

MINUTES OF THE House COMMITTEE ON Labor and Industry

The meeting was called to order by Representative Anthony Hensley at
Chairperson

9:05 a.m./~~p.m.~~ on February 5, 1991 in room 526-S of the Capitol.

All members were present except:

Representative Cribbs - Excused Representative Edlund - Excused
Representative Douville - Excused
Representative Webb - Excused

Committee staff present:

Jim Wilson, Revisor of Statutes
Jerry Donaldson - Research Assistant
Barbara Dudney - Committee Secretary

Conferees appearing before the committee:

Representative Joan Wagon Vernon Nikkel
Representative Kathleen Sebelius Joe Stuhlsatz
Susan Millard Steven Cloud
C. Conrad McNeer

The meeting was called to order at 9:05 a.m. by the chairman, Rep. Anthony Hensley.

Chairman Hensley announced that the hearings on House Bill No. 2076 were now open and that the time for testimony would be divided equally between the proponents and opponents with each side allotted 25 minutes.

The chairman introduced conferees as proponents of House Bill No. 2076:

Rep. Joan Wagon stated that the "traditional family" of a working father, mother at home, and 2.5 children, is no longer the norm. She cited a study done by the U.S. Department of Labor estimating that by the year 2000 women will comprise one-half of the total workforce, two-thirds of all women will be employed, and two-thirds of all new entrants in the workforce from 1985 -2000 will be women. She said that some employers have found ways to accomodate the changing work force by establishing family and medical leave policies, however, many employers have not. She pointed out that the U.S. has lagged behind European countries in having a national family care policy, although the states of Wisconsin, Connecticut, Maine, Minnesota, Rhode Island, Washington and New Jersey have passed legislation to provide workers family and medical leave. She provided statistical and background information material from the Older Women's League and Women's Economic Justice Center (attachment #1).

Rep. Kathleen Sebelius presented two examples of constituents who have had to care for a critically ill child without the benefit of family leave provided for them by their employers. She provided a state-by-state chart of family and medical leave laws in the fifty states prepared by the Women's Legal Defense Fund (attachment #2). She stated that House Bill No. 2076 is a reasonable approach to addressing family and medical leave problems in Kansas.

Susan Millard, Employee and Community Relations Manager of the Quaker Oats Company in Topeka, gave testimony regarding her company's family and medical leave policies. She stated that medical and personal leaves of absences are available to employees without loss of benefits, or in the case of medical disability, without loss of pay. She noted that as a result of her company's competitive wages, employee benefits, and flexible leave policies, the employees and management had an excellent relationship. Turnover at her company is less than 1% per year and the Topeka site has been recognized for its innovative and productive work environment (attachment #3). Ms. Millard answered questions from several members of the committee.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor and Industry,

room 526-S, Statehouse, at 9:05 a.m./~~p.m.~~ on February 5, 1991

C. Conrad McNeer, M.S.W., representing the Kansas chapter of the American Association of Marriage and Family Therapists, commented on the stressful situations many workers find at home and in the workplace. He said that employees need the security of knowing their job will be held open for them when they have to care for family members in crisis. He noted that one of the main purposes of the bill is to promote this sense of security and to provide "emotional support" in the workplace by granting the 10 week leave of absence (attachment #4).

Chairman Hensley then introduced conferees as opponents of House Bill No. 2076:

Vernon Nikkel, Vice-President of Industrial Relations for Excel Industries, Inc., in Hesston, Kansas, stated that the bill was not practical. He said the bill goes against the current trend of what employers are providing in benefit packages for their employees. He said the bill would require employers to locate, train and pay replacement workers for those who take the 10 weeks unpaid leave. He estimated that the bill would cost Excel \$1,724 per affected employee (attachment #5). Mr. Nikkel answered questions from several members of the committee.

Joe Stuhlsatz, Division Controller, GEC Precision Corporation in Wellington, Kansas, stated that the bill was a further encroachment of government into the management of Kansas businesses. He opposed the bill because it prevented employers from working out a benefit package best suited for employees (attachment #6). In response to questions from committee members, he said that his company provides 550 jobs in the Sumner County area of which 40% are held by women. He stated that his company's policy on maternity leave is two weeks with pay and the sick leave policy is 8 hours per year for 1-2 year employees, 16 hours per year for 3-4 year employees, 24 hours per year for 5-7 year employees, and 40 hours per year for employees who have worked for his company more than 8 years.

Stephen R. Cloud, President, IBT, Inc., in Lenexa, Kansas, said he opposed the bill because it would have a negative effect on his company and on economic development in Kansas. He pointed out that his company operates nine branch offices in Kansas which employ an average of 7 employees per office. He said if one or two employees in these offices took 10 weeks unpaid leave it would be "devastating" to his company. He urged the committee not to act on the bill and wait for the federal government to enact a nationwide policy on family and medical leave. He said Kansas businesses should be allowed to set their own employee benefits through negotiations between management and labor (attachment #7). Mr. Cloud answered questions from several members of the committee.

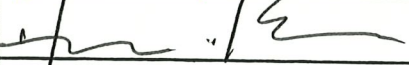

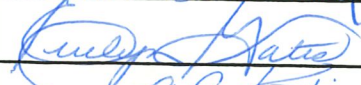
Chairman Hensley announced that the hearing on House Bill No. 2076 would continue tomorrow, Wednesday, February 6, 1991.

The meeting was adjourned at 10:00 a.m.

GUEST LIST

COMMITTEE: House Labor and Industry

DATE: February 5, 1991

NAME	ADDRESS	COMPANY/ORGANIZATION
Michelle Lister	Topeka	John Peterson & Associates
Deanna Mubel	Senators	Excel Ind. Inc.
Terry Leatherman	Topeka	KCCT
Wayne Marcher	Topeka	Ks AFL-CIO
WAYNE K WIANECKI	TOPEKA	KS - AFSCME
Sandra Conrad	Manhattan	Jack Shultz's Leg. Assistant
CHUCK STUART	TOPEKA	U. S. A.
NORM WIKES	TOPEKA	KASB
BILL CURTIS	TOPEKA	KASB
	WICHITA	EUKEL & CO. CONSULTANTS
BILL BARNES	EMPHORIA	MODINE MFG CO
	WELLINGTON	GEC PRECISION CORP
Ronda A. Webb	Wellington	GEC Precision Corp
Kelly Kuitala	KCKS	NOW
George Goebel	Topeka	AARP-CCTF-SLC
Karen Gustafson	Topeka	Washburn Student
Craig Grant	Topeka	H-NEA
Candace Davis	Topeka	KDOA
Jeanette Ables	Topeka	KDOA
Paul Shelby	Topeka	OJA
	Topeka	OJA
Al Fitch	Topeka	DNR
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HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIR	TAXATION
MEMBER	ECONOMIC DEVELOPMENT FEDERAL & STATE AFFAIRS LEGISLATIVE POST AUDIT

February 5, 1991

To Members of Labor and Industry Committee:
Statement in support of H.B. 2076, Family and Medical Leave

The "traditional family" of an employed father, stay-at-home mother, and 2.5 children is no longer the norm, if indeed it ever was. More and more households either have to have both adults working outside the home or are headed by only one adult. This is a trend which will only continue.

A study done for the U. S. Department of Labor projects that by the year 2000:

- Women will comprise almost one-half the total work force;
- Close to two-thirds of women will be employed;
- Two-thirds of all new entrants in the work force from 1985-2000 will be women.

This raises serious question about who will care for a new baby or a family member who becomes ill or disabled--whether child, spouse, or aged parent. If the possible care givers are all working, how does the family cope in times of crisis?

Some employers have found ways to accommodate the changing work force by creating family and medical leave policies which run counter to old-style assumptions. It used to be the rule that work always came first and family a distant second. With the changing work force, adjustments must be made. Not only do employees need and want more humane and sensitive policies, but employers are finding it is in their best interest also.

By making reasonable provision for employees to care for family and medical needs without jeopardizing their employment, employers are able to retain their investment in training the employees, to benefit from increased morale and productivity and to contribute to the well-being of families, children and society as a whole.

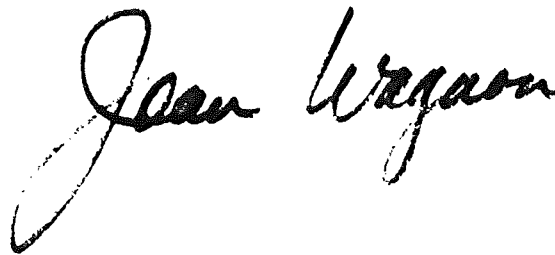
The U.S. has lagged behind Europe in family care policies. (About three-fourths of the nations of Europe offer some family leave in addition to maternity leave.) Several U.S. states,

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attachment #1-1

including Wisconsin, Connecticut, Maine, Minnesota, Rhode Island, Washington and New Jersey, have passed legislation with some broad provisions for family and medical leave for both men and women, and a number of other states provide at least maternity and/or new parent leave. Kansas provides for family leave within its leave policies for state employees, but does not require other employers to do so.

The basic thrust of HB 2076 is to require employers with 50 or more employees to provide unpaid leave for the employees' own disabling illness or injury or for care of an ill child, parent, or spouses (including birth or adoption). This will allow employees to take time off when it is urgently needed, knowing that employee's employment is protected and health insurance will remain in force.

A handwritten signature in cursive script that reads "Joan Wagon". The signature is written in black ink and is centered on the page.

OLDER WOMEN'S LEAGUE

NATIONAL OFFICE

FAMILY AND MEDICAL LEAVE ACT: THE IMPORTANCE OF SPOUSE AND ELDER CARE

THE FAMILY AND MEDICAL LEAVE ACT WOULD HELP OLDER WOMEN AS CAREGIVERS, EMPLOYEES, AND CARE RECIPIENTS.

--Employers [with 50 or more employees phased down to 35 after three years in House bill; 20 employees in Senate bill] would be required to provide employees with 10 weeks of unpaid, job-guarantee leave over a two-year period for the birth or adoption of a child or to care for a seriously ill child or parent. (House bill does not contain leave for spouse caregiver. Senate bill does not contain leave to care for seriously ill parent or spouse.)

CAREGIVERS:

- There are presently at least 2.2 million people who care for the elderly; one-third of whom are in the work force.
- Nearly three out of every four (72%) of these are women; 78% are 45 and older; 36% are taking care of their spouses; 37% are taking care of their parents.
- Nearly one out of three (32%) caregivers are poor or near poor; very few are above the middle income level.
- Nearly two-thirds (64%) of women aged 45 to 54 years old--those most likely to have parents needing care--were in the labor force in 1984. This percentage will only increase.

THE ELDERLY:

- In 1987, there were 27 million non-institutionalized elderly in the U.S., with the elderly population growing faster than the rest of the population.
- Presently, only 5% of the elderly are in nursing homes. For the 95% of elderly people not presently in institutions, the most critical factor in preventing or delaying nursing home placement is the existence of family care.

UNPAID LEAVE BENEFITS MANY, WITH FEW BURDENS TO THE EMPLOYER:

- Blue collar employees are much more likely than any other category of worker to use unpaid leave.
- Among employed caregivers, 29% have rearranged their schedules, 20% have cut back their hours, and only 20% have taken an unpaid leave.
- Among those who have taken unpaid leave, approximately 10% were out of work less than one day, 70% were on leave from one to five days, and only the remaining 20% were on unpaid leave for more than five days.

THE FAMILY MEDICAL LEAVE ACT WILL INCREASE WORKER PRODUCTIVITY AND BENEFIT THE ECONOMY AS A WHOLE:

- Approximately 11% of caregivers quit employment or were fired because of caregiving responsibilities.
- Presently, the demands of caregiving make holding a job difficult: for all women aged 45-54, the employment rate is 62%, yet for women caregivers of the same ages, the employment rate is only 50%. For men in the same age group, an even greater disparity exists: a 90% employment rate for all men aged 45-54 contrasts sharply with a 66% rate for caregivers.
- Stress resulting from the burdens of combining employment and caregiving without the availability of unpaid leave decreases productivity, efficiency, and morale.
- The cost of lost earnings and increased public assistance payments due to the current inability of caregivers to continue in their jobs has been estimated at over five billion dollars. (Institute for Women's Policy Research, 1988.)

[During the 100th Congress, the bill reached the Senate floor. Sixty votes were needed to end a filibuster against the measure. The vote was 50-46. In the House, the bill was reported out of committee with no further action taken.]

LEADERSHIP BRIEF

March 1989

Policy Choices In Family and Medical Leave: A Legislative Checklist

Introduction

In the face of a persistent trade imbalance and federal deficit, states must explore initiatives to promote economic growth. Despite the conventional wisdom coming from some quarters within the business community, policies such as family and medical leave are essential to that growth. Major changes are taking place:

- The composition of the workforce is altered.
- The structure of the economy is transformed.
- The demographics of the population are changing.

The need for a flexible, productive workforce has been well documented. What has been less clear is the importance of maximizing the productivity of a major portion of the existing workforce — women workers — through strong policies of family supports.

Workforce 2000, prepared by the Hudson Institute for the U.S. Department of Labor, makes some projections which set the national tone:

- Women will comprise almost half of the total workforce by the year 2000 (47% compared to 42.5% in 1980).
- Close to 2/3 of women will be employed (61% as compared to 51.5% in 1980).
- Two-thirds of all new entrants in the work force from 1985 - 2000 will be women.

There are critical questions about economic growth hidden in these statistics. What happens if women do not continue to surge into the workplace? What happens to families, especially children and the aged, if they do?

The debate about family policies has been couched in terms of the question posed by business, "Can we afford family policies if we are to compete in the world economy?"

Another question is more appropriate: "If America is going to compete in the world economy, can we afford not to have family policies?" The answer is clear; we cannot.

Family and work issues now occupy the public limelight. In 1989 legislative sessions, 14 states are considering major bills on workplace leave. Federal legislation for family and medical leave is under active consideration in the Congress.

The federal bill will be a help to families; it is not the whole answer, merely a minimum floor. For this reason — and to gain an advantage over competitors — a number of states have expanded far beyond the minimum provisions of potential federal legislation.

This brief, by Arlene Fong Craig, analyzes the state policy choices available for family and medical leave, lays out the major arguments heard in the halls of capitols, shows the "state of the states" and the federal legislation, explores the strategies used by Massachusetts as it attempts to become the first state to enact paid parental leave, and provides resources and a bibliography.

— Linda Tarr-Whelan

About Leadership Briefs ...

This is the second in a series of Leadership Briefs published by the Women's Economic Justice Center (WEJC) as part of its program to develop and disseminate new policy material. Issues covered in this series will include economic development, family and medical leave, health care for low income women, and the development of statewide agenda projects and coalitions. These briefs are designed as substantive overviews of women's economic justice issues — defining the parameters and current status, identifying state approaches as well as the interface between federal and state policies, and suggesting future policy action.

For more information, contact Arlene Fong Craig, WEJC Coordinator, at 202/387-6030.

Women's Economic Justice Center

A Project of The National Center for Policy Alternatives

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Policy Choices in Family and Medical Leave: A Legislative Checklist

by Arlene Fong Craig

This policy brief is written for state-level policymakers and advocates, particularly those who wish to propose a family and medical leave bill which includes parental leave for their state or to improve an existing one.

The first section, "Policy Choices Checklist," presents the elements of a strong family and medical leave law and explains their importance. The relative importance of these elements will differ from state to state.

The second section, "The Facts About Family and Medical Leave: Refuting Opposition Claims," identifies specific arguments on family and medical leave. The debate in Congress and the states has centered primarily upon the costs to business — particularly small business — as well as the merits of a mandated minimum federal standard. We present the underlying rationale and cost analysis of opposing views on these issues.

I particularly wish to thank my colleague, Robert K. Stumberg, Policy Director of the National Center for Policy Alternatives, for his peerless collaboration on this brief. His expertise on legislative drafting and clarity of thought contributed greatly to this work. I also wish to thank two other individuals for their astute review and unstinting assistance: Donna Lenhoff, Director for Legal Policy and Programs at the Women's Legal Defense Fund, and Michelle Lord of the Families and Work Institute and the Bank Street College of Education.

Policy Choices Checklist

This checklist describes eight sets of policy choices which, in combination, form the elements that would make up a strong family and medical leave law and the reasons why they are important. We refer to helpful models where they exist. The policy choices are:

1. What are the types of leave?
2. Who will be covered?

WEJC LEADERSHIP BRIEFS are produced by the Women's Economic Justice Center, a program of the National Center for Policy Alternatives (NCPA). Founded in 1975, NCPA is a nonpartisan, nonprofit public policy organization that focuses on innovative state and local policy development in a wide range of areas including economic development, voter participation, sustainable growth policies, and family and work issues.

Editor	Arlene Fong Craig
Executive Editor	Judy Goldsmith
NCPA President	Linda Tarr-Whelan

Production	Rock Creek Publishing Group
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3. What supports are provided to employees on leave?
4. What options exist for overlap with existing leave policies?
5. How is reinstatement handled?
6. How can discrimination by employers be prevented?
7. What are the necessary procedural protections?
8. How are the laws enforced?

If you would like to follow up on any state law or bill, NCPA can provide comparison charts as well as full text.

1. Types of Leave

Family and medical leave allows time off from work for three different needs from a gender-neutral perspective:

Parental leave — the birth or adoption of a child;

Family leave — the care of a seriously ill family member, usually a child, spouse, or parent; and

Medical leave — employees' own serious illnesses or injury (not job-related).

Clearly, the best approach for balancing family and work responsibilities is a combination of all three. Family and medical leave with full parental leave provides protection for job rights and leave time under any scenario — a newborn baby, family illnesses or serious personal medical problems. Policy choices for each type of leave are characterized below:

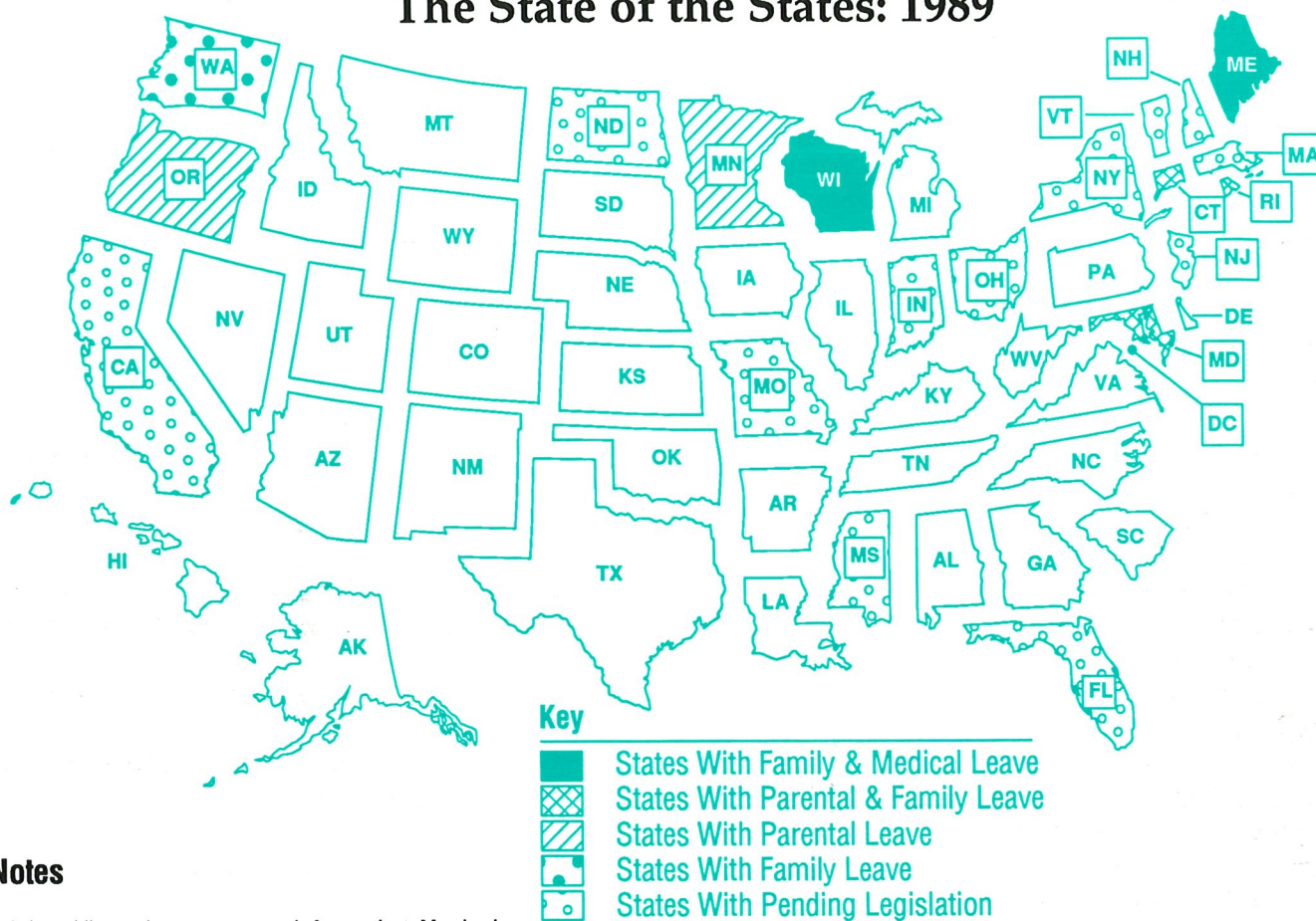
Parental leave

- *Limits on timing.* How soon after birth, adoption or beginning of foster care must leave be taken? Can any leave be taken before birth? District of Columbia and New Jersey bills limit leave to within one year of the child's arrival.
- *Length of leave.* How much leave is granted and over what period of time? An Illinois bill provides 18 work weeks in any 24-month period for all types of family and medical leave. The bill also permits workers to take leave on a part-time basis; a part-time leave cannot exceed 12 consecutive months.
- *Scope.* Does the law apply to time off for adoptive and foster care as well as for childbirth, like the Maryland

1-11

1-6

The State of the States: 1989



Notes

- Only *public employees* are covered: Connecticut, Maryland.
- *Puerto Rico: Pregnancy disability* — employers required to pay half of the employee's compensation while on leave.
- States covering *maternity disability* under the state's *temporary disability insurance plan*: California, Hawaii, Iowa, New Jersey, New York, Rhode Island.
- Other states which have either *maternity leave* or *maternity disability leave*: Massachusetts, Minnesota, Montana, Oregon, Tennessee, Washington.
- States with *pending legislation*: California, Connecticut, District of Columbia, Florida, Indiana, Maryland, Massachusetts, Mississippi, New Hampshire, Missouri, New Jersey, New York, North Dakota, Ohio, Vermont.

law, and bills in the District of Columbia, Illinois and New Jersey?

- **Temporary disability law.** Some states already provide a paid leave to women for pregnancy and childbirth under an existing temporary disability insurance law. Gender-neutral parental leave should be added to, not displace, employee rights to such paid leave. The states with temporary disability coverage include California, New Jersey, New York, Rhode Island, Hawaii, and Iowa. The Iowa law, for example, considers all pregnancy, childbirth and abortion as temporary disabilities. A Massachusetts bill which provides paid TDI leave for pregnancy, childbirth and adoption is described later in this brief.
- **Who qualifies?** The creation and nurturing of children is a collaborative effort. Yet, existing employment policies and practices still operate on the biased and outmoded assumption that caretaking is primarily

“women’s work,” thus excluding meaningful roles for both parents. Are both parents allowed to take leave for birth, adoption or foster care?

- **Limits on age.** What are the age limits for an adopted child or for one under foster care? For example, an Illinois bill provides leave for adoption or foster care of children younger than 18 years, or older if physically or mentally impaired.

Family Leave

- **“Family.”** The definition of family is critical. Is there coverage for just some family members — child, parent, spouse, etc. — or all of them? The Massachusetts Employment Leave Insurance Bill covers care of a “... spouse, child, parent, parent of an employee’s spouse, or a person living in the immediate household of an individual in current employment.” The model statute developed by the Women’s Legal Defense Fund is

even more inclusive: “‘family member’ means a person to whom the employee is related by blood, legal custody, or marriage, or with whom the employee shares or has shared within the last year a mutual residence and with whom the employee maintains an intimate relationship.” The federal bill currently includes children and parents but omits the care of one’s spouse.

- *“Serious illness.”* What is evidence of “serious” illness or injury? A New Jersey bill uses inpatient care or continuing medical treatment of the family member.
- *Limits on age.* Are there limits on how old a child can be for family leave? Several states provide leave for the care of children younger than 18 years, or older if physically or mentally impaired.
- *Length and Frequency of Leave.* How much leave is granted and over what period of time? May employees structure their leave on a part-time or intermittent basis? The Illinois bill provides 18 work weeks in any 24-month period for all types of family and medical leave. The bill also permits workers to take leave on a part-time basis; a part-time leave cannot exceed 12 consecutive months. New Jersey proposes 12 weeks over any 24-month period; leave may taken nonconsecutively, but cannot exceed a 12-month period.

Medical Leave

- *“Serious illness.”* What is evidence of “serious” illness or injury? A New Jersey bill uses inpatient care or continuing medical treatment. In its model statute, the Women’s Legal Defense Fund recommends a “two-fold test of a serious health condition and [the] resulting inability to perform the duties of the employee’s job.”
- *Length of leave.* How long is the leave and over what period of time? An Illinois bill provides 26 work weeks in one year. Also, by agreement with the employer, a worker may take different duties for the duration of the condition, and may take leave intermittently. The Wisconsin law allows employees up to two weeks of medical leave, while Maine permits eight weeks total for all types of leave.
- *Temporary disability law.* Some states already provide personal medical leave under an existing temporary disability law. If so, does it cover the same employers and employees as the proposed family and medical leave bill? If not, the TDI law should be expanded.

Currently, only Maine and Wisconsin have a law which includes the three crucial elements of parental, family, and medical leave for private sector employees.

2. Coverage

The categories of employers and employees are bound up with each other — the size of an employer is defined by the number of employees. A small business exemption is the standard safeguard against the claim that the policy particularly burdens small businesses.

- *Minimum number.* The minimum number of employees covered (which creates the small business exemption) determines how much of the eligible workforce the bill would protect. The most far reaching laws apply to “employers of one or more” (Hawaii, Montana and Puerto Rico). A minimum number of five is a reasonable standard — the percentage of employers having five or fewer employees who would be excluded from coverage range between 55% and 58% in states as diverse as Alabama, California, Illinois, Iowa, Pennsylvania, and Utah. The federal bill in the Senate with a minimum of 20 would set a minimum floor that covers only 47% of the workforce, and excludes 88% of companies, which employ fewer than 20 employees.
- *Part-time workers.* Part-time workers will probably not be protected unless specifically included. What is a reasonable minimum time they must work in order to be eligible for leave? The Massachusetts Parenting Leave Bill covers employees who have worked a “minimum of 50% of full time hours” and who have completed either the normal probation period or three consecutive months with the same employer, whichever is less.
- *Public and private.* Does the proposed law explicitly cover public as well as private employees? Unless explicit, there is a risk that courts will rule that public workers are not protected. Connecticut and Maryland have built support by covering public employees first and then extending coverage to private sector employees. Virtually all public employees already have medical leave under civil service law.

3. Supports

Unpaid leave helps families, but continuation of benefits — particularly health insurance — is critical. Most bills and laws require continuation of benefits during leave, usually

Summary of the Family and Medical Leave Act of 1989

[Sponsored by Senator Christopher Dodd (D-CT) and Representatives William L. Clay (D-MO), Patricia Schroeder (D-CO) and Marge Roukema (R-NJ)].

The bills, H.R. 770 and S. 345, establish the right to two kinds of leave:

1. **FAMILY LEAVE** — under which an employee may take up to 10 weeks of unpaid leave over a 24 month period upon:
 - a. the birth of a child;
 - b. the adoption of a child;
 - c. or the serious illness of a child or parent.

AND

2. **MEDICAL LEAVE** — under which an employee may take unpaid leave upon the employee's own serious illness (up to 13 weeks of unpaid leave over one year under the Senate bill; up to 15 weeks under the House bill).
3. All employees who have completed one year of service and who have worked at least 1,000 hours per year.
4. Small employers are exempted from the bill.

- a. the Senate bill exempts all employers with fewer than 20 employees.
- b. the House bill exempts employers with fewer than 50 employees for the first three years and exempts employers with fewer than 35 employees thereafter.
5. Employees have the right to the same or equivalent position and the continuation of pre-existing health benefits during leave. However, employees in their firm's top 10% (by salary) may be denied reinstatement if their employer can show business necessity. (House bill).
6. Employees must provide reasonable notice of leave and when possible, schedule leave to accommodate the employer.
7. The House bill includes Congress as a covered employer.
8. A study is authorized to examine the effects of family and medical leave on employers.

Information kindly provided by the national Family and Medical Leave Coalition.

with the employee continuing to pay his/her share of premiums. No law currently provides for paid family and medical leave except for the six states with TDI pregnancy and childbirth benefits for women.

- **Health coverage.** Are employers required to continue health coverage during leave and pay the employers' portion? How do employees pay their share of the premium during the leave of absence? The District of Columbia bill stipulates that an employer must maintain the employee's health plan at its pre-leave level for as long as the employee continues to contribute to it at pre-leave rates. It can be very punitive if the premiums must be paid up-front, particularly for childbirth leave.
- **Substitution.** May employees substitute paid vacation or personal sick leave benefits that are already provided by an employer? Under the proposed District of Columbia bill, the employee may substitute accrued

vacation or sick leave for family leave; and by mutual agreement, the same for medical leave.

- **Other benefits.** Are other benefits and seniority protected at the level just prior to leave?

4. Multiple Leave Options

An employer may already provide benefits that include sick leave, vacation leave or even family and medical leave.

- **Additional leave.** If so, is family and medical leave under the law required in addition to the preexisting vacation and sick leave? In general, this is so. However, bills and laws should stipulate how employees and employers should combine family and medical leave with existing leave. The Iowa law has a different approach by requiring employers to grant a leave of absence to pregnant employees if other leave is not available — leave cannot exceed eight weeks.

- *Employee choice.* A choice is preferable to a mandate. The bill should make clear that an employer may not require employees to take unpaid statutory leave first, or be mandated to use their accrued sick leave. Thus far, statutory language has permitted choice and discussion by using such terms as "mutual agreement" (District of Columbia bill); "may be used/substituted" (as in the Kansas law); and "may be a combination of unpaid and paid employer leave" as in the case of New Jersey bill.

5. Reinstatement

While reinstatement of benefits is standard, reinstatement to the same job is not. Most laws provide very little protection from an arbitrary interpretation of what an "equivalent" position is by either the employer or enforcing agency.

- *"Same or equivalent."* Reinstatement to the "same" job is clearly preferable; reference to a "similar" job is too soft. How much flexibility is needed for employers? "Same or equivalent" job is better for employees, but still leaves much to later interpretation. The Massachusetts Parenting Leave Bill is fairly explicit in its reference to reinstatement "... with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of leave."
- *Benefits.* Reinstatement to the same job does not imply reinstatement to the same benefits or seniority. Explicit language is needed.

6. Anti-Discrimination

No family and medical leave law is complete without protecting employees against retaliation by employers. Most laws have some form of anti-discrimination provision to prevent harassment, discouragement or reprisal.

- *"Discrimination."* What is discrimination? It can be as subtle as withholding useful information, as blatant as a threat to fire someone. Rather than trying to define something that is open to sinister creativity, some laws simply create a presumption. Thus, if the employee can prove that an employer took adverse action within a certain period of receiving notice of leave, the law presumes discrimination and the employer must prove that there was a valid reason for the adverse action. In this way, District of Columbia law protects tenants exercising their statutory rights from retaliation by landlords.

- *Pregnancy Discrimination.* State laws should give women better protection than currently exists under the federal Pregnancy Discrimination Act. PDA, enacted in 1978, says that if an employer offers leave or health coverage for disabilities, those benefits must also be offered to cover disabilities associated with pregnancy, childbirth, or related medical conditions. PDA protection applies only to those women workers who work for employers providing disability coverage. It does not cover other employees or assignment to less hazardous or strenuous work.
- *Human Rights Law.* The relationship between protections under family and medical leave and state human rights law must be clear. Protection should be expanded if needed to prevent discrimination.

7. Procedures

Advance notice of leave is usually required as a way of protecting employers and co-workers who must deal with assumption of work and transition when the employee returns. Some laws, however, go beyond necessary safeguards and erect unnecessary procedural barriers in their requirements for notice, medical certification, and agency approval. Employees need adequate notice as well.

- *Timely notice from employees.* The Iowa law requires "timely" notice; the District of Columbia bill "reasonable" notice. Such open-ended language may allow the enforcing agency or the employer to either define or undermine the policy. A better approach is to state what timely notice is under foreseeable circumstances like parental leave. For health emergencies, a policy other than advance notice is required. For the grey area in between foreseeable needs and true emergencies, interpretation can be delegated to the enforcing agency.
- *Inadequate notice.* When leave is foreseeable, what should happen if an employee fails to provide adequate notice? Some laws take a punitive approach without any clear purpose in doing so. Simple adjustments can be made to protect employer interests. For example, leave could be delayed as long as the notice is tardy or the employee could choose between reimbursing the employers' expenses caused only by the delay (which will usually be negligible) or forgoing protection of the law. Placing a cap on reimbursement is a reasonable safeguard against abuse.

- *Emergencies.* Leave for health reasons presumes that emergencies will happen. In other words, advance notice is not available as a way to protect employer and co-worker interests. Employees should be required to provide a written explanation of the nature, anticipated duration, treatment, and probable outcome of the emergency from the health care provider. In that way, the employer has a verifiable medical certification of what happened, what to expect, and can plan accordingly.
- *Notice from employers.* Employees cannot give notice if they do not first understand their rights and duties under the various types of leave. What are the effective ways to notify employees that your law should require of employers? What happens if an employer fails to give notice? Simply posting notice of employee rights is a common requirement, but not a sufficient one. In order to make sure workers know their rights, a letter to employees with text provided by the enforcing agency is suggested.
- *Medical Certification.* An initial certification is certainly reasonable to protect employer interests, as is a revised certification for changed circumstances. However, requiring a process of protracted verification can easily have a chilling effect on employees without serving a valid purpose of employer protection.

8. Enforcement

No law is viable without adequate provisions for implementation and enforcement.

- *Responsibility.* What agency or state official is responsible for enforcement? In most cases, it is an existing agency, such as the state department of labor. Iowa and Kansas delegate enforcement to the state commission on civil rights which may ask the district court to enforce compliance with subpoenas and conciliation agreements — refusal is considered contempt.
- *Enforcement powers and process.* Delay and conflict can be avoided with a law that provides specific standards. Some states have laws without clear enforce-

ment powers or process. Several problems have arisen in such cases with conflicting interpretations between the enforcing agency and the state attorney general.

- *Employer sanctions.* There should be a disincentive for employers who violate the law. Rhode Island empowers the director of labor to take action with a maximum penalty of \$1,000 per day (each day is considered a separate offense). A New Jersey bill gives the state attorney general power to bring a civil lawsuit to impose a penalty on employers for violations.
- *Time limits.* A reasonable balance between employer and employee interests should be struck for the time allowed to make a complaint. The language in the Women's Legal Defense Fund model bill stipulates that "a charge may not be filed more than 1 year after the last event constituting the alleged violation." The proposed Parental Leave bill in Massachusetts has similar language.
- *Informal process.* A "user-friendly" administrative process for resolving complaints that is less intimidating and expensive than the courts is helpful. The process described in the proposed Parental Leave bill in Massachusetts moves quickly and allows for informal resolution and conciliation before formal action takes place.
- *Private lawsuits.* While dispute resolution is usually best handled through administrative hearings, resort to the courts is also important. Concurrent jurisdiction for both the courts and the enforcing agency for such situations as large individual claims or class action suits protects employees' rights.

This checklist helps to frame the choices faced by policymakers and advocates seeking to provide family and medical leave, including full parental leave, to workers. Male and female workers need these protections to assure that childbirth, family or personal illnesses are not catastrophic events which force an impossible choice — between a worker's job or family. Enactment of sound legislation in these areas enhances the twin public policy goals of economic productivity and family protection.

New Coalitions

Paid Leave. Income replacement. Universal coverage.

What's the story?

The Massachusetts legislature is now considering a bill to establish a state temporary disability insurance plan (TDI) that will provide PAID parental, family, and medical leave to all workers in the Commonwealth. Introduced by Representative Mary Jane Gibson on December 7, 1988, the Employment Leave Insurance Bill has bipartisan co-sponsorship (about 25% of the Massachusetts House) and is the most far-reaching of all proposed state-level family and medical leave bills to date.

The importance of this bill is twofold. The provisions of the bill are the most comprehensively developed. Secondly, the strategy has worked to bring the controversial issue of paid leave to a vote.

How did they do it?

Through a commission established by legislation and chaired by the bill's eventual sponsor.

The Temporary Disability and Dependent Care Insurance Commission is bipartisan and represents the diverse constituencies that have a stake in family and medical leave in general, and paid leave in particular. It includes representation from the House of Representatives, the Secretaries of Labor and Economic Affairs, the Governor's Advisor on Women's Issues, small and large business, labor, the insurance industry, and the general public. Its charge was to research the issue, draft legislation and submit a bill to the House.

This working commission that identified the elements of a TDI plan, vigorously debated the pro's and con's, and worked out the compromises. By including legislators as well as representatives of labor and business (who in turn, kept their communities informed), the final bill was a better reflection of everyone's concerns. There were no surprises and the bill had better support than a bill independently conceived and drafted.

Like its predecessor, the Parenting Leave Commission, the TDI Commission was chaired by Rep. Gibson; her legislative aide, Mary Shannon, served as staff director of both commissions.

What did they learn from history?

Strategically, the factfinding TDI Commission was an important element that, nevertheless, needed to be balanced by a more advocacy and community-based coalition. Massachusetts activists founded the Parenting Leave Coalition, which organized, wrote testimony and con-

ducted the debate on leave around the state. It, too, represented a broad range of constituencies with an interest or stake in the issue: women's groups, professional organizations; religious and child care groups; and state affiliates of national organizations.

The Coalition is now broadening its membership in order to continue its advocacy in support of the Employment Leave Insurance Bill.

What's so special about the bill?

The Employment Leave Insurance Bill would cover all public and private employees in Massachusetts with all aspects of true family and medical leave: up to 26 weeks of temporary disability leave to recover from a non-job related illness/accident or to care for a family member who is seriously ill; up to 16 weeks for parental leave for the birth or adoption of a child. If employers already have existing temporary disability coverage for pregnant employees, they may retain that policy as long as it meets the bill's standards, and add the parental leave and dependent care provisions.

Who will pay for all this?

The income replacement feature of both this and the Parental Leave Bill is unique. The mechanisms in the two bills share several key characteristics. They would:

- be underwritten by matching employer-employee contributions of approximately \$80.00 each per year (by payroll deduction);
- provide up to 66% of the individual's average weekly wage plus \$25.00 for each dependent — an estimated \$245 per employee;
- administer the common fund and the disbursement of benefits through the existing workers' compensation program.

What is the current status of the bill?

As of the publication date of this brief, the bill is scheduled for hearings on April 10 before the Massachusetts House Committee on Commerce and Labor. Although the outcome is uncertain at the moment, the bill stands as a pioneering measure — the most progressive and inclusive bill of its kind in the nation — the only bill to propose paid family and medical leave.

For further information, contact Rep. Mary Jane Gibson or Mary Shannon, Staff Director of the Temporary Disability and Dependent Care Insurance Commission, (617) 722-2200; Boston, Massachusetts.

The Facts About Family and Medical Leave: Refuting Opposition Claims

The principal arguments on family and medical leave are based on the costs to business; whether states require separate laws if the federal bill passes Congress; and whether states should pass "mothers only" bills.

The "pro and con" of this issue are extracted from the U.S. Chamber of Commerce and U.S. General Accounting Office (GAO) analyses of the 1988 federal bills. There are tremendous differences in the assumptions they use to estimate cost. The sidebar on cost shows why the differences are so great.

Argument: It's a burden on business; the cost of family and medical leave to employers is too high and makes them less competitive.

The cost to employers of implementing unpaid family and medical leave would be over \$300 per eligible worker. Particularly for small business, this burden is unbearable; it would drive employers out of business.

Response: The burden is minimal.

The real cost to employers is about \$6.50 per eligible worker, a mere 2% of costs claimed by business lobbyists. Even this cost would be mitigated by offsetting productivity benefits such as retaining experienced workers, improving morale, and stabilizing family lives. A recent government survey shows that unions and employers no longer ask for tradeoffs on family and medical leave. In other words, negotiators see it as a break-even proposition.

A small business exemption answers the concern that senior employees are harder to replace in small organizations. Every state adopting a family and medical leave law has used this simple safeguard. Though geographically dispersed, rural and urban, these states have healthy economic indicators for small business.

In terms of international competition, American businesses have escaped the customary requirements of corporations throughout the world. Our trading partners (France, Germany, Italy and Japan) all require family leave and provide paid benefits through social insurance or employer requirements. Only South Africa — and the US — have failed to meet this international standard of competition among industrialized countries.

Argument: Mandatory coverage is unfair; it shifts social costs to business.

Family and medical leave is an attempt to "transfer social costs to private industry." Employers want flexibility in choice of benefits, because "mandating one type of benefit reduces an employer's ability to provide the other benefits that the employer can afford and that employees want and need." Employers would rather "tailor their benefits to their employees" and the latter can exercise free choice in selecting them.

Response: Employers do not bear the burden alone.

It is a modest burden, if any. The reason is implied by employers themselves. Assuming that a mandated benefit has a significant cost, it will displace present or future flexibility to provide other benefits. In that case, workers ultimately share the burden. In fact, for many women workers there are no benefits — no medical or sick leave, no parental protection for care of sick family members, no guarantee of a job after childbirth.

Stable families are more important than marginal flexibility. The issue is really productivity when family troubles underlie employee turnover, absenteeism, drug or alcohol abuse, and poor work quality.

The issue is also stability of the work force. Two-thirds of new workers will be women between 1985 and the year 2000. These women are entering a wage and benefit system designed for the previous generation of mostly male workers. Both parents now work in most families, but doubled effort has done almost nothing to increase average income for American families. Job protection for the primary care giver — man or woman — is a need beyond fairness; it is family survival.

The need for some labor standards is so overriding that government should preempt employer/employee flexibility to strengthen society as a whole. Prohibition of child labor was crucial for the 1890s; economic protection of families is crucial for the 1980s.

Argument: We won't need state bills if the federal one passes.

Whatever Congress passes will apply to all states, anyway, so why complicate things with 50 different laws on the books?

Response: Least is not best.

Why should the citizens of any state have to settle for minimum protection? States with the political will should take the initiative and go further than the federal level. Any federal bill which passes will exempt certain workers who should be covered by state standards.

Experimentation is healthy. States are the "laboratories of democracy" that provide experience necessary for future federal progress. Virtually every successful federal policy was first demonstrated at the state level.

Forward looking states realize that sound family and work policies give them a competitive edge by maximizing the productivity and the stability of today's workforce. The economic and social climates of some states will enable them to strengthen family supports in ways that other states cannot.

Argument: Maternity leave is the answer because women are usually the caregivers.

Response: Gender-neutral coverage is essential.

Parental responsibilities are not "for women only." Male workers need leave for caregiving responsibilities and personal illness — to deny such leave is divisive and discriminatory. Maternity-only leave also places women at some risk in the labor market, increasing the likelihood that employers will resist hiring or promoting women workers. The recent controversy over the "mommy-track," a structured response by some employers to divide women workers into two categories — mothers and careerists — would be worsened by divisive legislation.

For further information on specific arguments, see the resources and bibliography or call us.

The 98 Percent Difference

How can the nation's leading business lobby estimate employer costs for family and medical leave that are astronomically higher than those projected by the Congressional watchdog, the General Accounting Office (GAO)? The Chamber of Commerce price tag for the original FMLA bills (which called for 18 weeks of leave instead of 10 weeks in current versions and called for a small business exemption of only 15 employees) was **\$23.8 billion**,

compared with GAO's estimate of \$500 million. GAO's estimate of the new 1989 bills has fallen to a range of \$188 - \$236 million.

Short answer: The GAO relied on national data and an 80-firm survey of benefit costs. The Chamber used a worst-case scenario for the following elements of cost. The clash in the halls of Congress will no doubt resurface in state capitols as well.

	GAO Assumptions	Chamber of Commerce Assumptions
Total Cost	\$500,000,000	\$23,800,000,000
Who takes leave?	Most families cannot afford for both spouses to take unpaid leave simultaneously. Only one would take leave at a time — most likely the woman.	The maximum number of workers would not only take leave (any kind), but spouses would do it simultaneously.
Length of leave?	Most families would minimize their economic loss (12 weeks for new children)	Workers on leave would take the maximum period allowed (18 weeks for new children: 5 days for sick children each year).
Replacement of workers & lost productivity	Employers in the survey replaced only 3 out of 10 workers who took leave. The cost of replacement workers was generally similar to or less than the cost of the worker replaced, and in general, employers did not believe the replacement resulted in a significant loss of output.	Every worker on leave would be replaced. Replacements for workers absent on leave have to be recruited and trained—a costly process which usually nets inexperienced and less productive workers. One-third of the cost is due to lost productivity.
Small business exemption	Under S.249. 20-25% of all workers are not eligible for leave because they are employed by small businesses (15 employees or less), which were exempt.	Estimates are based on 100% of the workforce being eligible for leave.

* GAO also notes: Employers are more likely to replace clerical workers, and less likely to replace professionals and managers, whose work is reallocated or deferred. Many employers acknowledged that "disrupted routines or postponed work was likely offset by the savings associated with not paying the salary of absent workers." Fewer than 1 in 166 workers would take leave at any time, not enough to cause major disruptions to most employers.

Conclusion

The 21st Century arrives in 11 years. The broad technological changes of the past four decades have advanced so quickly that the more subtle changes in social thought and roles have not yet caught up. Family and work issues are less defined by outmoded sex-based stereotypes than by the exigencies of balancing the dual responsibilities of

family life and earning a living. Workers, be they women or men, should not have to choose between the two.

Family and medical leave legislation, which recognizes and accommodates these realities, is an important first step toward moving our society into the new century.

About NCPA and WEJC

The National Center for Policy Alternatives (NCPA) is a 12-year old progressive, nonpartisan nonprofit public policy center devoted to innovative policy development by America's state governments. Through publications, conferences, model legislation and networking, NCPA serves as a catalyst for the development and dissemination of socially responsible policies in a wide range of areas including economic development, voter participation, environmental protection and sustainable growth, financial institutions reform, jobs policies and family and work issues.

The Women's Economic Justice Center (WEJC), a major project of NCPA, focuses on improving the status of economically disadvantaged women. WEJC works at the state level with policymakers and advocates to:

- Frame the public debate
- Develop policy initiatives
- Monitor legislative agendas and initiatives
- Share information and strategies
- Build leadership
- Provide technical assistance

Established in 1987, the Women's Economic Justice Center receives support from various sources, including the Ford Foundation, the Max and Anna Levinson Foundation, Stewart Rawlings Mott, the Alida Rockefeller Charitable Lead Trust, the Rockefeller Family Fund, the Service Employees International Union, the 777 Fund, the Seven Springs Foundation, the Sophia Fund, USA for Africa/Hands Across America, the Windom Fund, and the Woods Charitable Trust.

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U.S. Chamber of Commerce, miscellaneous background materials on mandated parental and medical leave [sic] (approximate date 1988), U.S. CC, 1615 H Street, N.W., Washington, DC 20062. (202) 659-6000.

United States General Accounting Office, *Testimonies* by William J. Gainer before the Subcommittee on Children, Families, Drugs, and Alcoholism, Committee on Labor and Human Resources, United States Senate:

April 23, 1987 (GAO/T-HRD-87-10) — S. 249, *The "Parental and Medical Leave of 1987"*;

October 29, 1987 (GAO/T-HRD-88-5) — *GAO's Estimate of the Costs of the "Parental and Medical Leave Act of 1987"* (S.249);

February 2, 1989 (GAO/T-HRD-89-3) — *GAO's Cost Estimate of the Family and Medical Leave Act Proposal*;

February 7, 1989 (GAO/T-HRD-89-4) — *GAO's Cost Estimate of the Family and Medical Leave Act of 1989 (H.R. 770)*

Cost, first five copies are free; \$2.00 for each additional copy: U.S. GAO, P.O. Box 6015, Gaithersburg, MD 20877. (202) 275-6241.

Resources

The Families and Work Institute, *The Four-State Parental Leave Study* (an ongoing study of the impact and implementation of family and medical leave laws in Minnesota, Oregon, Rhode Island and Wisconsin); Michelle Lord, Project Manager (Fall 1990). FWI, c/o Bank Street College of Education, 610 W. 112th Street, Room 621, New York, NY 10025. (212) 222-6700 x360.

Institute for Women's Policy Research, *Unnecessary Losses: Costs to Americans of the Lack of Family and Medical Leave*, Roberta M. Spalter-Roth and Heidi I. Hartmann (1988), 77 pp. Cost, \$9.00: IWPR, 1400 20th Street, N.W., Suite 104, Washington, DC 20036. (202) 785-5100.

Institute for Women's Policy Research, *State-Level Estimates of the Cost to Women and Men Workers and to Taxpayers of Not Having a Federal Family and Medical Leave Policy*, Roberta M. Spalter-Roth and Heidi I. Hartmann (May 1989), 5 pp. packet for each state that does not have a family and medical leave policy. Cost: To be announced: IWPR, 1400 20th Street, N.W., Suite 104, Washington, DC 20036. (202) 785-5100.

9 to 5: National Association of Working Women, *New Workforce Policies and the Small Business Sector: Is Family Leave Good for Business?* Roberta M. Spalter-Roth and John Willoughby (1988), 54 pp. Cost, \$12.00 (members) and \$22.00 (nonmembers): 9 to 5, 614 Superior Avenue, NW, Cleveland, OH 44113. (216) 566-9308.

United States General Accounting Office, *Report from the U.S. GAO Human Resources Division to the Subcommittee*

on Labor-Management Relations, Committee on Education and Labor, House of Representatives:

November 1987 (GAO/HRD-88-34) — *Parental Leave: Estimated Costs of H.R. 925, the Family and Medical Leave Act of 1987*.

Reports from the U.S. GAO Human Resources Division to the Chairman, Subcommittee on Children, Family, Drugs and Alcoholism, Committee on Labor and Human Resources, U.S. Senate:

May 1988 (GAO/HRD-88-103) — *Parental Leave: Estimated Cost of Revised Parental and Medical Leave Act*;

September 1988 (GAO/HRD-88-132) — *Parental Leave: Estimated Cost of Revised Parental and Medical Leave Act Proposal*.

Cost, first five copies are free; \$2.00 for each additional copy: U.S. GAO, P.O. Box 6015, Gaithersburg, MD 20877. (202) 275-6241.

Women's Legal Defense Fund, Judith L. Lichtman, President. Ongoing *policy work on federal and state-level family and medical leave legislation*, and development of a *model state bill*. Contact: Donna R. Lenhoff, Director for Legal Policy and Programs and Diane Dodson, Deputy Director for Family Programs. WLDF, 2000 P Street, N.W., Fourth Floor, Washington, DC 20036. (202) 887-0364.

STATE LAWS AND REGULATIONS GUARANTEEING EMPLOYEES THEIR JOBS AFTER FAMILY AND MEDICAL LEAVES

See Vol 1 Directory
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Attachment #2
2-1

Demographic and economic changes in the United States in the past 40 years have transformed the American work force and the American family. One of the most important changes is the influx of women into the labor force—more than 70 percent of all American women ages 20 to 54 now work outside the home.

These changes have had tremendous effects on the family structure. Other family patterns have eclipsed the traditional family, with one spouse remaining at home. Today, most families with children are maintained by a couple in which both partners are employed, or by a single parent who is employed. Women in the labor force continue to have significant family responsibilities. In addition to child care responsibilities, some American working women must care for elderly relatives. An often overlooked result of the increase in the

percentage of women in the labor force is their reduced ability to provide the family caretaking services they traditionally provided without compensation. The need for these services persists, but society continues to operate as if mothers stayed at home to care for their children and fathers' wages were enough to support the family. Adequate day care is scarce, services are often only available during work hours, jobs traditionally held by women do not offer essential benefits, and jobs are structured to require that employees work all day all but a few days of the year. Among the policies that could be implemented to ensure that family caretaking services are provided when women no longer provide them free are workplace policies that allow employees the time necessary to care for their children and other family members. One change that must be made in the workplace to accommodate employees' family responsibilities is to implement policies that

guarantee employees their jobs when they must leave work because of medical or other compelling family needs. Existing provisions do not adequately respond to the needs of family responsibilities. Recognizing the inadequacy of leave policies granted at the discretion of employers, several states have enacted leave legislation. However, these statutes and regulations often are restricted, and together they only cover a small percentage of U.S. workers. Unless federal leave legislation passes, state legislative action is the only way to guarantee that workers keep their jobs during family crises. Even if federal legislation passes, state legislation that goes beyond the requirements of federal law and that is tailored to meet state-specific needs will remain an important means toward achieving work and family policy goals. What follows is a summary of current state laws and regulations that guarantee workers jobs after family and medical leaves.

ABOUT THE WOMEN'S LEGAL DEFENSE FUND

Since 1971 the Women's Legal Defense Fund has been a leading force in the drive to achieve equality for women throughout the United States. To help women become full and equal participants in their public and private lives, WLDF advocates public policies that focus on work and family concerns. We provide technical assistance to activists and policymakers. We participate in targeted litigation to challenge gender bias. We reach out to communities

to develop leadership and strengthen grassroots constituencies. And we educate the public about the human and social costs of gender discrimination. The WLDF agenda includes such critical issues as family and medical leave, affirmative action, sexual harassment, wage discrimination, reproductive freedom, child support, and domestic violence. Underlying all of WLDF's work is a commitment to seek remedies for the problems experienced by poor

women and women of color. The Women's Legal Defense Fund is a non-profit organization supported by individual members, foundations, corporations, and labor organizations. For more information, please contact:

Women's Legal Defense Fund
2000 P Street, NW Suite 400
Washington, DC 20036
202/887-0364

Twenty-six states (including Puerto Rico) have laws that guarantee state or private employees their jobs if they must be out of work temporarily for family or personal medical reasons. Of the 20 jurisdictions that cover private employees—

- three (Connecticut, Maine, and Wisconsin) guarantee jobs after family and medical leaves;
- one (New Jersey) guarantees jobs after family leave;
- four (Minnesota, Oregon, Rhode Island, and Washington) guarantee jobs only after parental leaves;
- one (Kentucky) guarantees jobs only after leave for adoption; and
- 11 (California, Hawaii, Iowa, Kansas, Louisiana, Massachusetts, Montana, New Hampshire, Puerto Rico, Tennessee, and Vermont) guarantee jobs only during periods of pregnancy- and childbirth-related disability, or only for women after childbirth.

Six states (Florida, North Carolina, North Dakota, Oklahoma, Pennsylvania, and West Virginia) provide some form of job-guaranteed family or medical leave for state employees only.

WHAT THE CHART COVERS

The information in this chart is current as of January 8, 1990. Please note: state laws in this area are changing rapidly—over 30 states considered family or medical leave legislation in 1989.

CATEGORIES ON THE CHART

All leave is unpaid unless otherwise noted.

FAMILY LEAVE is leave for employees of both sexes to care for family members such as a newborn child; a newly adopted child; a foster child; or a seriously ill child, spouse, or parent. If the leave is to care for only one of these categories of family members, this is stated. If the leave is limited to female employees, this is stated; otherwise employees of both sexes are covered.

MEDICAL LEAVE is leave granted because of an employee's own serious health condition of any kind. Medical leave includes leave that is limited to the time during which a female employee is disabled by pregnancy, childbirth, or a related medical condition.

EMPLOYERS COVERED shows the minimum number of employees an employer must have to be covered by the legislation.

ELIGIBILITY REQUIREMENT is the length of time an employee must have worked for an employer

to be eligible for family or medical leave. This category also shows whether coverage is provided for part-time workers.

REINSTATEMENT PROVISION lists specific requirements for protection of the employee's job (and accrued leave, seniority, pension rights, and the like) upon return from family or medical leave.

NOTICE PROVISION explains requirements that an employee give advance notice of the time and length of the leave or of the employee's intent to return to work. Requirements that the employee provide medical certification also are listed.

LEAVE BENEFITS tells whether the legislation requires that an employer continue medical coverage for the employee during the leave, or whether the employee is permitted or required to pay for continued coverage.

SOURCE cites the state statute and/or regulation on family and medical leave.

ENFORCEMENT AGENCY lists the agency responsible for enforcing the statute or regulation requiring family and medical leave. This agency generally provides information to employers and employees and accepts complaints of violations of the law or regulation. The deadline for filing a complaint with the agency is shown.

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State laws or regulations that deal with family or medical leave but do not require employers to guarantee employees their jobs while the employees are on family or medical leave are not covered on this chart. Thus, the following types of laws are not included:

- anti-discrimination statutes or regulations that make the lack of a "maternity leave" policy unlawful if it has a disparate impact on women;
- statutes that provide that employees may take family or medical leave at the discretion of their employers or supervisors; and
- statutes that require employers to extend to adoptive parents the same leave benefits they provide to biological parents.

Also not covered on the chart are state temporary disability insurance (TDI) laws. Under these laws—which are in effect in California, Hawaii, New Jersey, New York, Rhode Island, and Puerto Rico—the state TDI programs pay salary replacement benefits while employees are temporarily unable to work, including periods of disability due to pregnancy, childbirth, and related medical conditions. *State TDI programs do not guarantee employees the right to return to their*

jobs, however. In Puerto Rico, a pregnant woman's employer must pay half of her salary, wages, or other compensation during pre-and postnatal leave. However, the law does not require payment during extended postnatal leave due to complications.

Finally, the federal Pregnancy Discrimination Act provides important protections for many employees, especially those whose employers have some forms of leave benefits. This law states that if an employer makes leave available to employees, the leave must be available on a non-discriminatory basis. Employers must treat employees affected by pregnancy, childbirth, and related medical conditions the same as they treat other temporarily disabled employees.

This means that a woman cannot be fired, denied a job, or denied a promotion because of her pregnancy (unless the employer fires other employees who are temporarily unable to work). An employer cannot force a pregnant woman to take "maternity" leave—that determination must be based on her ability to perform her job. Leave for pregnancy, childbirth, and related medical conditions must be provided to the same extent as it is provided for other temporary medical conditions such as cancer or a heart attack.

When a woman does take a pregnancy disability

leave, her job and employment benefits must be protected to the same extent as when leaves are taken for other temporary disabilities. Health insurance coverage for pregnancy, childbirth, and related medical conditions must be provided to the same extent as for other medical conditions. When an employer provides leave to care for a new or ill child, as distinguished from disability leave for pregnancy and childbirth, that leave must be made available to both fathers and mothers.

The federal law applies to all employers of 15 or more employees. Many states have almost identical laws that apply to smaller employers in the state. The Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, D.C. 20507, (202) 663-4900, enforces the federal law. Information about state anti-discrimination laws is available from each state human rights or fair employment agency. The Equal Employment Opportunity Commission has the name, address and telephone number of each state agency.

Additional legal protection may also be available through collective bargaining agreements, employment contracts, and employer personnel policies.

CHART

STATE	FAMILY LEAVE	MEDICAL LEAVE	EMPLOYERS COVERED	ELIGIBILITY REQUIREMENT	REINSTATEMENT PROVISION	NOTICE PROVISION	LEAVE BENEFITS	SOURCE	ENFORCEMENT AGENCY
CALIFORNIA (Effective date: 1/20/80)	Not addressed.	Pregnancy disability—reasonable leave up to four months.	Employers with five or more employees.	Not addressed.	Employee must be reinstated to original or substantially similar position unless the job has ceased to exist for legitimate business reasons unrelated to the employee's pregnancy or because such means of preserving the job would undermine the employer's ability to operate the business safely and efficiently.	Employer may require notice; may require medical certification if required of other disabled employees.	None required; must be the same as those provided for other temporarily disabled workers.	Stat.: Cal. Gov't Code secs. 12945(1)-(2), 12960-75 (West 1980 and Supp. 1988). Reg.: Cal. Admin. Code tit. 2, secs. 7286.9, 7420-7460 (1985).	Dist. Administrator Dept. of Fair Employment and Housing 1201 I Street, #214 Sacramento, CA 95814 916/445-9918 One year to file complaint.

ability to operate the business safely and efficiently.

1-2

<p>CONNECTICUT (Effective date for Stat. 1: 7/1/88)</p>	<p>Stat. 1: Family leave for birth or adoption of a child, or for serious illness of a child, spouse or parent.</p>	<p>Stat. 1: General disability.</p>	<p>Stat. 1: The state and agencies.</p>	<p>Stat. 1 & 2: Not addressed.</p>	<p>Stat. 1 & 2: Employee must be reinstated to original position or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits and other services/credits.</p>	<p>Stat. 1: Medical certification required for medical leave; notice required for family leave.</p>	<p>Stat. 1: The state must pay for the continuation of health insurance benefits for the public employee during the leave of absence.</p>	<p>Stat. 1: State Personnel Act, Conn. Gen. Stat. Ann. Sec. 5-193, et seq. (West 1988 and 1989 Supp.).</p>	<p>Stat. 1: Dept. of Administrative Services 165 Capitol Ave. Hartford, CT 06106 (203) 566-4720</p>
<p>(Effective date for Stat. 2: 1973)</p>		<p>Stat. 2: Pregnancy disability—reasonable leave.</p>	<p>Stat. 2: Employers with three or more employees; certain family businesses exempted.</p>	<p>Not addressed.</p>	<p>However, in the case of a private employer, the employer is not required to reinstate the employee if the employer's circumstances have so changed that it is impossible or unreasonable to do so.</p>	<p>Stat. 2: Not addressed.</p>	<p>Stat. 2: Not addressed.</p>	<p>Stat. 2: Conn. Gen. Stat. secs. 46a-60(a) (7) (B) to (D), 46a-82 to -96 (1986).</p>	<p>Stat. 2: Commission on Human Rights and Opportunities 90 Washington Street Hartford, CT 06101 203/566-3350</p>
<p>(Effective date for Stat. 3: 7/1/93)</p>	<p>Stat. 3: Family leave for birth or adoption, or for serious illness of child, spouse or parent.</p>	<p>Stat. 3: General disability.</p>	<p>Stat. 3: Employers with 250 or more employees; to be phased in stages to 75 by 1993.</p>	<p>Stat. 3: Employee must have been employed 12 months or more and for 1000 or more hours in the 12 month period preceding the first day of leave.</p>	<p>Stat. 3: Employee must be reinstated to same or equivalent position and pay with retention of seniority, retirement, fringe benefits, and other service credits. If employee's physical condition mandates a different position, employer must transfer employee if a suitable position is available.</p>	<p>Stat. 3: Two weeks advance notice, if possible, and physician's certification. Employee must submit to examination by physician selected by employer upon request. If leave is for planned medical treatment, employee must try not to disrupt employer subject to physician's approval.</p>	<p>Stat. 3: None required.</p>	<p>Stat. 3: 1989 Conn. Public Act 89-382.</p>	<p>Stat. 3: Department of Labor 200 Folly Brook Blvd. Wethersfield, CT 06109 (203) 566-4550</p>
	<p>Stat. 1: Total of 24 weeks in 2 years for family and medical leave combined. Stat. 3: Total of 12 weeks in 2 years for family and medical leave combined; to be phased in stages to 16 weeks by 1993.</p>								<p>180 days to file complaint.</p>
<p>FLORIDA (Effective date: Stat: 1979)</p>	<p>Stat.: Up to 6 months leave for women after birth (including pregnancy disability). Reg.: Up to 4 months leave for adoptive parents. (No provision for biological fathers.)</p>	<p>Not addressed.</p>	<p>State agencies: service, select exempt, and senior management employees.</p>	<p>Not addressed.</p>	<p>Stat.: Employee must be reinstated to same or equivalent position and pay, with retention of seniority, retirement, fringe benefits, other service credits accumulated before leave.</p>	<p>Notification in writing prior to leave.</p>	<p>None required.</p>	<p>Stat.: FL Stat. 110.221 Reg.: FL Admin. Code 22A-8.016.</p>	<p>Dept. of Administration 435 Carlton Bldg. Tallahassee, FL 32399-1550 (904) 488-4116</p>
<p>HAWAII (Effective date: 11/15/82)</p>	<p>Not addressed.</p>	<p>Pregnancy disability—reasonable leave.</p>	<p>Employers with one or more employee(s).</p>	<p>Not addressed.</p>	<p>Employee must be reinstated to original job or to position of comparable status and pay without loss of accumulated service credits and privileges.</p>	<p>Employer may require medical certification.</p>	<p>None required.</p>	<p>Reg.: Hawaii Dept. of Industrial and Labor Relations; Sex and Marital Status Discrimination Regulations, 12-23-1 to -22, 12-23-58, Fair Empl. Prac. Manual (BNA) 453:2301 to 2308, 453:2328 (1983).</p>	<p>Dept. of Labor Enforcement Division, Fair Empl. Practices 830 Punchbowl Street Room 340 Honolulu, HI 96813 808/548-3976</p>
<p>IOWA (Effective date: 7/1/87)</p>	<p>Not addressed.</p>	<p>Pregnancy disability—up to eight weeks.</p>	<p>Employers with four or more employees.</p>	<p>Not addressed.</p>	<p>Must be the same as those provided for other temporarily disabled workers.</p>	<p>Notice required; employer may require medical certification.</p>	<p>None required; must be the same as those provided for other temporarily disabled workers.</p>	<p>Stat.: Iowa Code secs. 601A.6(2), 601A.15-.17 (1988).</p>	<p>Iowa Civil Rights Commission 211 E. Maple Street 2nd Floor c/o Grimes State Office Building Des Moines, IA 50319 515/281-4121 800/457-4416 (toll free number, IA only)</p>
									<p>180 days to file complaint.</p>

STATE	FAMILY LEAVE	MEDICAL LEAVE	EMPLOYERS COVERED	REQUIREMENT	PROVISION	NOTICE PROVISION	LEAVE BENEFITS	SOURCE	ENFORCEMENT AGENCY
KANSAS (Effective date: 1/1/74)	Not addressed.	Pregnancy disability ("childbearing")—reasonable period.	Employers with four or more employees.	Not addressed.	Employee must be reinstated to original job or to position of comparable status and pay without loss of service credits, seniority or other benefits.	Employee must signify intent to return to work within a reasonable time.	None required; must be the same as those provided for other temporarily disabled workers.	Reg.: Kansas Commission on Civil Rights, Guidelines on Discrimination Because of Sex, secs. 21-32-6 (D), 21-41-1 to 45-25, Fair Empl. Prac. Manual (BNA) 453:3311, 453:3318 to 3337 (1977).	Comm. on Civil Rights Landon St. Ofc. Bldg. 8th Floor 9100 S.W. Jackson St. Suite 851 South Topeka, KS 66612-125 913/296-3206 Six months to file complaint.
KENTUCKY (Effective date: 7/15/82)	Six weeks for adoption of a child under age 7.	Not addressed.	Employers with one or more employees.	Not addressed.	Not addressed.	Notice required.	None required.	Stat.: Ky. Rev. Stat. Ann. sec. 337.015 (Michie/Bobbs-Merrill 1983).	KY Labor Cabinet, Div. of Employment Standards & Mediation 1049 US #127 South Frankfort, KY 40601 502/564-2784
LOUISIANA (Effective date: 9/1/87)	Not addressed.	Pregnancy disability—reasonable leave up to four months; only six weeks of disability leave required for normal pregnancy or childbirth.	Employers with 26 or more employees.	Not addressed.	Not addressed.	Employer may require notice.	None required; must be the same as those provided for other temporarily disabled workers.	Stat.: La. Rev. Stat. Ann. sec. 23:1007 (West 1988).	None; enforcement by civil action.
MAINE (Effective date: 8/4/88)	Family leave for birth or adoption, or the serious illness of a parent, spouse or child. Total of eight weeks in two years for family and medical leave combined.	General disability.	Employers with 25 or more employees.	Employee must be employed by same employer for 12 consecutive months.	Employee must be reinstated to original job or to position of comparable status, seniority, employment benefits, pay and other terms and conditions of employment.	30 days' notice required except in emergency; employers may require medical certification of serious illness.	Employer is required to make available during leave all benefits such as group life, health and disability insurance and pensions with all expenses borne by the employee.	Stat.: Me. Rev. Stat. Ann. tit. 26, sec. 843-49 (1988).	None; enforcement by civil action.
MASSACHUSETTS (Effective date: 10/17/72)	Eight weeks for female employee for birth or adoption of a child under age three.	Not addressed.	Employers with six or more employees.	Completion of employer's initial probationary period of employment or three consecutive months as a full-time employee.	Employee must be reinstated to original position or to a similar position with the same status, pay, length of service credit and seniority unless there is a layoff; regains existing preference for other positions.	Two weeks' notice required.	Must be the same as those provided for other temporarily disabled workers.	Stat.: Mass. Gen. Laws Ann. ch. 149, sec. 105 D (West Supp. 1988) and ch. 151B, secs. 1(5), 4(11A) (West 1982). Reg.: Mass. Regs. Code tit. 804, sec. 8.01, 1.03(1)-18 (1983).	Mass. Commission Against Discrim. 1 Ashburn Place Boston, MA 02108 617/727-3990 Six months to file complaint.
MINNESOTA (Effective date: 8/1/87)	Six weeks for birth or adoption of a child.	Not addressed.	Employers with 21 or more employees.	12 months employment at 20 or more hours per week.	Employee must be reinstated to original job or to position of comparable duties, number of hours and pay unless there is a layoff. Employee retains prior pay rate and all accrued preleave benefits and seniority. Employee retains all rights under the layoff system.	Employer may require notice.	Employer must continue to make health insurance coverage available to the employee on leave; employer is not required to pay costs of insurance during the leave.	Stat.: Minn. Stat. Ann. secs. 181.93-98 (West Supp. 1988).	None; enforcement by civil action.
MONTANA (Effective date: 9/14/84)	Not addressed.	Pregnancy disability—reasonable leave.	Employers with one or more employees.	Not addressed.	Employee must be reinstated to original job or to position of comparable pay and accumulated seniority, retirement, fringe benefits, and other service credits. A private employer is exempt from the reinstatement requirement if the employer's circumstances have so changed as to make it im-	Employee must signify her intent to return at the end of the leave of absence.	None required; must be the same as those provided for other temporarily disabled workers.	Stat.: Mont. Code Ann. secs. 49-2-310 to 311, 49-2-501 to 509 (1987). Reg.: Montana Human Rights Commission, Maternity Leave Rules secs. 24.9.202-264, 24.9.1201-1207 (1988).	Human Rights Commission, Montana Dept. of Labor and Industry 1236 6th Avenue Helena, MT 59624 406/444-2884 180 days to file complaint.

	disability).			reinstated to original job or comparable position unless business necessity make this impossible or unreasonable.		the same as those provided for other temporarily disabled workers.	secs. 354-A: 9-10 (Supp. 1987). Reg.: NH Code Admin. R. Hum. 402.03, 201.01-212.06 (1988).	Commission for Human Rights, 163 Loudon Rd. Concord, NH 03301 603/271-2767 180 days to file complaint.
NEW JERSEY (Effective date: 1990)	Twelve weeks over a 24-month period for birth or adoption, or the serious illness of a child, parent, or spouse.	Not addressed.	Employers of 100 or more for first year after enactment; employers of 75 or more for second and third years after enactment; employers of 50 or more thereafter.	Employee must have been employed 12 months or more for at least 1000 hours in the 12 months before the leave.	Employee must be reinstated to original position or to an equivalent position unless there is a layoff.	Notice required where need for leave is foreseeable; employers may require medical certification.	Employer is required to maintain health insurance during leave period; employer must maintain other benefits as it would for other employees on temporary leave.	Not yet codified. Division on Civil Rights, Department of Law and Public Safety 383 W. State St. Trenton, NJ 08625 (609) 292-4605
NORTH CAROLINA (Effective date: 2/1/88)	Not addressed.	Pregnancy disability (for period of physical disability).	State agencies.	Permanent full-time, part-time, trainee and probationary employees.	Employee must be reinstated to same or comparable position. Status, pay, and seniority are retained unless other arrangements are made in writing.	Employee must apply in writing.	Sick leave and vacation must be continued; health coverage will continue if employee pays full premium cost.	NC State Personnel Manual, sec. 8, pg. 19.2-19.3. Not addressed.
N DAKOTA (Effective date: 1/1/90)	4 months per year for full-time employees for birth or adoption, or illness of spouse, child, or parent; prorated for part-time employees.	Not addressed.	State and its agencies.	1 year minimum employment time at an average of 20 hours per week.	Employee must be reinstated to same or comparable position unless there is a layoff.	Employer may require notice.	Health coverage continues, but employee may be required to bear costs.	N.D. Cent. Code Sec. 54-52.4. Employees may bring a civil action.
OKLAHOMA (Effective date: 8/20/89)	Family leave for birth or adoption, or care of terminally or critically ill child or dependent adult. Length to be specified by regulation.	Not addressed.	State agencies.	6 months minimum employment time.	Employee must be reinstated to original position.	Employee must give reasonable notice, if possible. If leave is foreseeable, it should be scheduled to accommodate employer, if possible.	Group health and life insurance benefits continue at employee's expense.	OK Stat. sec. 840.7C of Title 74. Office of Personnel Management Jim Thorpe Building 2101 N. Lincoln Blvd. Oklahoma City, OK 73150 (405) 521-2177
OREGON (Effective date for Stat. 1: 1/1/88). (Effective date for Stat. 2: 10/1/89).	Stat. 1: 12 weeks per child for birth or adoption (under age 6). Stat. 2: Not addressed.	Stat. 1: Not addressed. Stat. 2: Pregnancy disability—for a reasonable period if such leave can be reasonably accommodated.	Stat. 1 & 2: Employers with 25 or more employees.	Stat. 1: 90 days of employment. Employer not required to grant family leave to a worker hired on a seasonal or temporary basis for a period defined at the time of hire to be less than six months. Stat. 2: Not addressed.	Stat. 1 & 2: Employee must be reinstated to original job or equivalent position. However if circumstances have so changed that the same or equivalent job no longer exists, the employee must be reinstated in any other position that is available and suitable.	Stat. 1: 30 days' notice required unless there is an emergency. Stat. 2: Medical certification may be required in advance.	Stat. 1 & 2: Benefits are not required to accrue during leave unless required by an agreement with the employer, a collective bargaining agreement or an employer policy. Employee retains earned seniority, vacation or sick leave, pension benefits and any other employee rights or benefits.	Stat. 1: Or. Rev. Stat. sec. 659.010-.121, 659.360-370. (1987). Stat. 2: Or. Rev. Stat. sec. 659.340 (1989). Stat. 1 & 2: Comm'r, Bureau of Labor & Industries Civil Rights Division State Office Building 1400 SW 5th Avenue Portland, OR 97201 800/452-7813 (toll free in Oregon) 503/229-5841 One year to file complaint.
PENNSYLVANIA (Effective date: 12/15/86)	Six months' parental leave for birth or adoption.	Sick leave for employee's own illness (includes pregnancy disability).	State and its agencies.	Must be a permanent employee.	Employee must be reinstated to same or equivalent position and pay. Seniority and benefit rights are retained, but do not accrue during leave.	Two weeks' advance notice, if possible; medical certification required.	Not addressed.	Reg: PA. Management Directive 505.7 secs. 30.101-30.115. Not addressed.
PURTO RICO (Effective date: 6/1/42)	Not addressed.	Pregnancy disability—eight weeks leave which may be divided as employee desires from four weeks before and four weeks after childbirth to one week before and seven weeks after childbirth; must be extended an additional 12 weeks in the event of complications.	Employers with one or more employees.	All employees eligible.	Employee must be reinstated to the same position.	Medical certification required.	Employee is entitled to receive half pay during the leave period.	Stat.: PR Laws Ann. tit. 29, secs. 467-72 (1985). Department of Labor and Human Resources Anti-Discrimination Unit 505 Munoz Rivera Ave. Hato Rey, PR 00918 809/754-5292

(Effective date: 7/1/87)	year period for birth, adoption, or the serious illness of a child.		or more employees; any city, town, or municipal agency with 30 or more employees; the state and state agencies.	employed for an average of 30 or more hours per week; must have been employed by same employer for 12 consecutive months.	reinstated to original job or to a position with equivalent seniority, status, employment benefits, pay, and other terms and conditions of employment.		to maintain any existing health benefits of the employee for the duration of the leave. Employee pays employer sum equal to premium prior to commencing leave; employer refunds payment on employee's return.	secs. 28-48-1 to 9 (Supp. 1987).	Division of Labor Standards R.I. Dept. of Labor 220 Elmwood Avenue Providence, RI 02907 401/457-1808
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TENNESSEE (Effective date: 1/1/88)	Not addressed.	Pregnancy disability and nursing—up to four months.	Employers with 100 or more employees.	12 consecutive months as a full-time employee.	Employee must be reinstated to original job or to position with comparable pay, status, length of service credit and seniority unless the job is so unique that an employer cannot, after reasonable efforts, fill the position temporarily. Employee retains previously earned benefits. Employee may lose reinstatement rights if she works or seeks work elsewhere.	Notice required.	Employer must continue to provide benefits, plans or programs during leave that an employee is eligible for incident to her employment; employee may be required to pay the cost of such programs during leave, unless an employer pays the costs for all employees on leaves of absence.	Stat.: Tenn. Code Ann. secs. 50-1-501 to 50-1-505 (Supp. 1987) (as amended by 1988 Tenn. Pub. Act 607).	Tennessee Human Rights Com'n. Suite 602 225 Capitol Blvd. Nashville, TN 37129 615/741-5825
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VERMONT (Effective date: 7/1/89)	Parental leave for women after childbirth.	Pregnancy disability.	Employers with 10 or more employees (government employees not explicitly covered).	1 year's employment for an average of 30 hours per week.	Employee must be reinstated to same or comparable job with same level of seniority, benefits, and compensation.	Reasonable written notice must be given, including date leave begins and expected duration.	Employer must continue benefits, though employee may be required to pay full cost at employer's rate.	Stat.: VT. Stat. Ann. secs. 471 et seq.	Employee may bring civil action.
	Total of 12 weeks for parental and pregnancy disability leave for women.								

WASHINGTON (Effective date for reg.: 10/28/73)	Not addressed.	Reg.: Pregnancy disability—reasonable period.	Reg.: Employers with eight or more employees.	Reg.: Not addressed.	Reg.: Employee must be reinstated to same or to similar job with same pay.	Reg.: Employer may require notice.	Reg.: None required; must be the same as those provided for other temporarily disabled workers.	Reg.: Wash. Admin. Code secs. 162-08-011 to 700, 162-30-020 (1977).	Reg.: Wash. State Human Rights Comm. 402 Evergreen Plaza Bldg. FJ-41 711 S. Capitol Way Olympia, WA 206/753-6770 Six months to file complaint.
(Effective date for Stat. 9/1/89)	12 weeks within 24 months for birth, adoption, or terminal illness of child.	Not addressed.	Employers with 100 or more employees.	Employee must have been employed 52 weeks at 35 or more hours per week.	Employee must be reinstated to same or equivalent position with retention of benefits, seniority, and pension rights accrued before leave unless there is a layoff.	30 days' written advance notice for new child; 14 days' notice for terminally ill child.	Employer must allow continued coverage at employee's expense.	Wash. Rev. Code Ch. 49.12, secs. 1-12 ¹ .	Wash. State Dept. of Labor & Industries 925 Plum St. HC710 Olympia, WA 98504 206/753-3475. 90 days to file complaint.

WEST VIRGINIA (Effective date: 7/7/89)	12 weeks per 12 month period for birth or adoption, or illness of spouse, child, or parent.	Not addressed.	State employers, schools.	12 consecutive weeks of employment.	Employee must be reinstated to same position. Benefits accrued prior to leave are retained.	Two weeks' notice required if leave is foreseeable. Employer may require medical certification.	Employer must continue group health insurance, but employee must pay premium costs.	Stat.: Code of West Virginia, 1981 Ch. 21, Art. 5D	Department of Labor Wages and Hours Div. Capital Complex Bldg. 3 Charleston, WV 25305 304/348-7890
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WISCONSIN (Effective date: 4/26/88)	Six weeks in a 12 month period for birth or adoption of a child. Two weeks in a 12 month period for serious illness of a child, spouse or parent. Total of eight weeks in 12 months for any combination of these reasons.	General disability—two weeks in a 12 month period.	Employers with 50 or more employees.	Employee must have been employed by the employer for more than 52 consecutive weeks and must have worked at least 1,000 hours during the weeks preceding 52 weeks.	Employee must be reinstated to the same job or to a job equivalent in compensation, benefits, working shift, hours, and other terms of employment.	Notice required; employer may require medical certification regarding a serious health condition.	Employer shall maintain group health insurance coverage during leave under the conditions that applied immediately before the leave began; employee may be required to continue prior contribution; employee may be required to escrow funds for premiums pending return to job.	Sec. 103.10, Stats.	Dept. of Industry, Labor & Human Relations Equal Rights Division P.O. Box 8928 Madison, WI 53708 608/266-6860 30 days to file complaint.
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TESTIMONY OF
SUSAN MILLARD,
EMPLOYEE AND COMMUNITY RELATIONS MANAGER,
QUAKER OATS COMPANY

ON
H.B. 2076
HOUSE COMMITTEE ON LABOR AND INDUSTRY

FEBRUARY 5, 1991

*Labor & Industry
2-5-91
Attachment #3-1*

INTRODUCTION

The Quaker Oats Company - Topeka Plant has been in the Pet Foods Manufacturing business for 20 years. The success we have achieved has come largely from the team culture which exists at the plant. This culture is based on the concept that needs of the business and those of our employees are compatible, and that greater employee commitment can be achieved by allowing employees to meet their needs. Employees' needs include an expectation for a reasonable income, a stable and safe work environment, fair treatment and being recognized as a valued member of the organization. The Company has developed flexible practices and a comprehensive benefit program to support these needs and provide financial protection against illness and disabilities. This morning I will be focusing on our practices and policies on family and medical leaves.

FAMILY AND MEDICAL LEAVES OF ABSENCE - PRACTICES & POLICIES

Regular attendance of our employees, which now number over 200, is required for the efficient operation of the facility. However, we recognize that there are times when employees become ill or have personal obligations which will prevent them from attending work. As a result, medical and personal leaves of absence are available to our employees without loss of benefits, or in the case of a medical disability, without loss of income. Below is a description of the plans and the benefits payable.

MEDICAL LEAVES OF ABSENCE

A medical leave of absence is granted when an illness or injury makes it impossible for an employee to perform the basic duties of your job and which is supported by the recommendation of the employee's personal physician. During the medical leave, disability benefits are paid in accordance with Quaker's Illness and Accident Plan, available to hourly employees, or the Salary Continuation Plan, available to salaried employees. These plans are described on the following pages. Long term disability benefits may begin after the benefits under the above mentioned plans have expired.

Illness and Accident Disability Plan
(Hourly)

Benefit: \$355 per week

The total maximum benefit payment for all disabilities in any 52-week period are based on an employee's length of service.

<u>Service</u>	<u>Benefits</u>	<u>Yrs. of Service When Disb. Begins</u>	<u>Maximum Wks.</u>		<u>Total Weeks</u>
			<u>Full Pay</u>	<u>Partial Pay</u>	
3 months to 2 years	8 weeks	less than 1/2	1	6	7
2 years to 5 years	12 weeks	1/2 - 1	2	24	26
5 years to 10 years	18 weeks	1	4	22	26
+ 10 years	26 weeks	2	7	19	26
		3	10	16	26
		4	13	13	26
		5	16	10	26
		6	18	8	26
		7	20	6	26
		8	22	4	26
		9	24	2	26
		10-14	26	--	26
		15-19	30	--	30
		20-24	34	--	34
		25-29	38	--	38
		30-34	42	--	42
		35-39	46	--	46
		40 and over	50	--	50

Salary Continuation Disability Plan
(Salaried)

Benefit: The amount of benefits an employee can receive is based on the employee's salary and years of service.

Waiting Period

Illness - 3 days
Hospitalized - 1 day
Injury - 1 day

Absence from work for five days or less are paid at the discretion of the employee's supervisor.

Pregnancy, alcohol and drug dependency and self-inflicted injuries are covered the same as any other disability under both plans.

Other benefits such as retirement, life insurance, dental, etc. are retained by the employee providing the appropriate employee contributions are made.

PERSONAL LEAVES OF ABSENCE

When other personal circumstances prevent employees from attending work, employees may apply for a Personal Leave of Absence. A leave of absence from Quaker is an authorized absence from work of seven consecutive days to twelve consecutive months. Absences are generally unpaid; however, benefits are retained by employees providing employee contributions are made. For example, medical and dental benefit coverage will continue for up to a maximum of six months. COBRA extension of benefits are then offered to employees.

A wide variety of circumstances exist under which employees may apply for a leave of absence to include the care for ill or disabled dependents, infant care and medical or other emergencies of relatives.

Personal leaves of absence may be granted with the approval of an employee's team, Team Leader and appropriate Staff Manager and Personnel Manager, in the case of production and office team members (hourly). For salaried employees, a personal leave of absence requires the approval of the employee's department manager and the Personnel Manager.

On rare occasions, a personal leave of absence may be granted with pay. Each case is determined on its merits with due consideration being given to the employee's attendance, length of service, and work performance.

In the case of production team members, the employee's position is held open until their return. Replacement of the employee's position is managed by work redistribution, or temporary help, i.e. Manpower Services. For salaried employees, the employee's position will be held open for as long as practical. The nature of the work and the availability of temporary replacement workers are factors used in determining how long a position will remain open. If a position cannot be held open and the employee wishes to return to work, Quaker will make every reasonable effort to find that person a suitable position and, if possible, one of like status and pay.

Cost Impact

The cost incurred by the site for leaves, specifically, medical leaves of absence are partially expressed in the dollars paid in benefits to employees. During the calendar year of 1990, \$40,176 were paid in Illness and Accident benefits to plant production and office employees. This represents .5% of the production and office employees' total payroll for 1990 and equates to 4,560 hours or less than 1% of the total hours worked by plant production and office team members in 1990. These are relatively low figures which speak to our ability to offer benefits and still maintain a productive and efficient operation.

In Conclusion

As a result of the Company's commitment to its employees through competitive wage and benefits, and flexible practices, a healthy relationship exists between employees and the site management. Turnover remains at less than 1% per year and the site continues to be recognized for its innovative and productive work culture.

Thank you for this opportunity to address the committee.

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Conrad McNeer, M. Div., M.S....
Licensed Master of Social Work
Suite 1A, 3600 Burlingame Road
Topeka, Kansas 66611

Mary Hillin, Ph.D., LSCSW
Supervisor

Tel: 913-267-0150

FEBRUARY 5, 1991

MADAM OR MR. CHAIRPERSON AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND INDUSTRY:

MY NAME IS CONRAD MCNEER. I AM A MARRIAGE & FAMILY THERAPIST AND I HAVE BEEN IN PRACTICE IN TOPEKA, KANSAS FOR THE PAST 17 YEARS. I AM ALSO AN EPISCOPAL PRIEST, WITH A CHURCH IN HOLTON, KANSAS AND I HAVE RECENTLY COMPLETED A MASTERS IN SOCIAL WORK.

I AM VERY PLEASE TO MEET WITH YOU TODAY, AND I AM HERE TO TESTIFY IN FAVOR OF HOUSE BILL #2076 ESTABLISHING UNPAID LEAVE FOR EMPLOYEES FOR BIRTHS, ADOPTIONS, AND FAMILY ILLNESSES.

I WILL MAKE MY REMARKS AS BRIEF AS POSSIBLE.

TO BEGIN WITH I UNDERSTAND THIS BILL TO BE A MEANS OF SUPPORTING EMPLOYEES THROUGH JOB SECURITY IN TIMES OF STRESS. WITH INCREASING NECESSITY FOR DOUBLE INCOME FAMILIES, THE PREPONDERANCE OF SINGLE PARENTS IN THE WORK FORCE, AND NOW WE ARE BEING TOLD THAT ONE IN EVERY FIVE ADULTS BECOMES A CARETAKER FOR AN AGING PARENT, MEASURES TAKEN WHICH PROVIDE NOT ONLY ECONOMIC SECURITY THROUGH THE WORK PLACE BUT ALSO EMOTIONAL SUPPORT BECOMES INCREASINGLY IMPORTANT TO ALL OF US.

THOSE INSTANCES WHICH CAUSE CONCERN FOR ALL OF US ARE: 1) A MOTHER WHO CANNOT LEAVE A SICK CHILD IN THE HANDS OF PERSONS WHOSE TASK IT IS TO CARE FOR MANY CHILDREN, OR IN THE HANDS OF AN ELDERLY PARENT WHO CANNOT AFFORD AN ILLNESS THEMSELVES. 2) A CHILD IS BORN INTO (OR ADOPTED INTO) A FAMILY AND THE PARENT(S) MUST RETURN TO WORK BEFORE THERE IS SUFFICIENT TIME FOR THE PARENTS TO ACCLIMATE TO THE CHILD AND FOR THE CHILD TO BEGIN TO BE ACCUSTOMED TO ITS NEW ENVIRONMENT.

LET ME COMMENT ABOUT TWO ASPECTS OF THE ISSUE, AS I SEE THEM.

1) WE KNOW SOMETHING ABOUT SUPPORT SYSTEMS AND HOW IMPORTANT THEY ARE TO US.

THE FUNCTIONS OF SUPPORT ARE: A) TO PROVIDE A SENSE OF BELONGING, B) A SENSE OF BEING IMPORTANT/USEFUL, C) TO BE ABLE TO SHARE SIMILAR INTERESTS AND VALUES, AND D) TO BE ABLE TO CONFIRM ONE'S SELF WORTH. ONE OF THE MAIN FUNCTIONS OF THIS BILL IS TO PROMOTE THIS SENSE OF EMOTIONAL SUPPORT IN THE WORK PLACE.

Labour Industry
2-5-91

*** Psychotherapy * Marital Therapy * Family Therapy * Case Management ***
*** Pastoral Counseling * Spiritual Direction ***
Children — Adolescents — Adults — Older Adults

Attachments 4-1
#1

C. CONRAD MCNEER TESTIMONY HB 2076
2/5/91

WE ARE AWARE THAT HARM DOES COME TO THOSE WHO LACK SUPPORT IN THEIR LIVES. IT IS COMMON KNOWLEDGE THAT JOBLESSNESS MAY INCITE THE DIFFICULTIES WHICH MAY LEAD TO A DIVORCE, AND DIVORCE IS PROMPTED ALMOST AS MUCH BY THE WORK PLACE AS IS THE DEATH OF A CHILD. STUDIES CLEARLY INDICATE THE LACK OF EMOTIONAL SUPPORT IS A SIGNIFICANT FACTOR IN SUICIDES AND IN DEPRESSION. ANOTHER EXAMPLE OF THE NEED FOR SUPPORT IS THAT CHILDREN BORN INTO FAMILIES (OR ADOPTED) IN WHICH THERE IS NO TIME FOR THE PARENTS OR CHILD TO BOND OR TO ADJUST TO ONE ANOTHER ARE AT RISK FOR ABUSE DUE TO THE PARENTS DESPAIR AND FRUSTRATION.

ALTHOUGH I FOUND NO HARD RESEARCH THAT ADDRESSES THIS SPECIFIC ISSUE, THAT DOES NOT SUGGEST THAT RESEARCH ON GENERAL EMOTIONAL SUPPORT SYSTEMS DOES NOT APPLY.

2) WE KNOW SOMETHING ABOUT HOW FAMILIES OPERATE.

FAMILY SYSTEMS THEORY, WHICH ORIGINATED IN THE FIELD OF BIOLOGY, HAS BEEN UTILIZED IN FAMILY THERAPY AS A MEANS TO UNDERSTAND THE HIGHLY COMPLEX AREAS OF FAMILY FUNCTIONING AND THEREBY FAMILY TREATMENT. SYSTEMS THEORY, WHICH IS NOW WIDELY RECOGNIZED AND EMPLOYED IN THE TREATMENT OF FAMILIES, SUGGESTS THAT WHATEVER AFFECTS ONE MEMBER OF THE FAMILY AFFECTS ALL MEMBERS OF THE FAMILY. IT IS AS IF EVERYONE WAS TIED TO AN EMOTIONAL "ROPE", AND WHEN ONE MEMBER GOES OFF IN ONE DIRECTION, ALL MEMBERS WILL FEEL THE PRESSURE AND RESPOND TO THIS PRESSURE IN WHATEVER WAY IS COMMON FOR THAT FAMILY.

FAMILY SYSTEMS THEORY ORIENTS US TO RECOGNIZE THE FAMILY AS AN ORGANISM, WHOSE APPARENT PURPOSE IS TO SURVIVE, AND IN DOING SO WILL ATTEMPT TO MAINTAIN A SENSE OF BALANCE WITHIN ITS BOUNDARIES. WHEN A CHANGE OCCURS, SUCH AS AN ILLNESS, OR THE INTRODUCTION OF A NEW MEMBER OF THE FAMILY, THE STATUS QUO IS UPSET, AND THE ORGANISM MUST ADJUST, MAKE ROOM, MOVE OVER OR IN SOME WAY REARRANGE ITSELF. THESE ADJUSTMENTS MAY TAKE MANY FORMS, BOTH HEALTHY AND UNHEALTHY. DR. SALVADORE MANUCHIN IN HIS BOOK, PSYCHOSOMATIC FAMILIES, HAS CLEARLY DEMONSTRATED THROUGH HIS WORK THE RELATIONSHIP BETWEEN SOME FORMS OF MEDICAL ILLNESS AND THEIR RELATIONSHIP TO FAMILY FUNCTIONING.

THE FAMILY IS SET IN A LARGER CONTEXT OR SYSTEM AS WELL. PART OF THIS LARGER CONTEXT IS THE WORK SYSTEM OR WORK PLACE. SINCE SYSTEMS THEORY SEES THAT WHEN SOMETHING HAPPENS ALL MEMBERS OF THE SYSTEM ARE AFFECTED, THE WORK SYSTEM IS COMPELLED TO RESPOND TO EVENTS AS MAY OCCUR IN THE FAMILY. IT, TOO, WILL SEEK TO MAINTAIN ITS BALANCE, AS IN PERSONNEL OR ECONOMICS. THE WORK PLACE IS CLOSELY TIED TO THE FAMILY THROUGH WAGES AND SALARIES, THROUGH THE NEED FOR THE EMPLOYEE TO HAVE SELF-ESTEEM AND PURPOSE, AND A SHARED SENSE OF VALUES. THESE SYSTEMS OF HOME AND FAMILY ARE INTERLOCKING. IN MY EXPERIENCE AS A CLINICIAN THERE IS NO WAY TO KEEP THE WORK PLACE OUT OF THE HOME NOR

C. CONRAD McNEER TESTIMONY HB 2076
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THE HOME OUT OF THE WORK PLACE WHEN EITHER IS INORDINATELY STRESSFUL. JOB PRODUCTIVITY AND JOB SATISFACTION ARE OFTEN TIED TO WAGES, BUT NOT ALWAYS, QUITE OFTEN IT IS ALSO TIED TO THE EMPLOYEE'S SENSE OF BEING SUPPORTED, OF HAVING AN ALLY. THE EMPLOYEE HAS A STAKE IN WORKING FOR A COMPANY WHICH BACKS THEM.

IT WOULD SEEM TO ME THAT BUSINESS HAS AN INTEREST IN THE FAMILY IN WHICH THE EMPLOYEE IS IMBEDDED. A PERSON WHO IS SUPPORTED AND WHO IS MADE TO FEEL SECURE IN THE WORK PLACE IS LIKELY TO BE LOYAL AND AN ECONOMIC ASSET.

IT ALSO STRIKES ME THAT WE ARE DISCUSSING A BILL WHICH IS NOT LOOKING TOWARD THE UNUSUAL. IT IS TRYING TO TAKE INTO ACCOUNT THE NATURAL EVENTS THAT OCCUR IN ANY FAMILY ALONG THE COURSE OF ITS HISTORY.

ALL THAT I HAVE SAID IS NOT NEW.

WHAT WE NEEDED IS A SUPPORT SYSTEM WHICH ALLIES WITH THE EMPLOYEE, IN THE SERVICE OF THE WELFARE OF THE CORPORATION. I BELIEVE THIS BILL MAY BE A GOOD BEGINNING TO ASSIST THE ALREADY EMBATTLED FAMILY.

THANK YOU FOR ALLOWING ME THIS TIME TO PRESENT TO YOU FROM A PRACTITIONERS POINT OF VIEW. I APPRECIATE YOUR CONSIDERATION.



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FAX (316) 327-2458 • TELEX 437072 HES

February 5, 1991

To members of the House Labor and Industry Committee.

Re: HB 2076, The Family and Medical Leave Act

I am presenting my opposition to HB 2076. Although the broad intent of this bill may have some merit, the practicality is another matter. Excel industries, Inc., has always operated on the premise that we will provide a work-place where employees can work if they choose to and have the skills, education and background to fit the work environment. This bill would go against the current trend of what employers are doing to provide benefit packages that fit the needs of their employee population. It precludes the ability of employers to work out suitable arrangements in special circumstances involving family sickness and other health and maternity situations.

If this bill would become law it would require us to locate and train replacement workers, pay overtime to remaining workers to compensate for the absent co-worker, and/or suffer workplace productivity losses. When replacement workers are hired and then dismissed when the regular employee leave concludes; this would create problems in termination procedures and cause increases in unemployment insurance.

Currently to the best estimate this bill, if enacted, would cost us \$1724 per affected employee in employee benefits in addition to all of the other indirect and direct costs. It would definitely be another strike against the " Private Employer's" ability to manage.

Vernon Nikkel
V.P. Director of Industrial Relations

A handwritten signature in dark ink, appearing to read "Vernon Nikkel", is written over a horizontal line.

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attachment 5-1
#5

MIDWEST DIVISION

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February 5, 1991

House Labor and Industry Committee
Kansas House of Representatives
State Capitol
Topeka, KS 66612

SUBJECT: TESTIMONY - FAMILY AND MEDICAL LEAVE ACT (HB 2076)

Honorable Committee Members:

While we are confident that this legislation results from a desire on the part of legislators to help the Kansas employee, we believe that in the long run it does the opposite. It is a further encroachment of State Government into the management of Kansas businesses to the detriment of the Kansas economy. We believe that this type of interference does not help the employee but ultimately costs him his job.

We strongly oppose this bill as an intrusion into the right of a company to fashion a benefit package that is best for its people, its competitive labor environment, and its competitive market situation. Furthermore, this bill insinuates that businesses do not take care of their employees. The fact of the matter is that the employee's welfare is the top priority of every successful business and the most important ingredient in its success. Those enterprises that don't understand this fact quickly fail. No Government action is necessary.

GEC Precision Corporation is an aircraft subcontractor that is in direct competition with companies in the surrounding states, particularly Colorado and Oklahoma. We are in an extremely competitive situation where contracts are won or lost on the basis of a few cents difference in the overhead rates of the companies bidding the job. This law will make us less competitive and cost jobs in our community. We are proud of the fact that we are the largest private employer in Sumner County and we feel we have a responsibility to all of its residents and businesses to preserve and increase employment in the area. Please do not interfere or limit our ability to do this.

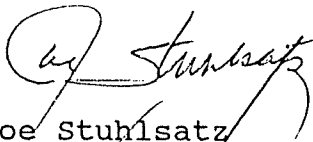
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Page 2 - Testimony (HB 2076)

In our business much of our success is due to the excellent network of Kansas vendors that we rely on for key manufacturing products and processes. This network has been shrinking over the last several years, and this type of legislation will increase their costs and further reduce their ranks.

This testimony has struck mainly at the impact the law would have on Kansas jobs. There are many other problems with the practical aspects of the legislation that are too numerous to go into given the limited time restraints. At any later time we would be more than happy to discuss those matters in greater detail with any member of the committee, or concerned representative.

Thank you for the opportunity to meet with you and go on record as opposing this legislation.



Joe Stuhlsatz
Division Controller

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TESTIMONY BEFORE THE HOUSE LABOR AND INDUSTRY COMMITTEE
FEBRUARY 5, 1991
IN OPPOSITION TO HOUSE BILL 2076 SUBMITTED BY
STEPHEN R. CLOUD

Chairman Hensley and Members of the Committee:

I appreciate the opportunity to appear before you today in opposition of House Bill 2076 - The Mandated Family and Medical Leave Bill. I strongly oppose this bill really on two different levels. The first level of opposition is the negative effect that the bill would have on my company, IBT, Inc. The second level of opposition is one of a broader nature and that is the negative effect that it would have on economic development in the State of Kansas. Let me first address the effect on my company.

My company employees approximately 435 people, so we would not qualify under the 50 employee exemption. However, we operate nine branches in the State of Kansas which average 7 employees per branch. The negative effect on any one of these branches of having one or possibly two employees off for a period of ten weeks would be devastating. We currently operate with a minimum number of employees due to economic conditions and the possibility of operating one or more of these branches without all of the existing employees would be next to impossible. The solution of hiring additional backup employees just doesn't work due to the four to six month training program that our employees have to go through before they can be productive members of a branch. It's already difficult for our supervisors to schedule around vacation leave and unexpected yet necessary sick leave. The additional 10 weeks would make their jobs next to impossible.

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attachment #17-1*

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I would also like to explain my oppositions on the grounds of economic development in the state. Any company who would be considering relocating in the State of Kansas would look upon this Mandated Program as a major disincentive to moving to Kansas. Until the Federal Government decides what they are going to do on a National level regarding this issue, I would urge not only the Kansas legislature, but all state legislatures to not create a patchwork of fringe benefits for multi-state operations. It is somewhat ironic that I will be attending a Kansas Cavalry Board of Directors Meeting later this morning. As most of you know, the Cavalry is a group of 200 business men and women who volunteer their time to travel across the country encouraging other businesses to relocate in the state of Kansas. We will be spending time this morning setting out our plans for 1991, while this Committee is considering a bill which will, without question, make the job of attracting new jobs to Kansas much more difficult in our State.

I urge you to allow the businesses in the State of Kansas to set their own benefit levels through sincere discussions between management and labor, and to not have the State Legislature force upon them such an onerous requirement as is represented by House Bill 2076.

Thank you very much for your time and attention. I would be happy to answer any questions that the Committee might have.