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"Paid Family Leave" Bill Offers Loan, Not Leave

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A bill introduced by Senators Bill Cassidy and Kyrsten Sinema in the Senate and Reps. Elise Stefanik and Colin Allred in the House, the product of a several-month effort to find a bipartisan compromise on paid family leave, offers not paid leave but rather a loan that families would have to repay.[1] Also, it provides no new job protection for workers seeking to take time off, so many workers, particularly low earners, would be unable to take needed leave. And it would only cover parents caring for newborn or newly adopted children, leaving out workers who need to care for their own serious health issues or those of a family member (including children). The United States needs paid leave, so federal policymakers should follow the lead of the nine states (including the District of Columbia) that have enacted or implemented programs offering meaningful paid leave benefits and job protection to new parents and those facing family or personal health issues.

Participants Would Have to Repay Benefits With Cuts in Child Tax Credit

Under the bill, qualifying workers — those who become new parents — could receive $5,000 during the year following a child's birth or adoption, which they would repay over the following decade through cuts in their Child Tax Credit.[2] Families that earn too little to qualify for the full Child Tax Credit[3] would receive a payment replacing 100 percent of their wages for up to 12 weeks, capped at $5,000, which they would repay through cuts in their Child Tax Credit over 15 years. (To date, there are few details on how this low-income provision would work.) Families would be allowed to amend prior-year tax returns in order to get the payment more quickly.

The bill thus provides *no net new financial help* for families. In effect, it is a loan that families would repay during some of a family's most financially crunched years. The period when parents are raising

[1] "Cassidy, Sinema, Allred, Stefanik Introduce Bipartisan Bill Supporting Parents in Critical First Year Following Births, Adoptions," Senator Bill Cassidy, December 4, 2019, https://www.cassidy.senate.gov/newsroom/press-releases/cassidy-sinema-allred-stefanik-introduce-bipartisan-bill-supporting-parents-in-critical-first-year-following-births-adoptions. The Senate and House bills are S. 2976 and H.R. 5296, respectively. Senators Cassidy and Sinema referred to their proposal as "paid family leave" during a December 4 press conference introducing the bill, as well as on previous occasions. See, for example, "Cassidy, Sinema Release Bipartisan Paid Leave Proposal," Senator Bill Cassidy, July 30, 2019, https://www.cassidy.senate.gov/newsroom/press-releases/cassidy-sinema-release-bipartisan-paid-leave-proposal.

[2] The bill describes the payment as an "advance" of the Child Tax Credit, which must be repaid by an offsetting reduction equaling the amount received (with limited exceptions for the death of a child or parent).

[3] Chye-Ching Huang, "Final CTC Changes Don't Alter Tax Bill Basics: 10 Million Working Family Children Get Little or Nothing," Center on Budget and Policy Priorities, December 15, 2017, https://www.cbpp.org/blog/final-ctc-changes-dont-alter-tax-bill-basics-10-million-working-family-children-get-little-or.

young children can be especially difficult; parents of young children tend to be younger themselves and earn less than they will in their older, peak earning years, and they often face high child care costs. Families who took this "advance" would have to repay it for ten or 15 years. Many parents likely would not understand the fine print and would have an unpleasant surprise when filing their tax returns.

Senators Cassidy and Sinema have argued that even during the repayment period, participating families would be better off than they were before the 2017 tax law increased the maximum Child Tax Credit from $1,000 per child to $2,000. This argument has several flaws:

- The appropriate comparison point for evaluating a proposed tax change is the *current* tax code, not the code before 2018.
- Some 11.4 million children live in low-income families that received either no Child Tax Credit increase from the 2017 law or a token increase of just $75.
- Even middle-income families that received a meaningful Child Tax Credit increase from the 2017 law also faced some reductions in other child-related tax benefits under the law. As a result, families with children in the middle fifth of the income scale saw their child-related tax benefits rise by a modest $320 under the law — not enough to offset a typical family's loan repayment of $500 *per year, per child*.[4]

The bill shares many of the same flaws as recent bills introduced by Senators Marco Rubio, Mitt Romney, Joni Ernst, and Mike Lee, under which workers receiving parental leave benefits would have to repay them — with interest — through cuts in their Social Security retirement benefits.[5] All of these bills would ask individual parents to bear the cost of any advance benefits they receive, either by cutting the tax credits they need to cover their children's expenses as they grow or by weakening their future retirement security. This approach contrasts sharply with state paid family and medical leave programs, which pool risks and resources across the entire workforce because they are financed by payroll taxes, which workers (and/or their employers, in some states) pay throughout their working years.

The bill also would likely create administrative headaches for the IRS and families, though it leaves many important details about how the plan would work for the Department of Treasury to figure out. The "loan" might prove complicated and difficult to track if parents have additional children, workers' incomes fluctuate (so they might not qualify for the Child Tax Credit each year, or their credit amount might change), parents divorce, or children's custody changes.

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[4] Elaine Maag, "The TCJA Didn't Change Child Benefits for Most Families With Children by Very Much," Tax Policy Center, October 8, 2019, https://www.taxpolicycenter.org/taxvox/tcja-didnt-change-child-benefits-most-families-children-very-much.

[5] Kathleen Romig and Kathleen Bryant, "Cutting Social Security to Offset Paid Parental Leave Would Weaken Retirement Security," Center on Budget and Policy Priorities, September 12, 2019, https://www.cbpp.org/research/social-security/cutting-social-security-to-offset-paid-parental-leave-would-weaken.

Many Workers Would Not Be Allowed Time Off

The bill would not give new parents any new right to take leave from work to recover from childbirth and care for their new children. The current federal Family and Medical Leave Act (FMLA) provides job-protected, unpaid leave for a variety of reasons, including the birth or adoption of a child,[6] but it excludes the roughly 40 percent of workers who work for smaller employers or have been at their current job for less than a year, and parents of young children are *less* likely to be covered than other workers.[7] The bill wouldn't change that.

Thus, many parents would still lack access to parental leave under the bill because their employers would deny their request or because fear of losing their job or other consequences would deter them from making a request. In contrast, the nine states (including the District of Columbia) with paid leave programs go further than the FMLA and ensure that the large majority of workers who take leave can return to the same or a similar job, in addition to offering benefits that need not be repaid.[8]

Bill Would Only Cover New Parents

The bill wouldn't cover all families who need leave. It would provide benefits only to new parents, unlike the unpaid leave guaranteed by the FMLA, the paid leave programs of several pioneering states, and the FAMILY Act (the paid leave bill now before Congress with the most co-sponsors). By recognizing only the needs of parents caring for newborn or newly adopted children, the bill leaves out workers who need to care for their own serious health issues or those of a family member, including children with serious health conditions, aging parents, and others. These are serious omissions: fully *three-quarters* of workers taking FMLA leave do so to care for someone other than a newborn or newly adopted child.

Better Alternatives Exist

The United States should establish a comprehensive, national paid family and medical leave policy that is responsibly financed and does not cut families' Child Tax Credit or Social Security benefits. The FAMILY Act is one such proposal, and it also has bipartisan support. Federal policymakers should follow the lead of existing state programs and finance a national paid leave policy through a modest payroll tax increase or other new revenue streams that spread costs over the broad workforce and provide benefits when workers need them.

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[6] "Family and Medical Leave Act," U.S. Department of Labor, https://www.dol.gov/whd/fmla/.

[7] "FMLA is Working," U.S. Department of Labor, https://www.dol.gov/whd/fmla/survey/FMLA_Survey_factsheet.pdf; Heather Boushey and John Schmitt, "Job Tenure and Firm Size Provisions Exclude Many Young Parents from Family and Medical Leave," Center for Economic and Policy Research, June 2007, http://cepr.net/documents/publications/firmsize_2008_02.pdf.

[8] "State Paid Family and Medical Leave Insurance Laws," National Partnership for Women and Families, August 2019, http://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/state-paid-family-leave-laws.pdf.