PARENTAL LEAVE: THE IMPACT OF RECENT LEGISLATION ON PARENTS' LEAVE TAKING*

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We use data from the Survey of Income and Program Participation to examine the impact of leave entitlements on unpaid leave usage by men and women after the birth of a child from 1991 to 1999. The results indicate that legislation providing the right to unpaid leave has not affected men's leave usage. The results for women are mixed: in some specifications, leave entitlements are associated with increased leave taking or longer leaves, but the results depend on how we define leave coverage. Our results point to the limited impact of unpaid leave policies and the potential importance of paid-leave policies.

One of the most pressing work-family issues confronting women and men is how to balance work and home time in the first few months following the birth of a child. Yet until recently, the United States had no federal legislation giving parents the right to a job-protected leave after the birth of a child. In this respect, the United States stands in sharp contrast to most other industrialized nations that have had maternity-leave legislation for a long time and more recently have added paternity or parental-leave legislation.

Until 1993, when the federal Family and Medical Leave Act (FMLA) was enacted and signed into law, the United States relied mainly on states' family-leave statutes. As is shown in Appendix Table A1, 20 states plus the District of Columbia have laws that give at least some female workers the right to job-protected maternity leaves (and all but 3 provide some paternity-leave rights as well). The length of leave permitted by these state laws varies a great deal, ranging from 4 weeks under Hawaii's 1992 statute to 18 weeks under Alaska's 1992 law. Some laws cover state employees only, whereas others cover only employees in firms of a specific size; in addition, many laws set specific working-hours requirements for eligibility. Thus, parental-leave coverage under state laws is not universal.

Coverage under the FMLA is not universal either. The law guarantees both women and men unpaid, job-protected leave of up to 12 weeks after the birth of a child, but only if they meet certain qualifying conditions. First, they must work for a firm with 50 or more employees, which means that only about 60% of private-sector workers are covered. Second, they must have worked for their employers for at least 1,250 hours in the past year, which reduces the share of workers covered to 46% (Cantor et al. 1995, 2001).

Although the FMLA is not universal, the law has had a substantial impact on maternity-leave coverage and an even stronger impact on paternity-leave coverage (Waldfogel 1999a). State laws have also raised parental-leave coverage for women and men (Waldfogel 1999a). However, relatively little is known about how much impact state leave laws and the FMLA have had on *leave taking* by recent parents. Although the laws

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were expected to benefit women and men who were prevented from taking leaves by the absence of job-protected leave rights, there are no firm estimates of how many such employees there may be. And other barriers may prevent parents from taking leaves even if they are covered. Under the FMLA and state leave statutes, leaves are not paid (although employees do have some rights to use previously accrued paid leave time during their FMLA leaves). Moreover, although the laws guarantee that employees will get their jobs back, they do not address the concern that taking leaves could hurt employees' career prospects. Thus, whether the FMLA and state leave statutes have increased parents' leave taking and by how much are empirical questions.

The impact of leave legislation on leave taking by *fathers* is particularly open to question. Most fathers in the United States take some leave right after the birth of the child, but the amount of time they take is short, typically about five days (Hyde, Essex, and Horton 1993; Malin 1994, 1998; Pleck 1993). It is here that empirical evidence is most lacking. Two studies examined the impact of state leave statutes on leave taking by mothers and found some evidence that the laws were associated with longer leaves by new mothers (Klerman and Leibowitz 1997, 1998). Similarly, three studies investigated the impact of the FMLA on leave taking by mothers and found some evidence that women with infants were taking more leave post-FMLA (Klerman and Leibowitz 1997; Ross Phillips 1998; Waldfogel 1999b). No national studies to date, however, have examined the impact of state leave statutes or the FMLA on leave taking by *fathers*. Assessing the impact of state leave statutes and the FMLA on changes in leave taking by fathers is therefore of particular interest.

We used data from the Survey of Income and Program Participation (SIPP) to examine the impact of leave entitlements on the use of unpaid leave by women and men in the first months after the birth of a child from 1991 to 1999. The SIPP is well suited for this analysis because, in addition to collecting detailed demographic data, it also records women's and men's employment activity each week for approximately three years. We limited our analysis to unpaid leave taking because the SIPP does not track paid leave taking.

We used the SIPP data to address two main questions: (1) whether leave legislation has led to the increased use of leaves and (2) whether leave legislation has led to longer leaves. The answers to both questions have implications for work-family policy and how well it meets the needs of children and families. The answers also have implications for child and family policy more generally. Whether parents take a leave after the birth of a child and for how long may matter, not just for the child and parents, but for society overall, if there are long-run benefits of parental leave in terms of improved child development or health (see, for example, Ruhm 2000).

DATA AND METHODOLOGY

Our data came from the 1991–1996 panels of the SIPP, which provide data on parents' employment and leave taking from January 1991 through December 1999.[1] Our sample consisted of 3,803 women and 4,574 men who had a child during the course of the panel, who were employed three months before the birth, and whom we could follow for three months after the birth.[2] We excluded women and men who were not working three months before the birth because leave taking was probably not relevant for them. We followed each person who had a child during the course of the panel over a six-month period—the

1. Each panel of the SIPP is followed for 32 to 40 months. The latest panel we used (the 1996 panel) followed families through the end of 1999.

2. If parents had more than one child during the panel (as about 10% of our sample did), we included them each time. Therefore, we corrected the standard errors in all our regression models using the "cluster" function in STATA.

three months before the birth and the three months after the birth (i.e., the birth month and the two subsequent months).[3]

We begin with descriptive analyses of parental-leave coverage. We then analyze the use of leaves, modeling the likelihood that a parent is on unpaid leave during the birth month and during the three months after the birth, and the number of weeks of leave that a parent takes in the birth month and in the three months after the birth.

Our key independent variable was the number of weeks of job-protected leave to which a new parent would be entitled under the state or federal legislation that was in effect at the time of the birth, which we hereafter refer to as "leave weeks." Following Ruhm (1998), we estimated the impact of leave weeks, rather than leave coverage because the leave statutes of interest provide for leaves of various lengths. Leave weeks vary by state and by month and year because state leave statutes came into effect in different months and years and the FMLA, which covers qualifying new parents nationwide, came into effect only in August 1993. Thus, we estimated a series of regression models in which we analyzed the impact of the maximum number of weeks of job-protected leave to which a new parent would have been entitled on the basis of the state, month, and year in which the birth occurred. In all our models, we entered the number of leave weeks divided by 100 to estimate the coefficients more precisely (following Ross Phillips 1998).

As we noted earlier, not all new parents would have been covered by the state statutes in effect in their states in the month and year or by the FMLA from August 1993 onward. Rather, actual coverage under these laws depended on the size and type of the firm at which the parent worked and on the parent's prior working hours. For this reason, we defined leave weeks using two different methods: (1) taking the size and type of firm into account and (2) taking working hours, as well as the size and type of firm, into account. Using both methods is of interest because it is unclear how strongly the working-hours requirements affect firms' decisions about whom to cover.

Gathering the information we needed from the SIPP on the type of firm (i.e., state employer or not) was straightforward. Determining eligibility related to a firm's size or working hours was somewhat more complicated. The SIPP's firm-size variable uses the following three categories: small (fewer than 25 employees), medium (25–99 employees), or large (100 or more employees). These categories do not always correspond to the categories for eligibility under a particular law. For instance, the FMLA and several state laws cover employees of firms with 50 or more employees; thus, it is unclear whether employees in the medium category (25–99 employees) should be treated as covered or uncovered. In our preferred models, we treated a person as covered if anyone in his or her firm-size group would have been covered, but we experimented with various methods of handling such discrepancies.[4] Similarly, in determining eligibility related to the working-hours requirements of the FMLA or state laws (as shown in Appendix Table A1), we used the SIPP's data on usual weekly hours worked three months before the birth and on job tenure at the time of the birth, but these data did not always tell us precisely whether a person would have been eligible under a specific law. Some individuals' working hours may have changed over time, and some firms may have extended the right to coverage to all their employees without distinguishing between those who did and did not meet the working-hours requirements (Waldfogel 1999a).

There are other limitations that should be noted. One is that the SIPP tracks unpaid leaves only. Thus, if state leave statutes or the FMLA had an impact on *paid* leave taking,

3. We excluded parents who had a child in the first two months or the last three months of the panel because we could not follow them for a sufficient time before and after the birth.

4. To check the sensitivity of our results, we reestimated all our models treating women as uncovered if any of the women in their firm-size group were not covered. These models generally produced weaker (i.e., less positive) estimates of the impact of leave weeks, suggesting that they were being biased downward by measurement error.

we would not be able to detect it. Because state leave statutes and the FMLA provide only unpaid leave, however, tracking changes in unpaid leave is particularly relevant. Moreover, in the U.S. context, unpaid leave constitutes half or more of all leaves taken after childbirth (Hofferth 1996; Klerman and Leibowitz 1994). A second limitation is that the SIPP does not identify all states uniquely. This is a problem when states (such as Maine and Vermont) were coded together in the SIPP but had different laws. We handled this problem by dropping the cases from these states during the years when their laws differed. In addition, in a few instances, the states that were not identified uniquely in the SIPP changed over time. We treated these states (Alaska, Idaho, Iowa, and Montana) as grouped throughout the analyses to create a consistent time series.

The advantages of using the SIPP far outweigh these few disadvantages. The SIPP is unique in being a large, nationally representative data set that tracks the labor-force participation of both mothers and fathers in the period immediately before and after a birth. Other data sets track this information for mothers only (e.g., the National Longitudinal Surveys) or at the time of the survey only (e.g., the Current Population Survey).

RESULTS

The share of new parents with some rights to job-protected parental leaves increased markedly over the period we analyzed. Figure 1 shows the share of new mothers and fathers with any coverage and the mean number of weeks to which new parents were entitled (with this variable set to 0 for those not entitled to any leave weeks), under our two methods: Method 1, taking the type and size of firms into account, and Method 2, taking working hours, as well as the type and size of firms, into account. Under both methods, the shares covered and mean leave weeks increase substantially over the period. Using Method 2 reduces the share of new mothers who are covered and their mean leave weeks, but has little effect on these measures for men (who are more likely to meet the hours requirements).

Regression Results for Women

To test whether these increases in leave coverage had any effect on new mothers' leave taking, we estimated a series of probit models for leave taking in the birth month, in which we controlled both for individual characteristics that prior research found to be associated with leave taking and for leave weeks (i.e., the number of weeks of leave for which the woman was eligible under state or federal law at the time of the birth), as follows:

$$\begin{aligned} \mathrm{P}(LT) = F(&\beta_0 + \beta_1 \mathrm{age} + \beta_2 \mathrm{ed4} + \beta_3 \mathrm{ed3} + \beta_4 \mathrm{ed2} + \beta_5 \mathrm{kidsu18} + \beta_6 \mathrm{black} \\ &+ \beta_7 \mathrm{Hispanic} + \beta_8 \mathrm{leave\ weeks}), \end{aligned} \tag{1}$$

where $LT = 1$ if on leave during the month of the birth, 0 otherwise; age = age (in years) of the mother; ed4 = 1 if college degree or higher, 0 otherwise; ed3 = 1 if some college only, 0 otherwise; ed2 = 1 if high school only, 0 otherwise; kidsu18 = number of children under age 18; black = 1 if African American, 0 otherwise; Hispanic = 1 if Hispanic origin; 0 otherwise; and leave weeks = the maximum number of weeks of job-protected leave for which the woman was eligible under state or federal law at the time of the birth. We estimated a similar model for the probability of being on leave in the first three months after the birth.

To examine lengths of leaves, we estimated models for the total number of weeks of unpaid leave taken during the birth month and during the first three months after the birth. We estimated these models using ordinary least squares and controlled for the variables shown in Eq. (1).

In these models, the key independent variable is the measure of leave weeks. A positive coefficient on the leave-weeks variable indicates that all else being equal, leave taking

Figure 1. Parental-Leave Coverage of Recent Mothers and Fathers, 1991–1999

increased when the number of weeks of job-protected leave provided under state or federal law increased. We were concerned, however, that leave taking may have increased over time for reasons other than the passage of the laws. For this reason, we included a set of controls for year in all our models. A further concern was that an association between state leave statutes and leave taking may reflect not the effect of the laws themselves but, rather, the effect of other state characteristics associated with the laws. For this reason, we estimated a second set of models in which we added a set of dummy variables for state. These dummy variables controlled for any characteristics of states that are fixed over time, although they did not capture changes in states that occurred over time.

The top portion of Table 1 shows the marginal effects of leave weeks from the probit models for leave taking in the birth month and in the first three months after the birth for

Table 1. Effects of Leave Weeks Provided Under State and Federal Laws on Unpaid Leave Taking and Leave Lengths by Recent Mothers (N = 3,803)

	Any Unpaid Leave Taking in the Birth Month		Any Unpaid Leave Taking in First Three Months	
A. Leave Taking	(1)	(2)	(3)	(4)
Number of Leave Weeks, Method 1	0.3549**	0.1286	0.6159**	0.4251**
	(0.1226)	(0.1409)	(0.1351)	(0.1559)
Number of Leave Weeks, Method 2	0.1137	–0.1848	0.3716**	0.1560
	(0.1232)	(0.1448)	(0.1354)	(0.1588)
Year Effects?	Yes	Yes	Yes	Yes
State Fixed Effects?	No	Yes	No	Yes
	Number of Weeks of Unpaid Leave in the Birth Month		Number of Weeks of Unpaid Leave in First Three Months	
B. Leave Lengths	(1)	(2)	(3)	(4)
Number of Leave Weeks, Method 1	1.8529**	0.8230	7.0054**	4.3689**
	(0.4578)	(0.5117)	(1.0814)	(1.2156)
Number of Leave Weeks, Method 2	1.0074*	–0.1792	4.7143**	1.7009
	(0.4660)	(0.5181)	(1.2344)	(1.2354)
Year Effects?	Yes	Yes	Yes	Yes
State Fixed Effects?	No	Yes	No	Yes

Notes: In the leave-taking models, marginal effects are from probit models. In the leave-length models, coefficients are from OLS models. Standard errors are in parentheses and are adjusted for clustering. Models control for a mother's age, education (i.e., high school degree, some college, or college plus, with high school dropout as the reference group), racial/ethnic group (i.e., non-Hispanic black, Hispanic, with white as the reference group), whether she is married, and the number of children she has. Under Method 1, the number of leave weeks is defined taking the size and type of the firm into account; under Method 2, the number of leave weeks is defined taking working hours, as well as the size and type of firm, into account.

*$p < .05$; **$p < .01$

mothers (full results available from the authors on request). For each dependent variable, we show the results of two sets of models (the first controlling for individual characteristics and year effects, and the second controlling also for state fixed effects) and for two different methods of defining leave weeks (the first taking only the size and type of firm into account, and the second also taking working hours into account).

Looking first at the results for Method 1, we found a significant positive effect of leave weeks on the probability that a mother would take a leave in the first month when we did not control for state fixed effects (column 1) and larger effects on the probability that she would take a leave in the first three months (columns 3 and 4). However, when we refined the definition of leave weeks to limit eligibility to women who met the working-hours requirements, we found a significant effect of leave weeks only in column 3. This finding suggests that women who work in covered firms but do not meet the working-hours requirements have the strongest response to additional weeks of eligible leave. This result makes sense if these women are nevertheless offered coverage by their employers and are more likely to take unpaid leave than are other new mothers in their firms (either because they are more willing to take unpaid leave or because they are less likely to have access to paid leave). We could not establish this possibility in our data, but it is an intriguing conjecture.

Table 2. Effects of Leave Weeks Provided Under State and Federal Laws on Unpaid Leave Taking by New Fathers (N = 4,745)

	Any Unpaid Leave Taking in the Birth Month		Any Unpaid Leave Taking in First Three Months	
A. Leave Taking	(1)	(2)	(3)	(4)
Number of Leave-Weeks, Method 1	0.0479†	0.0579†	0.0603	0.0517
	(0.0284)	(0.0319)	(0.0390)	(0.0385)
Number of Leave-Weeks, Method 2	0.0286	0.0340	0.0422	0.0308
	(0.0292)	(0.0325)	(0.0397)	(0.0389)
Year Effects?	Yes	Yes	Yes	Yes
State Fixed Effects?	No	Yes	No	Yes
	Number of Weeks of Unpaid Leave in the Birth Month		Number of Weeks of Unpaid Leave in First Three Months	
B. Leave Lengths	(1)	(2)	(3)	(4)
Number of Leave Weeks, Method 1	0.1029	0.1192	0.1399	0.0898
	(0.0944)	(0.0984)	(0.2200)	(0.2304)
Number of Leave Weeks, Method 2	0.0379	0.0488	0.0886	0.0305
	(0.0945)	(0.0982)	(0.2205)	(0.2311)
Year Effects?	Yes	Yes	Yes	Yes
State Fixed Effects?	No	Yes	No	Yes

Notes: In the leave-taking models, marginal effects are from probit models. In the leave-length models, coefficients are from OLS models. Standard errors are in parentheses and are adjusted for clustering. Models control for a mother's age, education (i.e., high school degree, some college, or college plus, with high school drop as the reference group), racial/ethnic group (i.e., non-Hispanic black, Hispanic, with white as the reference group), whether she is married, and the number of children she has. See the notes to Table 1 for definitions of leave weeks under Methods 1 and 2.

† $p < .10$

Turning to the results for leave lengths, which are shown in the bottom portion of Table 1, again we found larger effects when leave weeks were assigned using Method 1, suggesting that women who do not meet the hours requirements are more responsive to additional weeks of leave. The results also suggest that a good part of the estimated effect of leave weeks has to do with unobserved differences among states because the effects are diminished in columns 2 and 4 when we controlled for state fixed effects. Indeed, the results in columns 2 and 4 indicate that there are no significant effects of leave weeks on the lengths of unpaid leaves after state fixed effects are controlled for and eligibility is limited to women who meet the working-hours requirements.

Regression Results for Men

We now turn to the question of whether and how leave laws may have affected unpaid leave taking and the total amount of leave taken by fathers. We summarize the marginal effects of leave weeks on men's leave taking and leave lengths in Table 2 (full results available on request). The effects are generally weak. When we defined leave weeks to take into account the type and size of firms but not working hours (Method 1), we found marginally significant effects of leave weeks on leave taking in the birth month (columns 1 and 2). We did not find any significant effects on leave taking in the first three months or on leave lengths in the birth month or first three months in any of our models for men.

Thus, our data provide little evidence that laws that grant additional weeks of leave to new fathers have had any effect on fathers' unpaid leave taking or leave lengths.

CONCLUSIONS

We set out to answer two questions in this article: whether state parental leave laws and the FMLA were associated with increased leave taking by new mothers and fathers and whether these laws were associated with longer leave lengths. Using data from the SIPP, we tracked mothers and fathers in the months after the birth of their children and estimated a series of regression models to analyze whether weeks of parental leave provided under state and federal laws had an effect on whether new parents used leave and how many weeks of leave they took. Our focus was on unpaid leave. Unpaid leave is of particular interest, given that the FMLA and state leave laws provide unpaid leave only and that half or more of all leaves taken by new parents historically have been unpaid. And practically speaking, we could not observe paid leaves in our data.

Our results for men indicate that the FMLA and state leave laws have not been associated with more leave taking or longer leaves by recent fathers. There is little or no indication in our data that more fathers take leaves or that they take longer leaves when they are entitled to more weeks of leave. As we noted earlier, however, we were unable to track *paid* leave. Thus, whether state leave laws or the FMLA have had an impact on overall leave taking by recent fathers remains an open question. Also, it may take some time for laws to have an impact on fathers' behavior (this has been the experience in such countries as Sweden).

Our results for women are mixed. In some specifications, we found evidence that a higher number of weeks of leave provided under state or federal law is associated with increased leave taking or with longer periods of leave. These effects, when found, are stronger in the first three months after the birth than in the birth month alone, suggesting that women may be on paid leave (e.g., sick leave or vacation leave) in the month of the birth and that the laws providing unpaid leave may play more of a role in the succeeding months.

The magnitude and precision of the effects for women, however, depend on how we defined leave coverage. It is surprising that we found weaker effects when we assigned leave weeks only to women who met the working-hours requirements, suggesting that women who do not meet these requirements are more responsive to increases in leave weeks. Our results are also sensitive to the inclusion of controls for state fixed effects, suggesting that at least part of the estimated effect of maternity-leave entitlements is due to other differences among the states. Indeed, when we accounted for working hours in defining leave weeks and controlled for state fixed effects, we found no significant effects of leave weeks on women's leave taking or the lengths of their leaves.

Why did we not find stronger effects of the FMLA and state leave laws on parents' use of leaves? One possibility is that it is simply too soon to detect the effects of these laws on parents' leave taking or that our estimates were hampered by measurement problems. However, our data extend far enough and are measured precisely enough that if there were large effects of these laws on unpaid leave taking, we would have been able to detect them. A more likely possibility is that what our data indicate is the limited impact of unpaid leave policies. Parents may be unwilling or unable to take substantially more unpaid leave when a new child is born, even when they are given the right to do so. Surveys have found that financial pressures were an important reason for employees either not to take leave or to take less leave than they felt they needed (Cantor et al. 1995, 2001; Waldfogel 2001). These results, then, have important implications. If unpaid leave is not a viable option for a sizable number of families with newborns, then the United States will have to move forward with policies that provide paid leave if parents are to have real choices about spending more time at home in the first few months of their children's lives.

Appendix Table A1. States With Laws Mandating Job-Protected Maternity or Paternity Leave for Workers Before Passage of FMLA in 1993

State	Effective Date	Firm Type/Size	Number of Weeks Provided	Tenure and Work Requirement
Alaska	September 1992	State employees only	18	35 hrs./week for 6 months (or equivalent)
California	January 1980[a]	Firms w/5+ employees	13	None
	January 1992	Firms w/50+ employees	13	12 months (no minimum hours)
Connecticut	January 1973[a]	Firms w/3+ employees	—[b]	None
	July 1990	Firms w/75+ employees	12	1,000 hrs. during the past 12 months
District of Columbia	April 1991	Firms w/50+ employees	16	1,000 hrs. during the past 12 months
Georgia	January 1993	State employees only	12	None
Hawaii	July 1992	State employees only	4	Full-time for 6 months
Maine	April 1988[a]	Firms w/25+ employees	10	12 months (no minimum hrs.)
	October 1991	Firms w/25+ employees	10	12 months (no minimum hrs.)
Massachusetts	October 1972[a]	Firms w/6+ employees	8	Full-time for 3 months
Minnesota	July 1987	Firms w/21+ employees	6	20 hrs./week for 12 months
New Jersey	April 1990	Firms w/50+ employees	12	1,000 hrs. during the past 12 months
North Carolina	February 1988[a]	State employees only	—[b]	None
North Dakota	January 1990	State employees only	17	Full-time: 1,040 hrs. in the past 12 months
Oklahoma	August 1989	State employees only	12	6 months
Oregon	January 1988	Firms w/25+ employees	12	90 days (no minimum hrs.)
Rhode Island	July 1987	Firms w/50+ employees	13	30 hrs./week for 12 months
Tennessee	January 1988[a]	Firms w/100+ employees	17	Full-time for 12 months
Vermont	July 1992	Firms w/10+ employees	12	30 hrs./week for 12 months
Virginia	July 1991	State employees only	6	None
Washington	October 1973[a]	Firms w/8+ employees	—[b]	None
	September 1989	Firms w/100+ employees	12	35 hrs./week for 12 months
West Virginia	July 1989	State employees only	12	None
Wisconsin	April 1988	Firms w/50+ employees	6	1,000 hrs. during the past 12 months

Sources: Waldfogel (1999a); Women's Legal Defence Fund (1993).

[a]The law covered maternity only—not paternity leave.

[b]The law did not specify a leave length covering the period that a worker was physically disabled (usually 6 weeks).

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