [https://ssa.uchicago.edu/sites/default/files/uploads/lambert.fugiel.henly\\_precarious\\_work\\_schedules.august2014\\_0.pdf](https://ssa.uchicago.edu/sites/default/files/uploads/lambert.fugiel.henly_precarious_work_schedules.august2014_0.pdf) (among early career workers, 48 percent of part-time employees receive their schedules one week or less in advance, compared to 35 percent of full-time employees).
- 6 See EWING-NELSON, *supra* note 2, and U.S. Dep't of Labor, BLS, National Compensation Survey: Employee Benefits in the United States, March 2019 (Sept. 2019), <https://www.bls.gov/ncs/ebs/benefits/2019/employee-benefits-in-the-united-states-march-2019.pdf> (Tables 2, 9, 31).
- 7 See, e.g., JOHN T. ADDISON, ORGUL DEMET OZTURK, & SI WANG, UNIV. OF SOUTH CAROLINA, *Job Promotion in Midcareer: Gender, Recession, and "Crowding,"* BLS MONTHLY LABOR REVIEW (Jan. 2014), <https://www.bls.gov/opub/mlr/2014/article/job-promotion-in-midcareer.htm> (Table 3).
- 8 EWING-NELSON, *supra* note 2; see n.20 for detailed methodology. Figure is for 2019.
- 9 See, e.g., SHIFT PROJECT, WORKING IN THE SERVICE SECTOR IN WASHINGTON STATE (Dec. 2018), <https://shift.berkeley.edu/files/2018/12/Working-in-the-Service-Sector-in-Washington-State.pdf> (69 percent of those working fewer than 30 hours per week report a desire for more hours); SHIFT PROJECT, WORKING IN THE SERVICE SECTOR IN CONNECTICUT (March 2018), <https://shift.berkeley.edu/files/2018/03/Working-in-the-service-sector-in-Connecticut.pdf> (64 percent of those working fewer than 30 hours per week report a desire for more hours); SHIFT PROJECT, WORKING IN THE SERVICE SECTOR IN NEW JERSEY (Jan. 2020), <https://shift.berkeley.edu/files/2020/01/Working-in-the-Service-Sector-in-New-Jersey.pdf> (63 percent of those working fewer than 35 hours per week report a desire for more hours).
- 10 LONNIE GOLDEN & JAESEUNG KIM, CTR. FOR LAW & SOCIAL POLICY, UNDEREMPLOYMENT JUST ISN'T WORKING FOR U.S. PART-TIME WORKERS (2020).
- 11 See EWING-NELSON, *supra* note 2, and ARIANE HEGEWISCH & VALERIE LACARTE, INST. FOR WOMEN'S POLICY RESEARCH, GENDER INEQUALITY, WORK HOURS, AND THE FUTURE OF WORK 27-28 (Nov. 2019), [https://iwpr.org/wp-content/uploads/2019/11/C486\\_FOW-Work-Hours-Report.pdf](https://iwpr.org/wp-content/uploads/2019/11/C486_FOW-Work-Hours-Report.pdf).
- 12 H. LUKE SHAEFER, *Part-Time Workers: Some Key Differences Between Primary and Secondary Earners*, BLS MONTHLY LABOR REVIEW (Oct. 2009), <https://www.bls.gov/opub/mlr/2009/10/art1full.pdf>.
- 13 EWING-NELSON, *supra* note 2.
- 14 *Id.*
- 15 See, e.g., SUSAN J. LAMBERT, *Passing the Buck: Labor Flexibility Practices that Transfer Risk onto Hourly Workers*, 61 J. HUMAN RELATIONS 1203, 1207 (2008).
- 16 See generally, e.g., NWLC, COLLATERAL DAMAGE: SCHEDULING CHALLENGES FOR WORKERS IN LOW-WAGE JOBS AND THEIR CONSEQUENCES (Apr. 2017), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/04/Collateral-Damage.pdf>; DANIEL SCHNEIDER & KRISTIN HARKNETT, SHIFT PROJECT, IT'S ABOUT TIME: HOW WORK SCHEDULE INSTABILITY MATTERS FOR WORKERS, FAMILIES, AND RACIAL INEQUALITY (Oct. 2019), <https://shift.berkeley.edu/files/2019/10/Its-About-Time-How-Work-Schedule-Instability-Matters-for-Workers-Families-and-Racial-Inequality.pdf>.
- 17 DANIEL SCHNEIDER & KRISTIN HARKNETT, *Hard Times: Routine Schedule Unpredictability and Material Hardship among Service Sector Workers* (Oct. 2019), <https://equitablegrowth.org/working-papers/hard-times-routine-schedule-unpredictability-and-material-hardship-among-service-sector-workers/> (finding six in ten hourly retail and food service workers experienced at least one material hardship—such as hunger, trouble paying bills or securing housing, or foregoing needed medical treatment—over the prior year).
- 18 For more information, see NWLC, THE SCHEDULES THAT WORK ACT: GIVING WORKERS THE TOOLS THEY NEED TO SUCCEED (Oct. 2019), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2019/10/Schedules-that-Work-Act-Giving-Workers-the-Tools-2019-v3.pdf>.