

Expanded Job Protection Improves Racial and Socioeconomic Equity of Parental Leave Access

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Paid family and medical leave has important health benefits for parents and their children, but access to job-protected leave is limited and highly uneven in the United States. Increasingly, state and local governments have established policies such as paid leave to support parents and other caregivers. While these policies have been crucial in enabling more workers to take leave, their effects have been weakened due to only partial coverage of job protection laws. Among one sample of California workers who declined to take paid family leave when needed, 24% percent said they were afraid of being fired.² Lack of job protection is particularly common among parents of color, as they are disproportionately likely to work for smaller firms excluded from current job protection laws. In this brief we report our analysis of a 2016-17 survey of new California Bay Area mothers to estimate the proportion of those new parents working in the private sector who have parental bonding leave job protection under current law, and who could benefit from potential future expansions of job protection laws.

Our key findings are that while 70% of non-Hispanic white parents are job protected, only 58% of non-Hispanic Black parents and 54% of Hispanic parents working in the Bay Area private sector are currently protected. Extending job protection to all private firms regardless of employment size would reduce these disparities, increasing those with job protection to 73% for non-Hispanic Black parents and 71% for Hispanic parents. Disparities would be fully closed by further extending laws to cover all working parents including newer and part-time workers currently excluded from job protection.

Job Protection Laws in California

The federal Family and Medical Leave Act of 1993 (FMLA) was a major milestone in job protection, allowing eligible employees up to 12 weeks of unpaid leave per year, and entitling them to return to their same or an equivalent job. The FMLA, however, did not cover private employers with fewer than 50 employees (within a 75 mile radius). FMLA also excluded newer employees having worked for the employer for fewer than 12 months (thus ignoring work experience with prior employers), and part-time workers having worked for that employer fewer than 1,250 hours in the prior year (equivalent to approximately 24 hours per week).

The California Family Rights Act (CFRA) similarly provides job protection in California, but with the same essential exclusions as the FMLA. For example, although California's Paid Family Leave (PFL) program provides leave with pay for virtually all private sector employees, financed through a payroll tax, employees at smaller firms could be fired for taking that paid leave. In 2018, California's New Parent Leave Act (NPLA) went into effect, which reduced the firm size threshold to 20 employees for eligible workers taking leave to bond with a new child (but not for other forms of leave). A proposed new expansion (under California SB 1383 as amended in June 2020) would expand PFL job protection to workers at firms with at least 5 employees.

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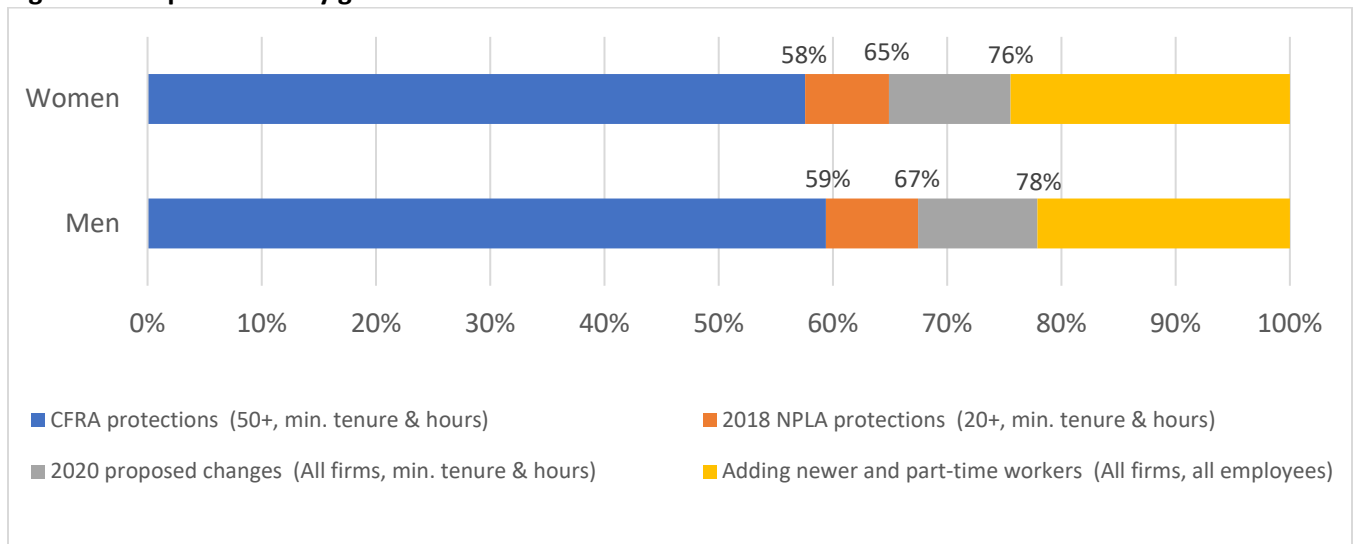
² Appelbaum E, Milkman R. Leaves That Pay: Employer and Workers Experiences with Paid Family Leave in California. Washington, DC: Center for Economic and Policy Research, 2011.

Analyzing Who is Left Behind by Job Protection Laws

To understand who gains job protection from these different laws, we examined the employment characteristics of a random sample³ of San Francisco Bay Area mothers employed in the private sector who gave birth in 2016 or 2017. We also examined the job characteristics of their partners employed in the private sector. Using self-reported data on employer size, job tenure, and average weekly hours worked during the most recent pregnancy, we estimated the proportion of Bay Area private-sector employed parents who would have job protection for parental leave under each of the following policy scenarios:

1. California Family Rights Act (CFRA): employer has 50 or more employees, worker has been employed for at least 1 year and at least 24 hours/week.
2. New Parent Leave Act of 2018 (NPLA): employer has 20 or more employees, worker has been employed for at least 1 year and at least 24 hours/week.
3. 2020 proposed change: employer has 2 or more employees⁴, worker has been employed for at least 1 year and at least 24 hours/week.
4. Adding newer and part-time workers: all employees covered regardless of employer size, job tenure, or hours per week.

Figure 1. Job protection by gender



Source: Bay Area Parental Leave Survey of Mothers – 2016 & 2017

Notes: CFRA=California Family Rights Act; NPLA=New Parent Leave Act. To meet minimum tenure and hours requirements, employees must have worked for their employer for at least one year and at least 1,250 hours in the past year.

Overall, men and women employed in private-sector jobs have similar access to job protection for parental leave, and roughly the same proportion (about one in ten) would gain job protection under the 2020 proposed

³ For sample details see Goodman, J., H. Elser, and W. Dow. “Among Low-Income Women in San Francisco, Low Awareness of Paid Parental Leave Benefits Inhibits Take Up.” Health Affairs, July 2020.

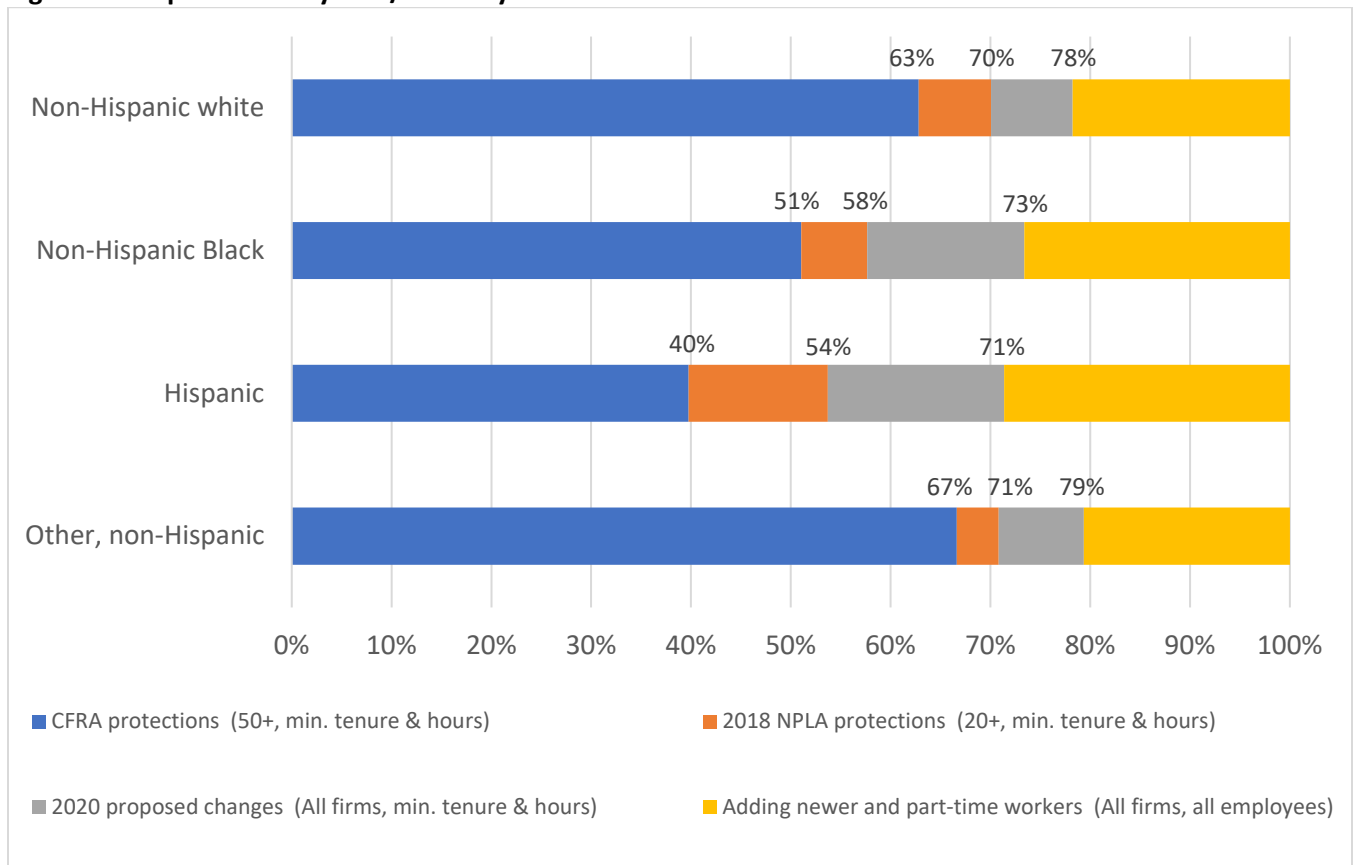
<https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2020.00157>. Further related results are found at:

<https://www.populationsciences.berkeley.edu/PPLO>

⁴ State Bill 1383 as amended in June 2020 would cover employers with 5 or more employees. Our survey is not able to differentiate firms with 5-19 employees versus those with 2-4 employees, thus we present estimates based on an earlier version of the bill which would cover all employers with 2 or more employees. Our survey was also unable to operationalize the “75 mile” exception, and is thus based on the employer’s total employment regardless of location.

changes (Figure 1). Twenty-two percent of men and 24% of women would remain unprotected due to not meeting minimum job tenure or hours requirements.

Figure 2. Job protection by race/ethnicity



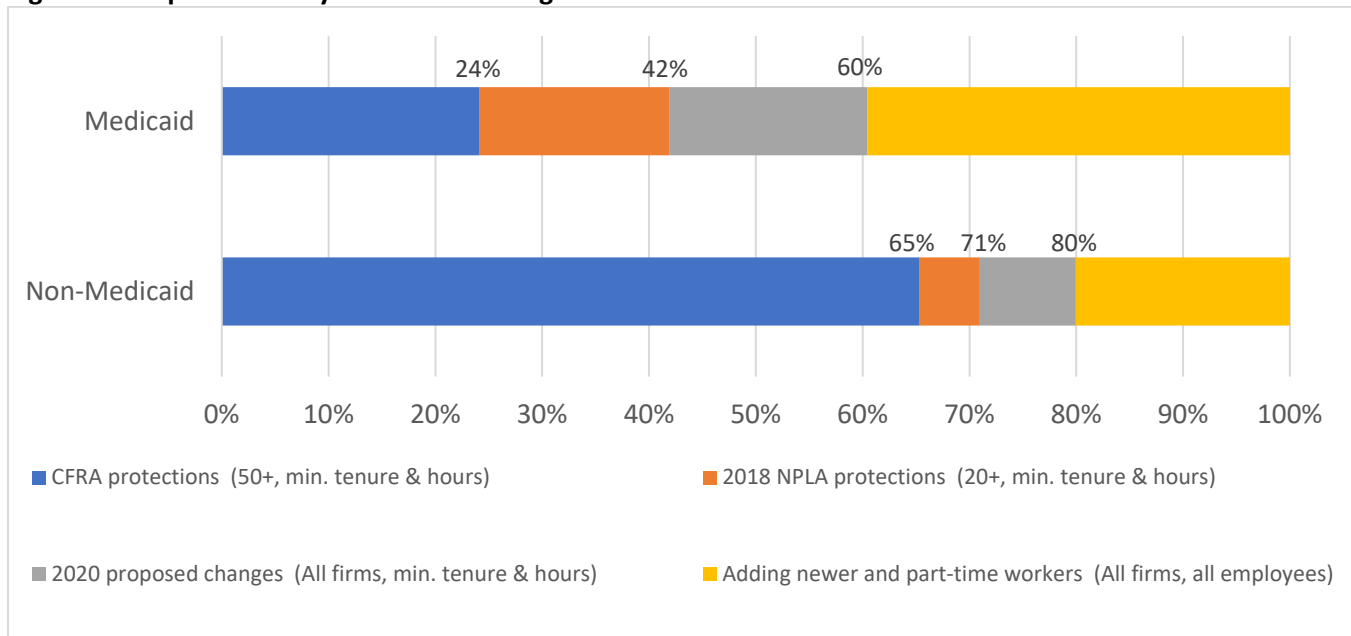
Source: Bay Area Parental Leave Survey of Mothers – 2016 & 2017

Notes: CFRA=California Family Rights Act; NPLA=New Parent Leave Act. Other, non-Hispanic includes non-Hispanic Asian, American Indian/Alaska Native, and respondents who reported “other.” To meet minimum tenure and hours requirements, employees must have worked for their employer for at least one year and at least 1,250 hours in the past year.

Key Result 1: Parents of Color Disproportionately Lack Job Protection, Especially Black Mothers

Under current (2018 NPLA) protections, non-Hispanic Black and Hispanic parents are the least likely to have job protection for parental leave – only 58% and 54%, respectively, currently have job protection. The 2020 proposed changes would bring their levels of job protection closer to non-Hispanic white and other groups. Even with the 2020 proposed expansion to all employers though, 29% of Hispanic parents, 27% of non-Hispanic Black parents, 22% of non-Hispanic white parents, and 21% of other non-Hispanic parents would still lack job protection for parental leave.

Figure 3. Job protection by Medicaid coverage



Source: Bay Area Parental Leave Survey of Mothers – 2016 & 2017

Notes: CFRA=California Family Rights Act; NPLA=New Parent Leave Act. To meet minimum tenure and hours requirements, employees must have worked for their employer for at least one year and at least 1,250 hours in the past year.

Key result 2: Low-Income Working Parents Disproportionately Lack Job Protection

Lower-income parents, as proxied by whether the mother was covered by Medicaid (Medi-Cal) during pregnancy, are far less likely to have job protection than higher income workers under all policy scenarios (Figure 3). Currently, just 42% of Medicaid-covered workers have job protected leave, compared to 71% of higher income workers. While the 2020 proposed expansion to all firms would substantially close the gap by Medicaid status, 40% of Medicaid-covered parents would still lack job protection due to the failure of policies to cover newer and part-time workers. The state invests substantial resources to insure the health of families on Medicaid, which makes it especially surprising to see this disparity in their job protected leave—protection that is an essential component of the social determinants of health.

Conclusions

Expanding job protection to workers at smaller firms has significantly decreased racial and socioeconomic disparities in effective access to parental leave. Large disparities remain, however, due to remaining lack of job protection for workers in firms with fewer than 20 employees, and especially those in newer jobs or working part-time. These omissions disproportionately disadvantage workers of color and lower-income workers.