



**EQUAL RIGHTS**  
**A D V O C A T E S**  
Fighting for Women's Equality

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**Testimony of Jessica Ramey Stender, Senior Counsel for Workplace Justice & Public Policy  
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**Equal Pay Public Hearing before the Mississippi Senate Labor Committee**

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Thank you for the opportunity to submit this testimony on behalf of Equal Rights Advocates (ERA), a national non-profit legal organization dedicated to protecting and expanding economic and educational access and opportunities for women, girls, and people of marginalized gender identities. For over 47 years, ERA has worked to advance equity, opportunity and economic security for women and their families, with a focus on workplace rights. A primary focus of our work is to promote gender equality and advance women's economic security by protecting against pay discrimination and wage gaps to ensure equal pay.

**I. The Persistent Pay Gap Harmful to the Economic Security of Women & Families**

Women are increasingly the primary or co-breadwinner in their families,<sup>1</sup> yet, they continue to face obstacles to equality in the workplace and the broader economy, including a substantial wage gap that has persisted for decades. Overall, when the wages of all women are compared to the wages of all men, women in the United States working full time, year-round, typically are only paid 82 cents for every dollar paid to men. For many women of color, the wage gap is much worse. Nationwide, Black women earn 63 cents for every dollar earned by their white male counterparts, Native women earn 60 cents, and Latinas, just 55 cents to the dollar.<sup>2</sup> The wage gap persists across industries,<sup>3</sup> occupations,<sup>4</sup> and education levels,<sup>5</sup> and exacts a heavy toll not only on women, but also on the families they support and the economy as a whole. Eliminating the gender wage gap would reduce the poverty rates of working women and their families by more than half and would add \$512.6 billion to the national economy.<sup>6</sup>

The wage gap affects women as soon as they enter the labor force, expands over time, and leaves older women with a gap in retirement income. Over the course of a 40-year career, a woman beginning her career today typically stands to lose \$406,280 to the wage gap.<sup>7</sup> Women of color stand to lose the most, with Black women typically losing \$964,400, Native American women losing \$986,240, and Latinas losing \$1,163,920

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<sup>1</sup> Institute for Women's Policy Research, Half of all US Families have a Breadwinner Mother, September 2016), <https://iwpr.org/half-of-all-us-families-have-a-breadwinner-mother/>.

<sup>2</sup> <http://www.equalpaytoday.org/>

<sup>3</sup> NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES, AMERICA'S WOMEN AND THE WAGE GAP 1 (2017), [HTTPS://GOO.GL/SLEcd8](https://goo.gl/SLEcd8).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*; Francine D. Blau & Lawrence M. Kahn, *The Gender Wage Gap: Extent, Trends, and Explanations*, NBER Working Paper No. 2193, National Bureau for Economic Research (2016), <http://www.nber.org/papers/w21913> (last visited May 16, 2017).

<sup>6</sup> IWPR, THE ECONOMIC IMPACT OF EQUAL PAY BY STATE 1 (May 11, 2017), available at <https://bit.ly/2pGUS1b>.

<sup>7</sup> Jasmine Tucker, *The Wage Gap Has Robbed Women of Their Ability to Weather COVID-19*, NWLC (Mar. 2021), <https://nwlc.org/resources/the-wage-gap-has-robbed-women-of-their-ability-to-weather-covid-19>.

over their lifetime to the wage gap as compared to white, non-Hispanic men.<sup>8</sup> These lost wages not only reduce women's ability to cover basic living expenses such as food and rent, they also severely reduce their ability to save for unexpected expenses or retirement.

Unequal wages also contribute to the overall gender *wealth* gap, which is even larger than the wage gap, especially for women of color. Different from income, wealth represents a person's overall net worth, and the resources they have at their disposal to be used in the future, for example, in an emergency, to pay for college or retirement, to own a home or a business, or to pass on to their children. While an individual's income is essential to covering day-to-day needs, wealth is critical to achieving long term and sustained economic security. While women overall *earn* an average of 82 cents to the dollar compared to men (the wage or income gap), they *own* just 32 cents to the dollar.<sup>9</sup> The wealth gap is especially stark for women of color, who own just pennies to the dollar compared to both white women and men.<sup>10</sup> Gender and race-based wealth disparities create long-term and intergenerational economic inequality. We therefore need strong policy responses to address the wage gap now, in order to begin breaking the cyclical wealth disparities that have oppressed women and people of color, for hundreds of years.

## II. The COVID-19 Pandemic Has Exacerbated Existing Gender-Based Inequities

Women across the country and in Mississippi already faced substantial economic insecurity prior to the pandemic. Women are more likely to work in low-wage jobs and have fewer opportunities to advance in their careers. They are often faced with a lack of affordable child care, as well inadequate leave and other family-friendly work policies that allow them to earn a living while also caring for their families.

These issues, which contribute to the overall wage gap, have been magnified and exacerbated by the COVID-19 pandemic and the resulting economic crisis. Prior to the pandemic, women were already experiencing significant barriers to economic security and were more likely to live in poverty. Financial insecurity was especially pronounced for Black, Latinx, Native, Asian American, and Pacific Islander women. The current crisis is the first economic recession in which more women than men lost jobs.<sup>11</sup> Generations of pay discrimination, gender and racial wage gaps and the resulting wealth gaps mean many families have faced pronounced economic insecurity during the current economic crisis.

Therefore, passing strong equal pay laws is now more important than ever as the COVID-19 pandemic has underscored and exacerbated race and gender inequities and barriers in the workplace, especially unequal pay. We must close gender and race-based wage gaps to ensure that women are able to provide for themselves and their families as well as weather economic crises.

## III. Advancing Equal Pay is Beneficial For Businesses

Ensuring equal pay is not only critical for women and their families, but it also benefits employers. Equitable employment practices, including preventing and addressing pay disparities, can confer a wide array of benefits on a company, including decreased risk of liability, access to the best talent, increased employee satisfaction and productivity.<sup>12</sup> Ensuring equal pay is critical to employers' ability to recruit and retain high

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<sup>8</sup> *Id.*

<sup>9</sup> Heather McCulloch, *Closing the Women's Wealth Gap: What It Is, Why It Matters, and What Can Be Done About It* (Jan. 2017), <https://womenswealthgap.org/wp-content/uploads/2017/06/Closing-the-Womens-Wealth-Gap-Report-Jan2017.pdf>

<sup>10</sup> *Id.*

<sup>11</sup> Inst. For Women's Policy Research, The Coronavirus Recession is a "She-cession," <https://iwpr.org/media/press-hits/the-coronavirus-recession-is-a-she-cession/>

<sup>12</sup> Research indicates that workers are more productive when salary is transparent. See Emiliano Huet-Vaughn, *Striving for Status: A Field Experiment on Relative Earnings and Labor Supply*, UC BERKELEY (Nov. 2013), [http://econgrads.berkeley.edu/emilianohuet-vaughn/files/2012/11/JMP\\_e.pdf](http://econgrads.berkeley.edu/emilianohuet-vaughn/files/2012/11/JMP_e.pdf).

performers, particularly for younger women workers.<sup>13</sup> Strong equal pay protections therefore help employers remain competitive. Furthermore, when workers are confident they are being paid fairly, they are more likely to be engaged and productive.<sup>14</sup>

Significantly, shareholders and potential investors are recognizing the benefits of ensuring equal pay and are increasingly interested in companies' commitment to addressing the wage gap. Activist investors, including Arjuna Capital and Trillium Asset Management, have led successful campaigns to encourage certain companies to publicly disclose their efforts to address gender pay inequity.<sup>15</sup> And the Bloomberg Gender Equality Index offers investors new transparency into a range of measures of gender equity and inclusion across 325 participating publicly traded companies, including pay equity measures such as mean and median gender wage gaps.<sup>16</sup>

#### IV. Eliminating "Pay Secrecy" Policies is Critical to Closing the Wage Gap

One contributor to the wage gap is that pay discrimination is often "hidden from sight" and can be a result of unconscious biases or historical inequities. Thus, employees and in some cases - especially in larger companies - even employers themselves, may not be aware of gender or race-based pay disparities that exist. The prevalence of "pay secrecy" policies,<sup>17</sup> whereby employers discourage or prohibit their employees from discussing or disclosing pay, compounds the problem and often prevents employees from gaining the information necessary to identify pay disparities. About 60% of workers in the private sector nationally are either forbidden or strongly discouraged from discussing their pay with their colleagues.<sup>18</sup>

Therefore, one critical component of an effective state equal pay law is a prohibition on "pay secrecy" policies, to stop employers from prohibiting or punishing employees for asking about, discussing, or disclosing information about pay. Providing this type of protection for employees will enable more workers to share what they are paid without fear of negative repercussions and uncover potentially unlawful gender or race-based pay disparities. Sixteen states and the District of Columbia have enacted provisions to stop employers from

<sup>13</sup> A recent survey found that the top reasons Millennials and Gen Zs plan to leave their current employment in the next two years are "[d]issatisfaction with pay and lack of advancement and professional development opportunities." THE DELOITTE GLOBAL MILLENNIAL SURVEY 2019 (2019), <https://www2.deloitte.com/global/en/pages/about-deloitte/articles/millennialsurvey.html>; Lauren Noel & Christie Hunter Arscott, WHAT YOU SHOULD KNOW ABOUT THE YOUNG, FEMALE TALENT AT YOUR ORGANIZATION, ICEDR (2015), [https://www.icedr.org/research/documents/14\\_millennial\\_snapshot.pdf](https://www.icedr.org/research/documents/14_millennial_snapshot.pdf) (finding that Millennial women leave jobs primarily for more compensation).

<sup>14</sup> Courtney Seiter, The Counterintuitive Science of Why Transparent Pay Works, FASTCOMPANY.COM (Feb. 26, 2016), <http://www.fastcompany.com/3056975/the-future-of-work/the-transparent-pay-revolution-inside-the-scienceand-psychology-of-open->

<sup>15</sup> NATASHA LAMB & MICHAEL PASSOFF, RACIAL AND GENDER PAY SCORECARD (4th ed.), ARJUNA CAPITAL AND PROXY IMPACT 5

(Mar. 2021), [Racial-Gender-Pay-Scorecard-2021-Arjuna-Capital-and-Proxy-Impact.pdf](https://www.arjunacapital.com/wp-content/uploads/2021/03/Racial-Gender-Pay-Scorecard-2021-Arjuna-Capital-and-Proxy-Impact.pdf); Anders Keitz, Why Arjuna Capital's Natasha Lamb Is a Force in Pay Equity Push, THE STREET, Mar. 9, 2018, <https://www.thestreet.com/markets/corporate-governance/arjuna-s-lamb-a-force-in-pay-equity-push-14516800>;

Trillium Asset Mgm't, Letter to Citigroup Shareholders, Apr. 16, 2016, <https://www.sec.gov/Archives/edgar/data/831001/000121465916010905/j415160px14a6g.htm>.

<sup>16</sup> Bloomberg, *Bloomberg Gender Equality Index 2021 Gender Reporting Framework 5-6* (June 2020), [https://data.bloomberglp.com/company/sites/46/2020/05/GEI2021-Framework\\_PDF\\_FNL.pdf](https://data.bloomberglp.com/company/sites/46/2020/05/GEI2021-Framework_PDF_FNL.pdf).

<sup>17</sup> Inst. For Women's Policy Research, *Pay Secrecy And Wage Discrimination* (2014), available at [http://www.iwpr.org/publications/pubs/pay-secrecy-and-wage-discrimination-1/at\\_download/file](http://www.iwpr.org/publications/pubs/pay-secrecy-and-wage-discrimination-1/at_download/file)

<sup>18</sup> Shengwei Sun et al., IWPR, ON THE BOOKS, OFF THE RECORD: EXAMINING THE EFFECTIVENESS OF PAY SECRECY LAWS IN THE U.S. (Jan. 2021), <https://iwpr.org/wp-content/uploads/2021/01/Pay-Secrecy-Policy-Brief-v4.pdf>. "The proportion of

private-sector workers who reported that they are formally prohibited from discussing their pay fell from 25 percent in 2010 to 16 percent in 2017-18, but at the same time, the share of private-sector workers reporting that they are discouraged from discussing their pay increased from 41 percent to 44 percent." *Id.*

retaliating against employees who discuss their wages with each other, or from outright prohibiting these discussions.<sup>19</sup>

## V. Prohibiting Employer Reliance on Prior Salary Stops the Perpetuation of the Wage Gap

Employers' reliance on an applicant's prior salary in setting pay is a key contributor to structural inequities. Because women, particularly women of color, earn less than their male counterparts in virtually every industry and occupation in this country, employer reliance on prior salary in hiring and compensation perpetuates gender and race-based wage gaps.

In an attempt to prevent past pay discrimination from following women from job to job, a growing number of states and cities have passed laws that prohibit employers from asking about or relying on a job applicant's prior pay to set their new pay. Currently, a total of 19 states, 17 cities, DC, and Puerto Rico have passed laws or executive orders prohibiting employers from asking about or relying on prior salary, often referred to as Salary History Bans. The research that has been conducted thus far on the impact of these laws has confirmed what many legislators, equal pay advocates, and proactive employers have long suspected: when employers do not seek or rely on a job candidate's prior salary, it results in a narrowing of the overall gender wage gap.<sup>20</sup>

A growing number of companies have *voluntarily* opted to change their hiring policies to eliminate questions about a job candidate's prior pay, even when they are not required to do so by law, recognizing the harm of perpetuating pay discrimination of the past.<sup>21</sup> The Society for Human Resource Management – a trusted resource for HR professionals – has declared that “salary history should not be a factor in setting compensation,” and instead: “compensation decisions should be based on the value of the position to the organization, competition in the market and other bona fide business factors.”<sup>22</sup>

## VI. Equal Pay Protections that Cover Other Protected Classes Are Critical

As set forth above, it is well-documented that there is a pervasive gender wage gap in this country, which exacts a heavy toll on the economic security of women and their families. The wage gap is most pronounced for Black, Latinx, Native/Indigenous, and certain groups of AAPI women, who often face pay discrimination because of both their gender *and* their race or ethnicity. It is therefore important that a robust equal pay law cover other protected classes in addition to sex. In fact, although the federal Equal Pay Act only covers sex-based pay disparities, a growing number of states have enacted equal pay laws to cover other protected classes in addition to sex, such as race and ethnicity in order to better address intersectional discrimination. For example, in 2019, Alabama finally enacted a state equal pay law and it requires employers to pay employees of different sexes *or races* equal pay for equal work.<sup>23</sup>

## VII. Conclusion

Gender and race-based wage gaps contribute to and exacerbate the structural discrimination and economic inequality that women and people of color face, further harming their economic stability and their ability to

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<sup>19</sup> National Women's Law Center, *Progress in the States for Equal Pay*, <https://nwlc.org/wp-content/uploads/2019/12/State-Equal-Pay-Laws-2020-11.13.pdf>

<sup>20</sup> Benjamin Hansen & Drew McNichols, *Information And The Persistence Of The Gender Wage Gap: Early Evidence From California's Salary History Ban*.

<sup>21</sup> See, e.g., Yuki Noguchi, *More Employers Avoid Legal Minefield By Not Asking About Pay History*, NPR (May 3, 2018), available at <https://n.pr/2kSEYxX>.

<sup>22</sup> *Compensation Equity Public Policy Issue Statement*, Society for Human Resource Management (April 2018), available at <http://bit.ly/2lZqtIQ>.

<sup>23</sup> National Women's Law Center, *Progress in the States for Equal Pay*, <https://nwlc.org/wp-content/uploads/2019/12/State-Equal-Pay-Laws-2020-11.13.pdf>

provide for their families. It is imperative that Mississippi enact a robust equal pay law to close the gender and racial wage gaps that harm women, particularly women of color, in this state. The COVID-19 pandemic has exposed how pervasive gender and race-based pay disparities put women at higher risk of economic insecurity and contribute to higher poverty rates overall. The resulting economic harm of the wage gap on women and families is especially magnified during times of crisis. Action is needed now. We urge the members of this Committee to stand up for working people in Mississippi by passing an equal pay law that contains the provisions described herein.