

Policy Options for Closing the Gender Wage Gap

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Summary

- In the United States in 2013, full-time, year-round female workers earned 78 cents for every dollar that male workers earned, creating a “wage gap” between men and women’s incomes. In Missouri, the gap in 2013 was equal to the national rate of 78 percent. This disparity has been created by many complex factors, but a gender wage gap persists across all ages, racial or ethnic groups, and levels of educational attainment.
- Legislation at the federal and state level has focused on gender bias as the reason women are paid less than men. Because gender bias is only one of many reasons for the gender wage gap, and is very difficult to prove, current equal pay laws which focus on “equal pay for equal work” have had limited effectiveness in narrowing the gap.
- Policy makers may more effectively narrow the wage gap by focusing federal, state and local efforts on the other issues which help create it. Such policy efforts should include: increasing the minimum wage and tipped minimum wage; mandating paid family and sick leave; supporting flexible and fair work schedules; and ensuring that families have access to safe and affordable paid childcare.

Introduction

More than fifty years after the Equal Pay Act was signed into law, American women are still paid less than men, regardless of age, race or ethnicity, educational level, or profession. Many possible explanations for this disparity have been examined, but none fully accounts for the wage gap, suggesting a gender bias that is difficult to prove and even more difficult to eradicate. However, other inequities that contribute to the gender wage gap can be remedied, offering the real possibility of narrowing that gap. This brief examines current statistics regarding the gender pay gap, reviews the efficacy of current equal pay laws, and makes policy suggestions which can help move women toward income parity.

Pay Gap Facts

By now the statistics are well known. Regardless of occupation, women working in America earn less money than men. This income disparity crosses all racial and ethnic groups, educational levels, and most occupations. The wage gap is quantified by using an income ratio, which measures the gap in earnings between the sexes. In the United States in 2013, the median income of male wage and salary workers who worked full-time and year-round was \$50,033, compared to \$39,157 for women.¹ This equals an income ratio of 0.78.



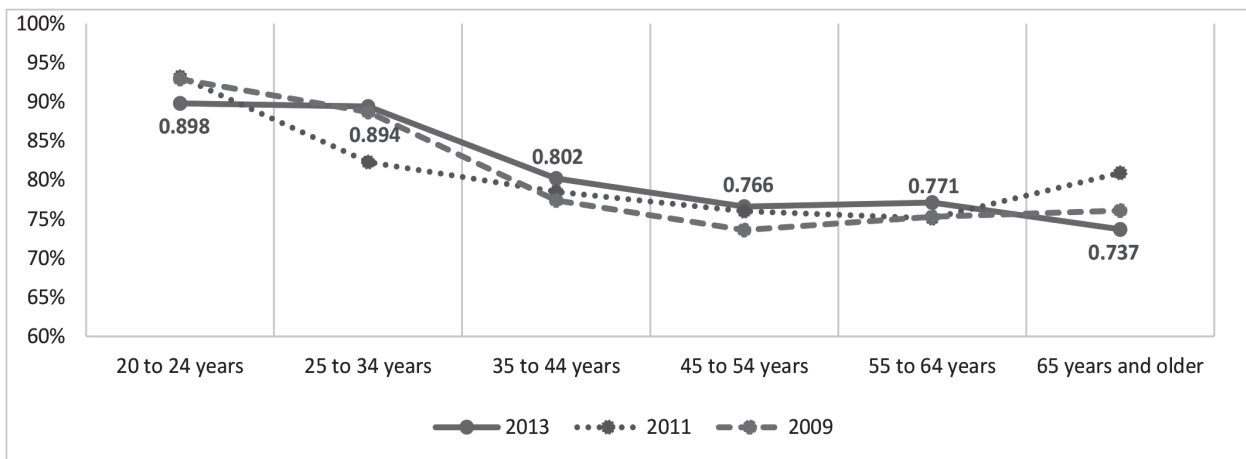
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In simple terms, this means that full-time, year-round female workers earned 78 cents for every dollar that male workers earned, creating a “wage gap” between men and women’s incomes. The ideal ratio is 1.0, or 100 percent, which signals income parity between men and women. In Missouri, the gap in 2013 was equal to the national rate of 78 percent.

Research shows that many complex factors have created this disparity. For example, because two-thirds of minimum-wage workers are women, annual wage income for all women is lower than for men. Also, female dominated professions, such as care-giving and hospitality, are often associated with lower wages than male dominated professions, such as engineering and computer science. Even becoming a mother has been shown to have a detrimental effect on women’s wages, due in part to the number of women who leave the workforce or reduce their work hours to meet their care-giving responsibilities. Additionally, studies have found that employers are less likely to hire women with children, and generally pay lower salaries to those mothers who are hired, while men who become parents do not experience a similar pay penalty.²

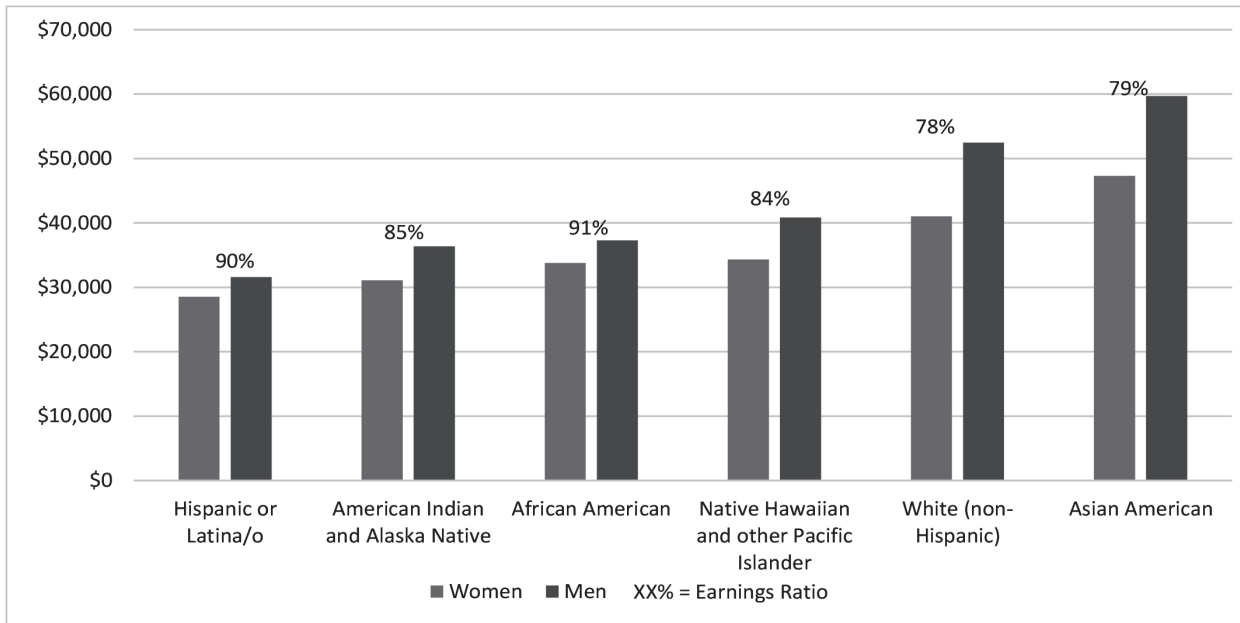
While educational attainment, career fields, and personal choices can contribute to differences in income, studies which control for divergent life paths have found that, all things being equal, women still are paid less than men for the same work. A significant disparity exists between men’s and women’s wages regardless of age, race or ethnicity, educational level, and profession, which suggests that gender bias is at play. For example, women 35 years and older experience larger pay gaps than do women in their twenties and early thirties, which could be due to women leaving full-time, paid work during their childrearing years. This does not, however, explain the gap between men’s and women’s wages at the start of their careers, which is currently 10% (Figure 1).

Figure 1: Women’s Earnings as a Percentage of Men’s by Age, 2009, 2011, 2013³



The wage disparity between men and women crosses all racial and ethnic categories (Figure 2). In each group, men are paid more than women, with white (non-Hispanic) and Asian American women experiencing the largest pay gaps.

Figure 2: Women’s Earnings as a Percentage of Men’s by Ethnic and Racial Categories, 2013⁴



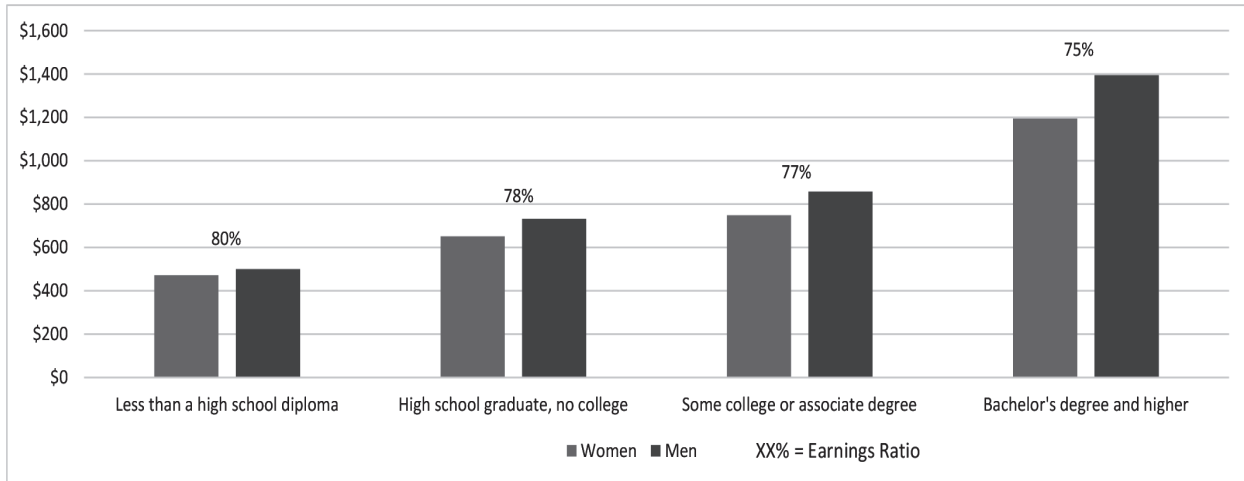
A more telling picture of women’s pay disparity, however, comes from comparing women of all ethnic groups with white men (Figure 3). Although collectively they do not earn as much as Asian American men, white men serve as an informative benchmark because they comprise the largest demographic group in the U.S. labor force.⁵

Figure 3: Women’s Earnings as a Percentage of White Men’s, 2013⁶

| Racial/Ethnic Group | Women's earnings as a percentage of men's earnings within race/ethnicity | Women's earnings as a percentage of white men's earnings |
|--|--|--|
| Hispanic or Latina | 90% | 54% |
| American Indian and Alaska Native | 85% | 59% |
| African American | 91% | 64% |
| Native Hawaiian and Other Pacific Islander | 84% | 65% |
| White (non-Hispanic) | 78% | 78% |
| Asian American | 79% | 90% |

The wage gap persists across educational levels as well. In fact, employment data suggests an inverse relationship between educational attainment and income parity. Although women with a Bachelor’s degree or higher earn more than men or women who have less education, they experience a larger pay gap than do women with less than a college education (Figure 4).

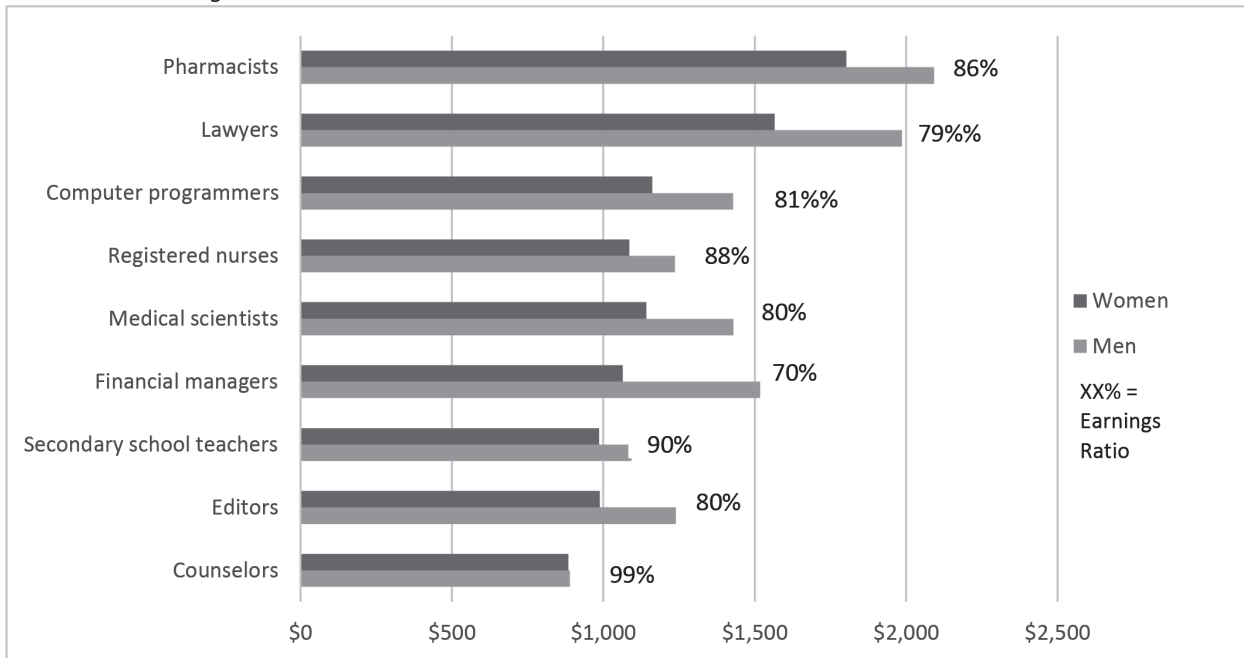
Figure 4: Median Weekly Earnings of Full-Time Wage and Salary Workers, by Educational Level, 2013 Annual Averages ⁷



This data could lend credence to the explanation that the wage gap exists because college-educated women often choose majors and career fields that pay less than men. Indeed, in 2013, nearly 40 percent of women worked in predominantly female occupations such as teaching, nursing and social work, while only five percent of men worked in these fields.⁸ Therefore, the argument can be made that increasing the number of women in traditionally male, and higher-paid, occupations should help narrow the pay gap over time.

However, this has not proven to be true. For the past 40 years, women have entered higher-paying occupations that were previously considered male. Data suggests that this change alone is unlikely to eliminate pay inequality because women who do work in male-dominated professions still make less money than men. Interestingly, women experience a wage gap even in traditionally female professions, such as nursing and teaching (Figure 5).

Figure 5: Median Weekly Earnings and the Gender Pay Gap among Full-Time Workers in Selected Occupations, 2013 Annual Averages ⁹



In an attempt to limit the impact of gender bias on wages, equal pay legislation has, historically, focused on “equal pay for equal work,” requiring that men and women be paid the same for doing the same work. However, narrow definitions of what constitutes “equal work” have limited the effectiveness of these laws in shrinking the gender wage gap.

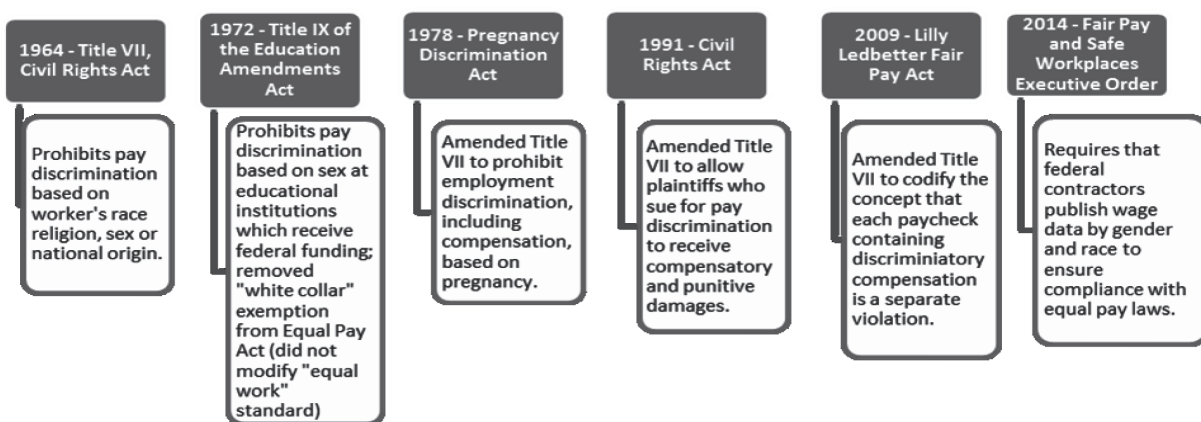
Legislative History

The effort to use legislative tools to ensure equal pay for women has been ongoing for more than 100 years, starting when women began entering industrial jobs in the late 19th century. In 1898, the federally appointed Industrial Commission started advocating for equal pay for women working the same factory jobs as men. During World War I, when women’s labor was vital to the war effort, the National War Labor Board (NWLB) mandated that, if women must undertake work normally done by men, they should be allowed equal pay for that work. Similarly, during World War II, the War, Navy and Labor Departments required that wage rates for women and men be the same, and in 1945, the NWLB issued an “equal pay order,” which allowed companies to raise women’s wages to equal those of men without having to obtain approval from the NWLB.

The right of women to be paid the same wage as men for equal work became federal law in 1963 with the passage of the Equal Pay Act, which amended the Fair Labor Standards Act (FLSA) of 1938. Due to resistance in Congress, the Equal Pay Act passed only after several important standards had been removed. One of the most significant changes from the original bill was reducing the fairness standard from “work of comparable character” to “equal” work, which was narrowly defined. The Equal Pay Act was subject to all FLSA exemptions, which meant that women employed in professional, executive and administrative positions were exempt from the act, as were women working in certain industries, including hotels and restaurants. Also, class action lawsuits were prohibited, placing the burden of proof on each woman claiming wage discrimination.¹⁰

Several federal laws and executive orders have been passed since the Equal Pay Act of 1963 to help address wage discrimination in the work place (Figure 6). Additionally, Congress has attempted to pass legislation to close several of the loopholes of the Equal Pay Act and Title VII, such as the “equal pay for equal work” clause, including the 2009 Paycheck Fairness Act and the 2013 Fair Pay Act. Neither act passed.

Figure 6: Federal Equal Pay Laws and Executive Orders since 1963



Current State Laws

As of 2015, 45 states, including Missouri, have equal pay laws (Alabama, Mississippi, South Carolina, Utah and Wisconsin do not). Of those, only four go beyond the provisions of the 1963 Equal Pay Act, with California requiring employers to keep written wage records for two years, Illinois protecting workers' right to compare wages, and New Mexico prohibiting employer retaliation for a worker who asserts pay discrimination. In 2013, Vermont passed the most far-reaching equal pay law in the country, which requires that any pay discrepancies must have a provable business reason; prohibits bans on discussion of salaries; and includes protections for nursing mothers and for workers who request flexible work schedules.

The Missouri Equal Pay Act was passed in 1963. This statute reflects the language of the federal Equal Pay Act, requiring that equal pay be based on "the same quantity and quality of the same classification of work."¹¹ This act gives women the right to file a complaint with the Labor and Industrial Relations Commission of Missouri if she has been paid lower wages due to her sex, and to file a civil action to receive compensation for unequal pay. As with the federal Equal Pay Act, the woman bringing the claim must prove that the pay discrimination was based on gender and not on any other differences. Missouri also passed the Missouri Human Rights Act in 1986, which prohibits employers from compensation discrimination based on race, color, religion, national origin, sex, ancestry, age, or disability.¹²

Are More Equal Pay Laws the Solution?

Although there have been several attempts at the federal and state level to provide women some legal protections from wage discrimination, the continuing gender wage gap indicates that these laws have not solved the problem. Most importantly, the legal requirement of equal pay for equal work, and determining what constitutes equal work, has created a standard of proof that is often impossible to meet. The Equal Pay Act, Title VII, and most state laws have placed the burden of proof firmly on the female worker claiming wage discrimination. This complaint-based approach often requires lengthy trips through the legal system for the woman filing the complaint, where she faces the difficult task of proving that an employer has engaged in discriminatory pay practices based on gender. Fewer than 30 percent of the gender pay discrimination claims filed with the Equal Employment Opportunity Commission since 2004 have resulted in favorable outcomes for the woman filing the complaint, while more than half were dismissed with a finding of no reasonable cause.

Shifting the burden of proof from the woman to the employer could mitigate gender bias, and have a more immediate impact on pay equity. For example, the International Labor Organization (ILO) has determined that a proactive model, which places the responsibility on employers to demonstrate that their wage policies are equitable, is the most effective tool against gender wage discrimination. Both Sweden and Canada have adopted proactive legal models, and employers in these countries are responsible for reviewing pay practices, adopting an action plan to remedy pay discrepancies, and for complying within a specific timeframe.¹³ Both countries also have passed laws requiring that employers ensure jobs of equal value receive equal pay, and both have established government commissions to ensure compliance.¹⁴



In the current political climate in the United States, passing federal laws which would require private sector employers to evaluate their hiring practices for gender bias, prove compliance with the current laws, and take affirmative steps to balance the distribution of men and women in different employment categories seems unlikely. Moreover, creating a government commission to review the pay practices of the private sector and levy fines against businesses which do not comply would be enormously unpopular among business and industry leaders. However, because gender bias is just one of many reasons for the wage gap, there are several other options which policy makers can pursue to help close that gap.

➤ **Raise the minimum wage**

Because two-thirds of minimum wage workers are women, raising the minimum wage would have a significant impact on the gender pay gap. In 2015, the federal minimum wage is \$7.25 per hour, and the federal minimum wage for tipped workers is \$2.13 per hour. Arguments against raising the federal minimum wage include concerns that higher wages will result in a loss of jobs, will increase consumer prices, and will keep workers in lower-wage jobs longer, preventing the entry of young, new workers into the job market. Because of significant opposition, the federal minimum wage has not been raised since 2009, and the federal tipped minimum wage has not been raised since 1991. Individual states have raised their minimum wages more frequently, often as a result of voters approving the increase through ballot measures. As of January, 2015, 29 states and the District of Columbia have minimum wages above the federal level. This disparity between states has allowed for a comparison of the gender wage gap in states with higher and lower minimum wages. Generally speaking, states with a minimum wage higher than the federal level have a smaller wage gap (Figure 7).

Figure 7. Impact of the minimum wage on the gender pay gap.¹⁵

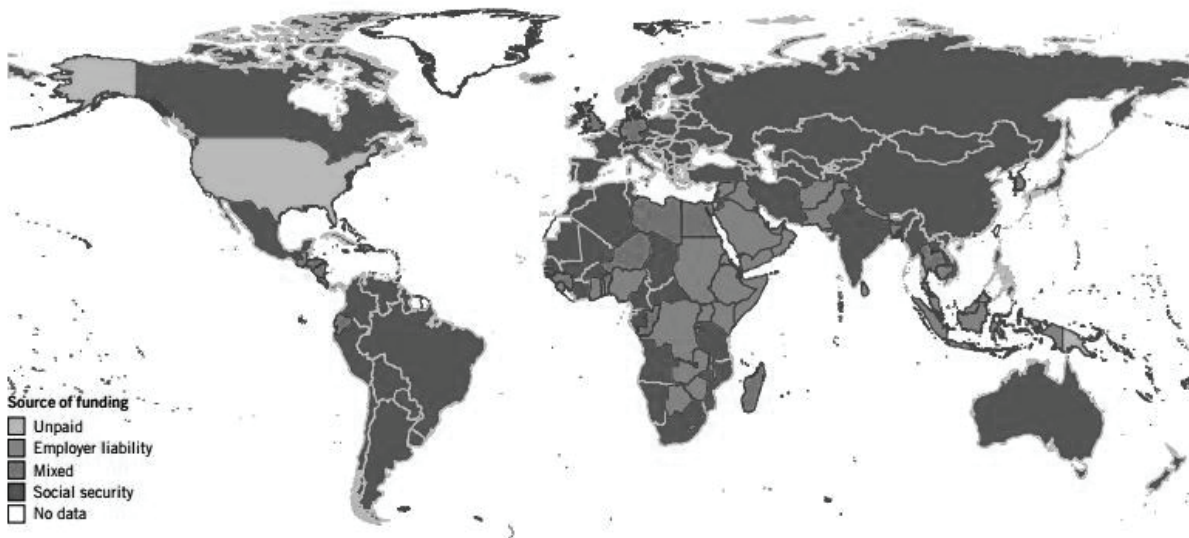
| States with the 10 smallest wage gaps, 2013 | | | | States with the 10 widest wage gaps, 2013 | | | |
|---|--------------------------------|----------|---------|---|--------------------------------|----------|---------|
| State | Women's | Wage Gap | Minimum | State | Women's | Wage Gap | Minimum |
| | Earnings/ Men's Earnings | | | | Earnings/ Men's Earnings | | |
| District of Columbia | 91.3% | 8.7% | \$8.25 | Louisiana | 65.9% | 34.1% | \$7.25 |
| New York | 85.8% | 14.2% | \$7.25 | Wyoming | 69.3% | 30.7% | \$7.25 |
| Maryland | 85.5% | 14.5% | \$7.25 | West Virginia | 69.4% | 30.6% | \$7.25 |
| Florida | 84.3% | 15.7% | \$7.79 | Utah | 69.9% | 30.1% | \$7.25 |
| California | 83.9% | 16.1% | \$8.00 | North Dakota | 70.2% | 29.8% | \$7.25 |
| Arizona | 83.6% | 16.4% | \$7.80 | Montana | 73.5% | 26.5% | \$7.80 |
| Hawaii | 83.3% | 16.7% | \$7.25 | Indiana | 73.8% | 26.2% | \$7.25 |
| Nevada | 83.3% | 16.7% | \$8.25 | Nebraska | 74.1% | 25.9% | \$7.25 |
| Vermont | 83.0% | 17.0% | \$8.60 | Oklahoma | 74.9% | 25.1% | \$7.25 |
| North Carolina | 82.8% | 17.2% | \$7.25 | South Dakota | 75.1% | 24.9% | \$7.25 |

With a 22% wage gap, Missouri falls in between the high and low end of the range, as does its minimum wage. Missouri has increased its minimum wage each year since 2012, and it is currently \$7.65, (the tipped minimum wage is \$3.825). While increasing the minimum wage has not created gender pay equity in any state, the data suggests that states taking the initiative to increase the minimum wage for the lowest-paid workers, most of whom are women, would help to narrow the gap.

➤ **Paid family leave**

The financial impact of women leaving the paid labor force to meet caregiving responsibilities is another explanation for the gender wage gap. Offering women the option of paid family leave, with a promise of returning to the same job at the same wage, could help mitigate the financial impact of unpaid maternity leave, and increase earning over a woman’s lifetime. Currently the United States is the only high-income country in the world which has no mandated paid leave for mothers of newborns (Figure 8).¹⁶ The only federal family leave law is the Family and Medical Leave Act of 1993, which provides some workers up to 12 weeks of job-protected, but unpaid, leave for illness or caregiving responsibilities. In the private sector in 2014, only 12 percent of employers offered paid family leave.¹⁷

Figure 8: Countries with paid maternity leave¹⁸



Like most states, Missouri has no laws mandating paid family leave. Only four states, California, New Jersey, Rhode Island, and Washington have passed paid family leave laws (implementation of Washington’s law, passed in 2007, has been postponed pending development of a funding mechanism). Each of these programs is funded through employee-paid payroll taxes and administered by state disability programs.

California passed the first paid family leave law in 2004. Early research regarding the impact of this law suggests that, after the birth of a baby, women are taking an average of three more weeks of leave than prior to implementation of the law. This change was especially notable among lower-income, non-college educated women, who increased the length of

time they spent on maternity leave, and returned to their jobs in larger numbers than they did prior to implementation of the law.¹⁹ While the full impact of these laws is not yet known, paid family leave enables a woman to take time off for childbearing and caring for a newborn without losing her income, facilitates her re-entry to paid work, and allows her to return to the same job at the same wage rate, all of which should contribute to increased lifetime earnings.

➤ **Paid sick days**

According to the Bureau of Labor Statistics, in 2014 at least 43 million private-sector workers in the United States were not given paid sick time.²⁰ On average, workers who do not have paid sick time earn less than those who do.²¹ Because most minimum wage jobs are held by women, and women more often than men are caregivers for sick children and aging parents, taking unpaid leave to fulfill caregiving responsibilities results in a disproportionate loss of income for women workers.

Federal legislation such as the Healthy Families Act, first introduced in Congress in 2004, would require employers with 15 or more employees to offer one hour of paid sick leave for every 30 hours worked. Although this act has not passed into federal law, lawmakers can implement paid leave laws at the state and local level. As of 2014, 16 U.S. cities and three states have passed mandatory paid sick leave laws, and similar legislation is pending in several other states.²² Paid sick leave would decrease the financial and professional cost of caregiving for women, which would help to narrow the gender wage gap.

➤ **Fair work schedules**

A woman's ability to do her job and meet her family obligations relies, in large part, on her work schedule. Work schedules which are erratic, change with little notice, or offer no flexibility make arranging and paying for child care nearly impossible. Also, workers cannot attend to unexpected needs, such as a sick child, unless they have some measure of flexibility at work. Recent polling data indicates that 36 percent of parents believe they have been "passed over" for a promotion, a raise, or a new job due to a need for a flexible work schedule, while 49 percent said they have chosen to pass up a job they felt would conflict with family obligations.²³ Currently only the state of Vermont and the city of San Francisco have passed laws which require employers to respond to an employee's request for schedule flexibility, including requests for a reduction in hours, different working hours, or different working days. These laws also protect employees from retaliation in response to their request.

Although workers across the economic spectrum can experience inflexible work schedules, the women who make up two-thirds of the minimum-wage work force often have the least control over their schedules. To control costs, many businesses have come to rely on sophisticated software to determine real-time staffing needs. For many workers, this means they may report for work only to be sent home for lack of demand or, alternately, may be called in to work on very short notice if demand justifies additional staff. This results in an unpredictable income for workers, and makes it nearly impossible to manage caregiving responsibilities. In response,



nine states and the District of Columbia have passed “Reporting Time Pay” laws, which require employers to pay workers for a set number of hours, regardless of whether they are sent home or called in.²⁴ Currently, Missouri has no laws which promote or protect the right to flexible scheduling or reporting time pay. While passing laws such as these will not provide an immediate solution to the gender wage gap, they can help minimize the “push” out of the workplace that many women feel when personal and professional obligations conflict, and offer women better options for earning a living wage while meeting their caregiving responsibilities. And, again, reducing women’s time out of the paid labor force will increase their lifetime earnings, which can help to close the wage gap.

➤ **Affordable, high-quality day care**

According to the most recent U.S. Census Bureau data, 64 percent of mothers with children under the age of six are in the labor force, and 61 percent of children under five years of age are in some type of paid child care arrangement, including relative care, organized care facilities, nonrelative care. This data makes clear that the availability of quality, affordable child care is critical to a family’s ability to earn a living. However, since the presidential veto of the 1971 Comprehensive Child Development Act, which authorized the use of federal funds to support high-quality, well-regulated universal child care, no federal law has been passed to improve access to or the quality of paid childcare in the United States.

Instead, the regulation of paid child care has been left to individual states, and paying for child care has been left to parents (with the exceptions of some tax credits and support programs for very low income workers). Advocacy organizations, such as Child Care Aware of America and the National Association for the Education of Young Children, track accreditation and quality standards by state, but there are no national standards or measures for determining the quality of child care, nor any federal enforcement mechanism for ensuring that children in paid care are safe and well-cared for. In 2012 the Missouri legislature passed a law banning a Quality Rating System which would have helped standardize the rating of childcare facilities, making it the only state in the nation with an explicit ban on such quality measures.

As with the lack of paid family and sick leave and inflexible work schedules, the inability to find or afford child care often pushes mothers out of the labor force. In the absence of universal childcare, states can support working parents by improving access to more childcare options that are affordable and meet established standards for safety and quality. Better childcare options would allow more women to continue in the paid labor force after having children and would increase women’s lifetime earnings, all of which would help close the gender pay gap.



Conclusion

Labor statistics show that women workers in the United States continue to earn significantly lower wages than men. While the size of this wage gap varies by age, occupation, educational level and race, the disparity between men's and women's wages persists. Federal and state equal pay laws, including the federal 1963 Equal Pay Act, have had limited success in closing this gap. Because women earn less than men across all occupations and at every stage of their career, there is a real likelihood that gender bias plays a significant role in the wage gap. To date, however, pay discrimination due to gender bias has been difficult for women to prove and nearly impossible to eliminate through legislation.

Policy makers may more effectively narrow the wage gap by focusing federal, state and local efforts on the other issues which help create it. Such policy efforts include: increasing the minimum wage and tipped minimum wage; mandating paid family and sick leave; supporting flexible and fair work schedules; and ensuring that families have access to safe and affordable paid childcare. By seeking ways to even the playing field for women workers, policy makers have an opportunity to significantly narrow the gender wage gap, and move men and women workers into the 21st century as equal earners.

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