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What's in Biden paid leave plan and how it would work

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President Joe Biden unveiled his proposal for federally mandated paid parent, family, and personal illness leave as part of his second massive infrastructure package, estimated to total about \$1.8 trillion.

Biden's paid leave proposal in the American Families Plan would cost about \$225 billion over 10 years and would be paid for via tax increases for the wealthy. The program would guarantee 12 weeks of paid leave by the end of that 10 years for people to care for a new child or relative, deal with a loved one's military deployment, find safety from sexual assault, stalking, or domestic violence, heal from their own serious illness, or take time to deal with the death of a loved one. Details about the proposal are scarce. It does not say how many weeks workers will be guaranteed immediately or during each year before the 10-year mark. It also does not include an explanation of how funding for the program would be disbursed.

Biden's proposal would also provide three days of bereavement leave annually.

"If I were writing the legislation, it would be 12 weeks from day one because that's what people need," C. Nicole Mason, CEO of the Institute for Women's Policy Research, told the *Washington Examiner*.

Paid leave advocates like Mason have argued the United States needs a sweeping federal program. Biden's proposal aims to encourage women, who are often their household's primary caregivers for children and other relatives, to rejoin the workforce. Roughly 30% of working women leave the labor force when they have a child, according to American University economists. The plan also targets low-wage earners because they are less likely to take a leave of absence from their jobs due to financial hardships. The wage replacement rate in Biden's plan is meant to incentivize workers without the benefit through their jobs to take time off when they need it.

Biden's proposal would allow workers to recoup between 66% and 80% of their wages, up to \$4,000 per month. The wage replacement offering is more generous than in other pieces of legislation, such as the FAMILY Act first introduced by Democratic Sen. Kirsten Gillibrand in 2013 and every two years since. In it, Gillibrand proposed capping the wage replacement at 66%.

“In the long term, [Biden’s paid leave proposal] is a more robust, comprehensive plan,” Mason said.

The U.S. is the only industrialized nation not to have a federally mandated paid leave program, according to data from the Organisation for Economic Co-operation and Development, which compared the U.S. with 41 other countries. Instead, the U.S. has a patchwork of paid leave policies supported by employers, not the federal government. A lack of uniform policies means that data on access to and use of paid leave offered by states is difficult to access and is not nationally representative, according to paid leave experts at the Brookings Institution. Estimates of the share of the U.S. labor force with paid leave benefits vary. Pew Research Center, for instance, estimated in March 2020 that 76% of workers have access to paid leave benefits. The Bureau of Labor Statistics, however, estimated in 2019 that only 19% of workers had access to the benefit. Economists argue that this figure is too low, as it doesn’t take into account workers who can take paid leave through their employer without there being a benefit program.

Conservative economists, meanwhile, argue that state governments should have the power to resist enacting a paid leave program. So far, nine states and the District of Columbia have passed paid leave policies. Unlike Biden’s plan, state plans are funded by payroll taxes. Each state allows workers to recoup a fraction of their wages for paid time off, ranging from four to 12 weeks, depending on the state. New Jersey has extended its wage replacement rate beyond what Biden is proposing — to 85% for a maximum 12 weeks off.

“There’s absolutely no reason for the federal government to get involved with this ... We should let the states go their own way,” said Chris Edwards, director of tax policy studies at the libertarian Cato Institute. “States that want to do this are doing it.”

The Biden plan doesn’t go into specifics about how paid leave benefits would be passed down to employees. Unlike Gillibrand’s FAMILY Act, which proposed a payroll tax of about \$4 per week split between employers and their employees, the Biden administration proposes a federal program that would be funded by tax increases on the highest earners.

“The feds would say, ‘We’ll give you some cash for it, but you have to chip in some cash also, and you have to follow the federal rules ... we impose,’” Edwards added. “Constitutionally, the feds can’t just demand that states create paid leave programs. They have to bribe them into it with cash.”

Biden’s American Families Plan, valued at roughly \$1.8 trillion, came on the heels of his first \$2 trillion infrastructure package presented about a month ago. The administration’s objective is to help support low-wage workers, but Veronique de Rugy of the Libertarian think tank the Mercatus Center warned Biden’s proposals would have the opposite effect.

“If you account for the fact that, at some point, it’s a trade-off between the benefit and your wages, a lot of low-income people would rather have the money now rather than the benefit,” de Rugy said. “The way to get companies to be able to cater more to [low-wage workers] is to actually allow a much more contractual relationship between employee and employer.”

The White House did not respond to requests for more information about the benefit.

Republicans have bristled at the idea of mandating that all private sector employers adhere to a government program. GOP Sens. Joni Ernst and Mike Lee, representing Iowa and Utah respectively, proposed their own paid leave plan, the CRADLE Act, in 2019. In it, they lay out a budget-neutral plan that would allow employees to take one to three months of paid leave by tapping into their Social Security savings, thus delaying their retirement.

In order for Biden to get his plan approved in Congress, Democrats will need to recruit 10 Republicans or go through the budget reconciliation process that requires a simple majority, with Vice President Kamala Harris casting the tiebreaking vote. Mason said the greatest sticking point for Republicans will be the wage replacement rate, suggesting that Democrats will have to strike a compromise with the other side.

“I think not starting it from on day one is already a compromise ... So it just feels like 'hurry up and wait,’” she said.

Still, she added that passing a federal program like this one would “define” Biden’s presidency and “completely transform American society, work for society, and for the better.”