

Providing Americans Insured Days of Leave (PAID Leave) Act

The COVID-19 pandemic has highlighted the deep gaps in our economic and social infrastructure that have resulted from decades of underinvestment and policy choices that failed to center the needs of women, people of color, and families with low and moderate incomes. It is clear that this public health crisis will exacerbate inequality along gender, racial, and economic lines, since low- and moderate-income women and their families will be particularly vulnerable to devastating health and economic effects from a crisis of this magnitude.

However, the need for robust protections for working people will not end with the current health crisis.

Today, over 32 million workers in the United States lack any form of paid sick days. While high-wage workers are more likely to have access to paid sick days, less than one third of people in the lowest-wage jobs have access to any form of sick leave. People working in food preparation and service jobs and personal care jobs—industries where women are overrepresented—are among the least likely to have paid sick days.

Moreover, only 19 percent of workers in the United States have access to paid family leave through their employers, and just 40 percent have personal medical leave through an employer-provided short-term disability program. For people working in low-wage and part-time jobs—most of whom are women—access is even more limited. Among workers in the lowest 25 percent of wage earners, only 8 percent have access to paid family leave. What's more, 44 percent of working people lack access to unpaid leave

through the Family and Medical Leave Act (FMLA) due to eligibility restrictions, and many who are eligible do not take leave under the FMLA because they cannot afford to take leave without pay.

This reality leaves working people with the impossible choice between their health and maintaining their financial security.

In response to the public health emergency caused by the novel coronavirus, Congress passed the Families First Coronavirus Response Act, which the president signed in March 2020. The Act was an important initial response to the crisis, but it excludes far too many working people from its provisions. The Families First Act exempts businesses with more than 500 employees from providing emergency paid sick and family leave, limits the qualifying uses for leave, and caps the wages working people can be paid while taking leave during the emergency. It is also limited to the current outbreak of COVID-19, meaning that working people will lose these essential protections at the end of 2020.

Recognizing the dire need for more comprehensive protections, Senator Murray, Senator Gillibrand, and Representative DeLauro introduced the Providing Americans Insured Days of Leave (PAID Leave) Act to provide emergency paid sick days and family and medical leave, as well as create long-term benefits programs to support working people and their families. The PAID Leave Act would close the gaps in coverage left by the Families First Coronavirus Response Act and extend protections to more women and families.

The PAID Leave Act would provide the following supports:

EMERGENCY PAID SICK DAYS

The Act provides all working people, including independent contractors, 14 days of paid sick leave for immediate use during a public health emergency. Emergency paid sick days would be paid at 100% of an employee's wages. Qualifying events for using emergency paid sick days include: (1) caring for oneself or a family member because of isolation or quarantine during a public health emergency, (2) caring for a child whose school or child care is closed because of a public health emergency, and (3) if one's employer is closed due to a public health emergency. Family member and child are defined broadly to provide more expansive coverage. The Treasury Department would directly reimburse employers for emergency paid sick days during the current crisis and any future public health emergency.

EMERGENCY PAID FAMILY & MEDICAL LEAVE

The PAID Leave Act also provides an expansion of family and medical leave applicable to health emergencies. The family and medical leave provides for up to 12 weeks (90 days) of paid leave to care for oneself or a family member, to care for a child whose school or child care is closed because of the public health emergency, or if one's own employer is similarly closed. Wages under the emergency leave would be paid out at 2/3 the employee's normal rate of pay, which must equal at least the federal, state, or local minimum wage. Like the emergency paid sick days, the emergency paid family and medical leave protects all workers, including independent contractors, with no exemptions for large or small employers. Emergency paid leave would be directly reimbursed by the Treasury.

PERMANENT PAID SICK DAYS

Unlike the Families First Coronavirus Response Act, the PAID Leave Act establishes programs to protect working people

beyond the current emergency. Under the Act, employees would be able to accrue seven paid sick days annually, which can be used after 60 days. The permanent paid sick leave can be used in cases of personal illness and to care for a sick family member. Notably, the sick days could also be used for "safe leave," or absences related to sexual assault, domestic violence, or stalking. Like the emergency paid sick days, wages would be fully paid and there are no employer exemptions. The Treasury Department would reimburse employers for earned sick days until January 1, 2022, at which point the permanent paid sick and safe leave would be funded by employers.

PERMANENT PAID FAMILY AND MEDICAL LEAVE PROGRAM

Finally, the PAID Leave Act would establish a long-term paid family and medical leave program, paid for by joint employer and employee payroll contributions. Employees would be entitled to 12 weeks of leave at a 66% wage replacement rate, capped at \$4,000 per month. Qualifying uses for leave include caring for one's own serious medical needs, caring for a family member, caring for a new child after birth or adoption, and certain military caregiving and leave. In order to be eligible for paid family and medical leave, employees must have earned income from employment for the previous 12 months and be covered by social security and disability insurance. The permanent paid family and medical leave program would go into effect on January 1, 2022.

* * *

In order to mitigate the vast impact of this public health crisis, it is critically important that Congress establish public programs to provide much-needed support to women and families. A national paid sick and paid family and medical leave program will lead to healthier families, help build a stronger economy, and promote gender equity, both in the current crisis and as we work to build a better future.

1 U.S. Bureau of Labor Statistics, *Employee Benefits in the United States National Compensation Survey: Employee Benefits in the United States* (Mar. 2019), <https://www.bls.gov/ncs/ebs/benefits/2019/employee-benefits-in-the-united-states-march-2019.pdf>.

2 INST. FOR WOMEN'S POL'Y RES., *PAID SICK DAYS ACCESS IN THE U.S.: DIFFERENCES BY RACE/ETHNICITY, OCCUPATION, EARNINGS, AND WORK SCHEDULE* (Mar. 2014), <https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/B328-FINAL.pdf>.

3 *Id.*

4 U.S. Bureau of Labor Statistics, *Employee Benefits in the United States National Compensation Survey: Employee Benefits in the United States*, Tables 16 and 31 (Mar. 2019), <https://www.bls.gov/ncs/ebs/benefits/2019/employee-benefits-in-the-united-states-march-2019.pdf>.

5 *Id.*

6 Elise Gould, *Providing Unpaid Leave was Only the First Step; 25 Years After the Family and Medical Leave Act, More Workers Need Paid Leave*, ECONOMIC POLICY INST. (Feb. 1, 2018, 12:00 PM), <https://www.epi.org/blog/providing-unpaid-leave-was-only-the-first-step-25-years-after-the-family-and-medical-leave-act-more-workers-need-paid-leave/>.