THE ISSUE AT HAND

There is a great state of unrest for women in the United States vying for representation, equality, and their inherent rights. One of the problems remaining even in the year 2016 is the nonexistent mandate of a nationwide requirement for companies and businesses alike to provide a mandatory paid maternity leave. In examining the issue of the currently nonexistent mandate for paid maternity leave, there are evidently a number of adjustments of the current Family and Medical Leave Act (FMLA) law, which was implemented in the early 90s, needed to directly and correctly address the health and financial benefits paid maternity leave would provide new mothers. The general policy of the FMLA pertains to both men and women with childbirth being only one of the many ailments covered underneath it. The current Act allows for “twelve workweeks of leave in a 12-month period for: the birth of a child and to care for the newborn child within one year of birth; the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement.” The FMLA is outdated in its more than 20 years of existence. Since its implementation households have only continued to become more gender equal in terms of both the man and woman (in a heterosexual household) having more equalized power in the relationship as well as a greater balance in terms of their work schedules. The FMLA does not cover many women, due to its requirements for the employee to be working 1,250 hours in a year and have worked for their current employer at least 12 months, provided that the employer is covered by the FMLA. In fact, only 60% of women in the workforce have access to the unpaid leave offered through the FMLA, which leaves 40% having to rely on other means or even having to resign so that they can give proper care to their child and themselves. The U.S. Department of Labor states that in 2012 approx. 70% of women with children under 18 worked outside the home and that 40% are the sole or primary breadwinner for their household (shown in graph).
These percentages are only going to increase in these times of growing equality, meaning women need to have fair treatment. In their desire to have children, they should be free of restrictions that would inhibit their position in the workforce. When examining commonalities of countries in the Organization for Economic Cooperation and Development (OECD), an organization of 35 democratic countries all with market economies, every country except the United States has a national policy protecting the paid leave of a woman taking time off of work for maternity purposes. The OECD, composed of industrialized and progressive countries such as the United Kingdom, Canada, Australia, and Germany, all offer statutory entitlement to paid maternity leave as a national mandate.

U.S. governmental procedures must adjust for the social climate changes of workforce gender equality, with the current FMLA only working in a discriminatory way. Due to the FMLA’s nature of creating stress for women trying to have children, as well as having a limited
application to only a fraction of women in the U.S. workforce, there needs to be a newly created national law for accessible maternity leave with mandatory pay.

**THE DETRIMENTS SURROUNDING THE ISSUE**

**Health of Mother and Child**

While the current allowance of 12 weeks of unpaid maternity leave is a relatively appropriate amount of time for the health of and relationship between the mother and her newborn, a large percentage of working women do not get a full 12 weeks for caring for their child. In the creation of the Family and Medical Leave Act of 1993, which in its gender neutrality is both equal and problematic, “the medical viewpoint regarding the duration of leave as it affects the mother’s recovery from childbirth did not enter into the main discussions of the bill”.\(^{10}\) Since the leave is unpaid and a fraction of working new mothers are not even under the parameters to receive leave exclusively for childbirth, a large percentage of women must shorten their leave and/or use their vacation days and sick leave allowances.\(^{11}\) Those 12 weeks are a vital time for the newborn’s care, which means the mother (in most cases) needs to spend as much time as possible with their new child. It is medically and psychologically well known that “understanding the mutual interaction of caregiver and infant is an important factor in children’s survival and well-being”.\(^{12}\) Over-arching requirements to return to the workforce to ensure job security can also interfere with breastfeeding plans, a major health benefit for the child as it stimulates positive neurological and psycho-social development, and strengthens a child’s immune system.\(^{13}\)

Upon focusing on the health of the mother, it can take more than the average six-week period to recover from childbirth; a number of longitudinal studies have shown that lasting physical discomforts can occur for many weeks and months post-birth.\(^{14}\) For some new mothers, the health side affects are not only physical. Similar to the health risks for children in their emotional development with mother, separation from child results in a greater likelihood of postpartum depression and stress.\(^{15}\) A large number of studies have shown that longer maternity leaves result in less likelihood of these mental health issues. In a study examining rates of postpartum depression in relation to leave policies, the mental health values for women returning to work after only six weeks of leave were significantly lower than those staying on leave.\(^ {16}\)
The study supported other research that leave duration has a significant nonlinear relationship with postpartum symptoms and found specifically that taking additional leave days of up to six months post childbirth can decrease these symptoms.\textsuperscript{18} While 12 weeks may be the current allotted time, it might not be sufficient enough for all women having experienced childbirth, needing to care for their child, and also wanting to keep their employment.

It should be known that in the creation of the FMLA law, there was a larger tendency prior to its implementation for more women to quit their pre-childbirth employment and find new employment after childbirth recovery as to allow for greater leave time to care for the child.\textsuperscript{19} The passage of the FMLA actually created greater pressure for women to return to work in less time, since their employment would now be ensured.

**Economic Limitations and Strains**

Raising a child is expensive to say the least, even without daycare costs. According to the U.S. Department of Agriculture, new parents spend on average about $190 a month on baby clothes, diapers, food, and other items for their babies.\textsuperscript{20} This cost is only added onto and budgets are pushed to expand when women must go back to work and put their young child in daycare, a reality that both couples and single parent households are being forced to struggle with. These new mothers must decide between lost paychecks while spending time with their child, or going back to work only to be burdened with even more expenses from daycares.\textsuperscript{21}
A brief of “Eleven Facts About American Families and Work” issued in October 2014 from Obama’s administration states that both parents are working in more than 6 out of every 10 households with children while affordable child care has become even more difficult to find, having steadily increased in the last 25 years. The cost to raise a family is becoming a greater strain on parents trying to make ends meet, especially for mothers trying to keep their employment yet having to pay even greater expenses for someone else to care for their child. It was calculated that for a child born in 2013, the average amount of money needed to raise a child to age 18 would cost a total of $245,000 for a middle-income family. With this growing number for childcare costs, the increasing number of women bringing in part of the family income is becoming a necessary source for funds. While this is becoming a widely known issue, paid maternity leave is still not a reality for all working women in the U.S.; it is still something being fought for. It is shown in the minority of flexible-policy workplaces that having flexibility in employment strengthens families, business, and the economy, since these policies attract and retain talent. Research shows that paid leave increases employee morale and has only had positive effects on workplace productivity, as well as additionally showing likely economy-wide benefits due to increased labor force participation.
THE UNFITTING FMLA AND THE SOLUTION NEEDED

While the FMLA guarantees unpaid leave, it only covers about 60 percent of workers, which means it covers an even smaller percentage of women specifically needing the FMLA coverage for maternity leave. To find the solution to this issue of women needing a mandated paid maternity leave in the United States, there must be a law set in place that acts as an updated and adjusted FMLA for women, in which women’s pregnancy and child care requirements are specifically addressed. Many bills have been propositioned for mandatory paid maternity leave, such as the federally introduced Family and Medical Insurance Leave (FAMILY) Act and the Family and Medical Leave Inclusion Act. While these acts would provide partially paid leave to workers needing to take time off from work to care for a family member, there needs to be a government mandate focusing exclusively on the needs of parental leave for a mother who has gone through childbirth and thus medically requires time for physical recovery, mental wellbeing, and bonding time with baby. While the FMLA is successful in remaining gender neutral, thus providing equality, with the employee receiving unpaid leave whether father or mother to the child, there needs to be a policy focusing upon the pregnancy precautions and childbirth recovery of the woman. Currently, no governmental law has focused exclusively on these issues of the growing population of working women. By grouping women who have gone through pregnancy and childbirth in an all-encompassing law where their need for leave is held equal to other employees who may only need to care for an ill relative and not themselves as
well, a great injustice is being continued. Women who have gone through childbirth and need to have the proper amount of time to care and interact with their newborn child also have mental, physical, and emotional needs of their own during the process of recovery. They are not only caring for a baby, but also recuperating themselves.

The standard twelve-week period of leave would be kept in the newly created law, but the woman taking leave will be given an appropriate percentage of their normal salary for the time they are away recuperating and caring for their child. These twelve weeks of paid leave will be ensured for all women who are in the workforce. Additionally, an extra four-week period of paid leave added onto the original twelve-week period will be available for application if a woman has had birth complications or if the newborn has developmental issues. For the business/company that states that they cannot afford the payment of their worker’s employment during the period of leave (if an employee is requesting such leave), they will have to file a form with the Wage and Hour Division (WHD) of the U.S. Department of Labor, which is the governmental department that handles the FMLA. For the cases in which the employer of a woman requesting paid maternity leave cannot handle the payment of the fractioned salary and if the form is approved by the WHD, a budgeted governmental fund will be created to be the source of paid leave salary for these circumstances. For this solution to work and successfully help ALL women in the U.S. who can benefit from paid maternity leave, part of the new law would require the establishment of a new committee of the WHD of the U.S. Dept. of Labor designated specifically to help secure the implementation for the mandatory paid maternity leave law.

In a modern society in which women are free to have both a career and raise children, there must be governmental action taken to ensure that women are able to choose both having a career and raising a family, not sacrificing one or the other. In the past and even in the present, women’s place in the workforce has been limited due to motherhood being viewed as a liability. For there to be equal treatment of men and women, women must be allowed their inherent right to motherhood without having to rush back to work. Wanting to care for one’s child for a number of months during a developmentally sensitive time period does not have a correlation to a woman’s worthiness to remain in the workforce. The creation of this law ensuring employment security and paid leave for women having gone through childbirth should not be viewed as an economic strain on the American economy, nor a burden to employers. Placing importance on an
increasing percentage of the American workforce is a contingency to women having their place in the workforce valued and held at the same importance of men’s place in the workforce. This creation of a new federal governmental law to create mandatory paid maternity leave would not be giving special treatment. It would be in accordance with the needed universal understanding that women should not be restricted in their inherent right to being a mother while also being able to allot the necessary time to provide for said child and recuperate from the physical toll of childbirth, while also having job security.

2 Ibid.
6 Ibid.
7 Key Characteristics of Parental Leave Systems. N.p.: OECD Family Database, 28 Feb. 2016. PDF.
8 Ibid.
9 Ibid.
15 Gault, Barbara, Ph.D, Heide Hartmann, Ph.D, Ariane Hegewisch, Jessica Milli, Ph.D, and Lindsey Reichlin, M.A. Paid Parental Leave in the United States: What the Data Tell Us about
Access, Usage, and Economic and Health Benefits. N.p.: Institute for Women's Policy Research, Jan. 2014. PDF.


17 Ibid.

18 Ibid.

19 Ibid.


21 Ibid.


23 Ibid.


26 Ibid.


29 Ibid.