

February 20, 2015 06:00 PM

Making a better case for paternity leave

CLAIRE BUSHEY  

When it comes to closing the legal industry's gender gap, experts say we need to talk about dads and why more of them need to take leave, too.

When Siddesh Bale's daughter was born in June 2013, the young lawyer took full advantage of the six weeks of paid paternity leave offered by Reed Smith's Chicago office. Then, in December, the 38-year-old and his wife adopted a son. An associate in the business and finance practice, Bale again plans to use full leave, which his firm extended to 10 weeks in August. He'll spread that time out over the year.

The decision wasn't automatic. Before the birth of his daughter, Bale says he discussed with his wife how such a thing might look to colleagues. His practice was busy, and, historically within the profession, men taking paternity leave risked appearing uncommitted to their work.

His hesitancy eased, though, when Seth Hemming, then head of Reed Smith's corporate practice, encouraged the younger lawyer to take his full paid leave. "I was shocked that that was the message," Bale says.

For his part, Hemming, 55, says he made it a point to initiate the conversation because he knew that, like other young attorneys, the father-to-be "would be hyper-sensitive about how it would be perceived" to take leave.

It was a different message from the one Hemming received in 1990 when his first child was born. At the time, he was an associate at Sachnoff & Weaver, which merged with Reed Smith in 2006. A partner with children visited his office and, after some dithering, finally asked how it was possible Hemming was taking three weeks off.

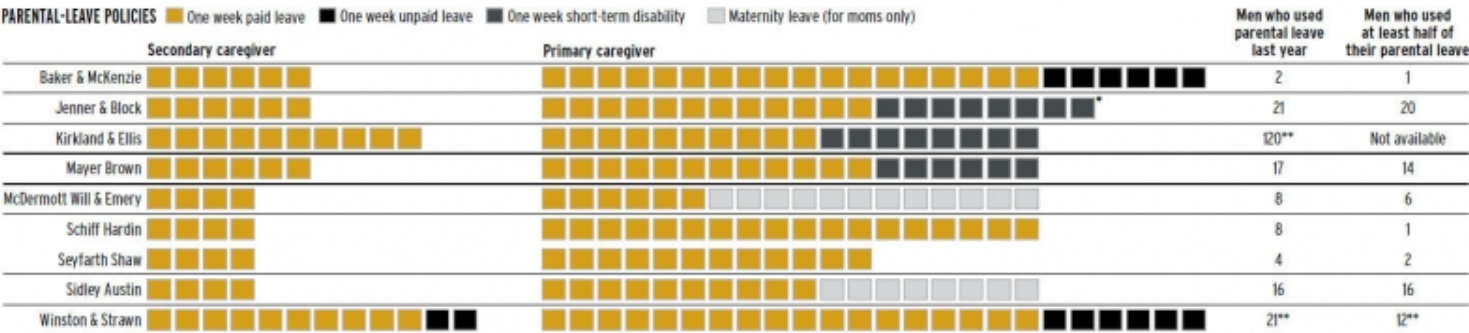
"I don't think he was trying to dissuade me," Hemming says. "He was just puzzled. It was like an alien thing."

It's a remarkable evolution, given how the profession's demand to bill hours has notoriously skewed the balance between work and life for countless lawyers. Men are not only using policies that have been in place for years but talking about it, too, says Laurel Bellows, a principal at Bellows Law Group in Chicago and a former president of the American Bar Association.

"It's now an acceptable conversation," she says.

HOW PATERNITY LEAVE POLICIES STACK UP AT CHICAGO'S TOP LAW FIRMS

In general, Chicago's top firms offer the "secondary caregiver"—in many cases, but not all, the father—about a third to half of the paid leave that they offer the primary caregiver. The policies generally apply to associates and income partners, not equity partners or staff.



Notes: Field marked "not available" indicates the firm did not supply requested information. Katten Muchin Rosenman, listed No. 6 among the 10 largest Chicago law firms by headcount, did not participate. * Short-term disability ranges from six to eight weeks depending on complications. **Number of men who took leave firmwide. Other numbers are for the Chicago office. Source: Crain's reporting

[Click here](#) to view a larger version of this chart in a scrollable window.

It's also a conversation with ramifications for female lawyers. Firms are plagued by a gender gap at the highest levels: According to a 2014 survey by the National Association of Women Lawyers, women make up just 17 percent of the equity partners at a typical large law firm. Lack of workplace flexibility is frequently cited as a key factor.

Paternity leave shifts the dilemma of **work-life balance** in law from one that affects solely women to one that affects all professionals. And, as Bellows wryly notes, when **an issue** is no longer perceived as just a women's problem, things change.



According to **a 2014 study** from the Boston College Center for Work and Family, two-thirds of fathers say they want to split caregiving equally with their spouses. Yet less than a third actually do. In fact, some 96 percent of men said they returned to work two weeks or less after the birth of a child, setting the stage for a lesser role in perpetuity.

"The failure of men to be active co-parents in the first few months of the children's lives sets a pattern in motion that is difficult to change," the Boston College researchers conclude.

The federal Family and Medical Leave Act allows for 12 weeks of unpaid leave for anyone who has worked at least a year for a company with more than 50 employees. Only 1 in 5 companies even offers paid leave to men at all, according to a 2012 study for the U.S. Department of Labor.

But white-collar workers generally are better off, with the Boston College study finding that two-thirds of the professional men surveyed had access to paid leave. The Big Four accounting firms offer anywhere between two and six weeks, with more available if a father is the primary caregiver.

In Chicago, large law firms generally offer four to 10 paid weeks to nonprimary caregivers, whether for birth or adoption (see **chart** above). Men can take the leave all at once or split it up. They often choose the latter option to take the child to doctor's appointments or assist a spouse in the transition back to work. Often firms will annualize a lawyer's billable hours to cover the period so his or her bonus won't suffer from billing fewer hours.

RELATED: Same-sex couples help push leave policy issue forward

Nine of Chicago's 10 biggest law firms say they offer paternity leave. At Sidley Austin and Jenner & Block, almost all the fathers in the firm's Chicago office took at least half their leave. At Schiff Hardin, only one of eight Chicago lawyers took more than two of the four weeks available, while Kirkland & Ellis declines to provide specifics. Katten Muchin Rosenman declines to comment.

It's a benefit that helps not only male attorneys but female lawyers as well, say executives such as Sonia Menon, chief operating officer at Chicago's Neal Gerber & Eisenberg. When Menon started at her firm 14 years ago, it offered two weeks' paid paternity leave, and attorneys rarely took it. She proposed changing it to six weeks, and in 2014, 12 lawyers took advantage.

Her view: When male attorneys take time off to help with parenting, they better understand the transition women go through when returning to the workplace after maternity leave. Sometimes male partners think they're doing a woman a favor by not assigning her to work on a deal requiring long hours, while the woman wonders why she is no longer receiving meaty assignments. By **sharing the experience**, they become more comfortable having a conversation about what an attorney expects when she returns to the firm.

"If you don't have that conversation, you make some presumptions," Menon says.

Linda Doyle, partner and chief human resources officer at McDermott Will & Emery in Chicago, says that, by subverting the perception that women are not dedicated to their careers when they take time off to adjust to motherhood, paternity policies support women's advancement into leadership positions at law firms.



But offering a policy is one thing. Having men actually take time off is another. According to a 2014 national survey by Working Mother magazine and New York-based consultancy Flex-Time Lawyers, the 50 law firms with the friendliest policies for mothers offer an average of six weeks' paid paternity leave.

The average time men at those firms took? Three weeks.

As Joan Williams, a professor at the University of California Hastings College of Law and director of the university's Center for WorkLife Law, puts it: "We're over the cigar syndrome," referring to the days when men would go to the hospital, then go back to work with cigars for colleagues. But "we're nowhere near at equal leave."

Fathers at Chicago firms cite different reasons for not using all the leave they're entitled to take. Some say their wives' reliance on other family members made their presence at home with the newborn redundant. Others acknowledge subtle pressure, often internal, to get back to work.

An equity partner in Chicago at one of the nation's 20 largest firms says that he does not think male attorneys are punished for taking leave, but that after a lengthy absence, client relationships can atrophy. (He does not want to be identified to avoid appearing to speak for his firm.) As an associate, he took about

a month when his child was born, and that was less than the total available because “I was engaged on stuff I didn't want to lose.”

There also are partners who become annoyed when attorneys they depend on aren't available, he says.

“People are smart enough to not say, 'I don't like that so-and-so is taking leave,' but you can tell people are irritated,” he says. “In some ways that's even harder, because you don't have anything you can point to to say, 'Hey, we've got an institutional problem here.' ”

Many fathers likely feel uncomfortable stepping away from the office for weeks, including some at Reed Smith, admits Hemming, who now co-chairs the firm's private-equity practice. So he does what he can to show less-senior attorneys that he thinks family is important, too. Which is why, a little over a year ago, on a beautiful September morning, one of his younger associates, Siddesh Bale, found himself alone with his daughter, playing in the fountain at Millennium Park, on a weekday.

Source URL: <http://www.chicagobusiness.com/article/20150221/ISSUE02/302219998/chicago-law-firms-making-a-better-case-for-paternity-leave>