

TESTIMONY IN SUPPORT OF S.B. 479

Submitted to the Pennsylvania Senate Committee on Labor and Industry April 13, 2018

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy organization based in Washington, D.C. For more than four decades, we have fought for every major policy advance that has helped women and families. We promote fairness in the workplace, reproductive health and rights, access to quality, affordable health care, and policies that help women and men meet the dual demands of their jobs and families. The National Partnership has longstanding expertise on family and medical leave laws, having written the initial draft of the federal Family and Medical Leave Act (FMLA). We lead a nationwide coalition of women's, children's, civil rights, aging, disability, health, business and labor organizations advocating for updated federal workplace policies. We also provide legal and policy assistance to countless advocates and legislators in many of the states that have adopted state laws that expand upon the federal FMLA's protections.

We appreciate the opportunity to submit testimony in support of Senate Bill 479, the Pennsylvania Family and Medical Leave Act. This legislation takes a modest but necessary step toward protecting the economic security of Pennsylvania's workers and their families. The proposal would provide certain employees a limited amount of time away from their jobs to provide vital care to seriously ill siblings, grandparents and grandchildren. It deserves full support from the legislature without delay.

I. Our Nation's Work-Family Policies Must Be Updated to Reflect Our Changing Realities

Today, twenty-five years after its passage, the FMLA is the only federal law that helps workers meet their obligations to their families and their jobs when serious health or family caregiving needs arise. It has been used more than 200 million times by women and men across the nation.¹ It provides basic protection to about 60 percent of the workforce.² Workers at companies with 50 or more employees are eligible for unpaid job-protected leave for up to 12 weeks a year to care for a new child, to care for a parent, spouse or child with a serious health condition, or to recover from an employee's own serious health condition. In 2008 and 2009, the law was expanded to provide up to 26 weeks of leave to workers caring for an injured servicemember and 12 weeks to military family members to address certain circumstances relating to deployment.

The FMLA has been a great success, but it was always intended to be a first step and not a final one. There are many serious needs that the law does not address. Most relevant to the committee today is that the scope of family members covered by the federal FMLA's family care provision is too limited and does not reflect the reality of workers' caregiving responsibilities. That is why we are pleased that Pennsylvania is taking this small step to expand the types of family members for whom workers can take family caregiving leave without jeopardizing their job security.

II. S.B. 479 Would Help Workers Meet their Caregiving Responsibilities

S.B. 479 would allow workers who are eligible for federal FMLA leave to take up to six weeks of unpaid job-protected leave in a one-year period to care for a sibling, grandparent or grandchild with a serious health condition. Relative to the federal FMLA and the laws adopted in other states that have expanded upon it, this proposal is quite limited – and we urge the committee to consider amending it with more generous provisions. It is limited both in time (six weeks, rather 12 weeks under federal law and even more under some state laws) and in terms of the conditions that must be met to permit a grandparent, grandchild or sibling to benefit: namely, the person requiring care must not have a living spouse, adult child or parent under age 65.³ In the unique circumstances under which S.B. 479 would apply, its protections would mirror workers’ existing federal FMLA right to take unpaid time away from their jobs to address personal serious health conditions or for family care without facing penalties at work or risking their job.

S.B. 479 reflects the needs of today’s society by recognizing that our nation’s demographics are changing and families are not one-size-fits-all. Many workers have caregiving responsibilities that extend beyond the family members covered by the federal FMLA. Trends suggest that the need for care among grandparents, grandchildren and siblings is becoming more common. The share of households that are multigenerational, with grandparents caring for their grandchildren, is on the rise. According to Census Bureau data, more than 4.8 million children live in the home of a grandparent, and nearly one-third of those children had no parent present (nearly 1.6 million children).⁴

Between 2015 and 2030, the population of adults ages 65 and older is expected to balloon from 43 million people to nearly 73 million people, comprising an estimated 20 percent of the U.S. population.⁵ This is particularly relevant for Pennsylvania, which has the seventh highest proportion of over-65 residents in the country – more than one in six.⁶ And according to a recent study, more than half of older adults (52 percent) can expect to need assistance with at least some daily activities upon turning age 65.⁷ As life expectancy increases, so does the duration for which older adults need care.⁸ Legislation like S.B. 479 will help workers meet their caregiving responsibilities for grandparents without putting their jobs at risk.

An increasing need for family caregiving by and for siblings may also be on the horizon. There has been an increase in the number of single adults, now 45 percent of the adult population (totaling more than 110 million people),⁹ and 15 percent of women aged 40 to 44 are childless.¹⁰ In many cases, a sibling – often a person’s best friend from childhood and closest living relative – is the most logical person to provide needed care.

III. Passing S.B. 479 Would Improve Health Outcomes and Help, Rather than Burden, Employers

Research suggests that expanding the types of family members who can take FMLA caregiving leave would lead to improved health outcomes for Pennsylvania residents. Job-protected leave, like that offered under the FMLA and S.B. 479, improves overall health. Data from even the earliest studies on the FMLA showed its positive health impacts. Workers who took FMLA leave credited the leave with having a positive effect on the leave taker’s or ill family member’s physical health (63 percent) and emotional well-being (70 percent).¹¹ They also reported that FMLA leave led to quicker recovery times (84 percent),

increased the ability of workers or their family members to comply with doctors' instructions (94 percent) and, in some cases, delayed the need for using a nursing home or other long-term health care facility (32 percent).¹²

Years of experience and S.B. 479's limited scope indicate that employers will be able to implement S.B. 479 seamlessly. As stated earlier, the bill's protections, while very important, are modest in scope. S.B. 479 does not expand the types of employers that must allow FMLA leave,¹³ it does not change the types of medical conditions for which leave may be taken, and it does not extend leave to workers who have not met the FMLA tenure requirements.¹⁴ Rather, it simply builds upon the infrastructure already in place at workplaces covered by the federal law, and adds three types of family members for whom unpaid family caregiving leave may be taken under certain circumstances.

Compliance with the FMLA has not been burdensome to most employers and S.B. 479 will not impose significant additional burdens. Even now, only a small proportion of workers who are eligible for FMLA leave take leave, and about four in ten take fewer than ten *days* of the 12 *weeks* of leave afforded to them under the Act.¹⁵ Additionally, less than one percent of FMLA-eligible employees have reported an unmet need to care for a family member other than their child, parent or spouse.¹⁶ Thus, while very important to those individuals in need of such leave, the expansion of this protection to additional family members in Pennsylvania will likely have an imperceptible impact on business except in extremely rare cases.

Employers have accepted and easily implemented the FMLA. Data from the most recent national research conducted by the U.S. Department of Labor show that 91 percent of all covered employers report that complying with the FMLA has a positive or neutral effect on productivity, profitability and employee morale.¹⁷ The law benefits employers in numerous ways, most notably through the savings derived from retaining trained employees, through having productive workers on the job and through a positive work environment. Nearly 95 percent of workers who take FMLA leave return to work for the same employer.¹⁸

IV. Conclusion

Passage of S.B. 479 will give Pennsylvania workers and families an important tool to meet their family obligations while preserving their jobs and economic security. Based upon 25 years of experience with the federal FMLA and the experiences of other states that have adopted their own family and medical leave laws, we believe S.B. 479 will benefit workers, communities and businesses in Pennsylvania. We urge the Committee to take immediate favorable action on this bill.

1 National Partnership for Women & Families. (2015, February). *The Family and Medical Leave Act at 22: 200 Million Reasons to Celebrate and Move Forward*. Retrieved 13 April 2018, from <http://www.nationalpartnership.org/research-library/work-family/fmla/the-family-and-medical-leave-at-22.pdf>

2 Klerman, J., Daley, K., & Pozniak, A. (2012, September). *Family and Medical Leave in 2012: Technical Report* (p. 70). Abt Associates Publication. Retrieved 13 April 2018, from <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>

3 This limitation is problematic because it imposes a significant burden on the caregiver and the care recipient to prove the non-existence of these other family members and assumes that if such family members were living, they would have access to job-protected FMLA leave. However, only 60 percent of workers work for FMLA-covered employers and are eligible for FMLA leave. Even those who are eligible may not be able to take leave without pay, much less travel or meet other burdens associated with providing care.

4 U.S. Census Bureau. (2017, November). *Historical Living Arrangements of Children, Table CH-7. Grandchildren Under Age 18 Living in the Home of their Grandparents: 1970 to 2014*. Retrieved 13 April 2018, from <https://www.census.gov/data/tables/time-series/demo/families/children.html>

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- 5 Ortman, J.M., Velkoff, V.A., & Hogan, H. (2014, May). *An Aging Nation: The Older Population in the United States*. U.S. Census Bureau, Population Estimates and Projections Publication. Retrieved 13 April 2018, from <https://www.census.gov/prod/2014pubs/p25-1140.pdf>
- 6 U.S. Census Bureau. (2017). *American Community Survey, 1-Year Estimates 2016, Geographies: All States within United States and Puerto Rico, Table S0103: Population 65 Years and Over in the United States*. Retrieved 13 April 2018, from https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_16_1YR_S0103&prodType=table
- 7 National Academy of Sciences, Engineering, and Medicine. (2016, September 13). *Families Caring for an Aging America*. Retrieved 13 April 2018, from <http://www.nationalacademies.org/hmd/Reports/2016/families-caring-for-an-aging-america.aspx>
- 8 Wolff, J.L., Feder, J., & Schulz, R. (2016, December). Supporting family caregivers of older Americans. *The New England Journal of Medicine*, 375(26), 2513-2515.
- 9 U.S. Census Bureau. (2017, August). *Profile America Facts for Features: Unmarried and Single Americans Week: Sept. 17-23, 2017*. Retrieved 13 April 2018, from <https://www.census.gov/content/dam/Census/newsroom/facts-for-features/2017/cb17-ff16.pdf>
- 10 Livingston, G. (2015, May). *Childlessness Falls, Family Size Grows Among Highly Educated Women*. Pew Research Center Publication. Retrieved 13 April 2018, from <http://www.pewsocialtrends.org/2015/05/07/childlessness-falls-family-size-grows-among-highly-educated-women/>
- 11 Cantor, D., et al. (2000). *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys 2000 Update (A-1-16)*. U.S. Department of Labor Publication. These questions were not included in the 2012 DOL Report, so these are the most recent numbers available.
- 12 Cantor, D., et al. (2000). *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys 2000 Update (A-1-17)*. U.S. Department of Labor Publication.
- 13 The FMLA only covers employers with 50 or more employees. 29 U.S.C. § 2611(2)(B)(ii).
- 14 In order to be eligible for FMLA leave, a worker must have worked for the employer for at least one year and must have worked 1,250 hours in the last year. 29 U.S.C. § 2611(2)(A)(i)&(ii).
- 15 Klerman, J., Daley, K., & Pozniak, A. (2012, September). *Family and Medical Leave in 2012: Technical Report* (p. 68). Abt Associates Publication. Retrieved 13 April 2018, from <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>
- 16 Klerman, J., Daley, K., & Pozniak, A. (2012, September). *Family and Medical Leave in 2012: Technical Report* (p. 123). Abt Associates Publication. Retrieved 13 April 2018, from <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>
- 17 Klerman, J., Daley, K., & Pozniak, A. (2012, September). *Family and Medical Leave in 2012: Technical Report* (p. 157). Abt Associates Publication. Retrieved 13 April 2018, from <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>
- 18 Klerman, J., Daley, K., & Pozniak, A. (2012, September). *Family and Medical Leave in 2012: Technical Report* (p. 109). Abt Associates Publication. Retrieved 13 April 2018, from <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>