

**Testimony of
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Thank you, Chairman Schumer, Vice Chair Maloney and members of the committee, for the opportunity to testify today.

These past few months I've been on tour for my new book, *Taking on the Big Boys, or Why Feminism is Good for Families, Business and the Nation*. Here are just a few of the people who spoke up at a book event or called in to a radio show:

- A bank manager at a prestigious bank – one that always lands on best places to work lists – who was demoted for taking 5-minute breaks to pump breast milk; company practice does allow cigarette breaks.
- A supermarket employee fired for taking a phone call from her son who was home alone.
- Certified Nursing Assistants who lost their jobs when they could not stay for an unscheduled second shift because they had to get home to their kids.
- A TV anchor who sleeps just a few hours a night in order to keep her job *and* spend time with her baby.
- A factory worker who wasn't able to care for his father after a heart attack because the worker hadn't been on his job a full year and didn't qualify for FMLA.
- A clerical worker who did qualify for FMLA but couldn't afford unpaid time off when her mother was dying.
- Engineers who scaled back their hours after a new baby at great cost to their pay rate, benefits and career opportunities.

We hear a lot of talk about family values and personal responsibility. And yet, in the United States today, being a good family member can cost you your job or career opportunity or health or security. Being a conscientious employee can jeopardize a loved one, add to the health or learning problems of a dependent child, force an aging parent into a nursing home, create a public health hazard

My most striking encounter during the tour was with a group of 9to5 members at a briefing of Congressional staff on issues facing low-wage women. I told them I'm not surprised when teachers say they've never seen so many kids coming to school sick because a parent can't stay home with them, or when mothers describe guilt for sending an ill child to school or day care because of lack of flexibility at work. But what had surprised me was learning of kids who drag themselves to school sick to keep a parent from losing pay or getting fired.

With me on the panel that day was Jeannetta Allen, an energetic 18-year-old with a disability that affects her balance and her speech. She'd just testified how lack of paid sick days had cost her mother a job.

“I’m that child,” Jeannetta said when I’d finished. “After my mother was fired, I always tried to go to school no matter how I felt. I didn’t want her to be fired again.”

A chain reaction started in the audience. One after another, women shared when they’d discovered a child going to school with bruised ribs or the flu or strep throat because staying home meant Mom could lose her job.

The workforce has changed enormously in the last thirty years, but the workplace has not kept pace. Some employers do a terrific job – you’re going to hear from a representative of SAS in a moment, where all my graduate HR students want to work. That’s the good news. Everything we need already exists somewhere and it works – for business as well as for workers and their families.

Unfortunately, where workplace policies do exist, they’re often at the margins and unrelated to how work is organized. One memo announces you can work part time, followed by another outlining the benefits you’ll lose if you reduce your hours. Managers describe the leave policy, then scold you for not having more billable hours. Women can climb the corporate ladder, provided they’re available to meet, move or travel at a moment’s notice.

Social class and rank may affect benefits as well. In some workplaces, managers have lactation rooms, while assembly line workers don’t even have breaks. Only five percent of employers have on-site child care centers – and frontline workers can’t always afford the fees. Or the center may co-exist with mandatory overtime. Professional women like Jane often lose benefits and opportunities when they reduce hours, but workers at Wal-Mart and many other places see their hours cut or capped without their consent and any health and pension benefits disappear altogether. For low-wage workers, “personal days” mean the ones you don’t clock in.

Deficient employer policies reflect the sorely outmoded public policies that set minimum standards for how workers are treated. Whenever I speak to groups of women looking for work, they tell stories of being asked by recruiters about their future family plans. “Isn’t that illegal?” someone will ask. It *is* illegal to ask women and not men -- but in most states, it’s not illegal to ask both. Only Alaska and the District of Columbia prohibit discrimination based on family care responsibility.

It’s easy to forget that until 1978, it was perfectly legal in this country to fire someone for being pregnant. Temporary disability plans usually excluded pregnancy, which was often lumped with injuries that were “willfully self-inflicted or incurred during the perpetration of a high misdemeanor.” In 1976, the Supreme Court ruled that it was not discrimination to treat “pregnant people” differently because not all women are pregnant. You may not think Congress knows much, but even they understood that pregnancy does have something to do with sex. After much organizing by grassroots groups, Congress passed the Pregnancy Discrimination Act (PDA) that prohibited firing or refusing to hire someone for being pregnant.

But the law has a big loophole: it doesn’t require the employer to hold the woman’s job open when she leaves to give birth. I’ve never understood how that’s not tantamount to firing you, but lawyers say otherwise. The PDA also requires that employers with temporary disability

programs include pregnancy along with other short-term disabilities. Before then, many did not. However, the majority of women didn't then and still don't work for firms which offer temporary disability benefits. And pregnant women weren't the only ones needing consideration at work.

Groups then organized to pass the Family and Medical Leave Act, which did include a job guarantee and covered men as well as women and a broader range of care needs. Employer lobbyists proclaimed that any such bill was unnecessary because businesses were already providing leave. Turns out most of those employers were simply complying with the PDA. Two-thirds had to change their policy after passage of the law – many to include men, or adoptive parents, or to allow for time to care for a seriously ill family member.

Although it was a critical first step, the FMLA is fairly meager. It applies only to firms of 50 or more employees and covers only those who work at least 25 hours a week and have been on the job at least a year. That leaves out more than two in five private sector workers. The narrow definition of family means those who need time to care for domestic partners or siblings or in-laws or other relatives may be out of luck. And the fact that the FMLA is unpaid renders it moot for large numbers of workers.

The FMLA has another enormous limitation: it applies only to serious illness. Fortunately, most kids don't get leukemia but they do all get stomach flus and colds and a host of other ailments not covered by this law. Not to worry, proclaim the business lobbyists – workers can use their sick days for that. But half the workforce – and three-fourths of low-wage workers, five-sixths of part-time workers – don't have any paid sick days to use. They face the loss not only of a day's pay, but of their job. Many who do have paid sick days aren't allowed to use it to care for a sick family member.

Thanks to the lopsided share of family caregiving that falls to women, the biological demands of pregnancy, and the still-prevalent gender stereotyping in the workplace, women are disproportionately harmed by these outmoded systems. But males feel the fallout as well. Many more men would be better fathers, sons and husbands if they weren't punished for it at work. Low-wage men have little or no wiggle room. Men in managerial or professional jobs are expected to be fathers and patted on the back for leaving early occasionally to take in a kid's soccer game – unless they begin to act too much like mothers, in which case their pay and promotions begin to dip.

In reality, everyone needs time to care. Even those who aren't parents *have* parents. Others have partners who may need care. And everyone faces the prospect of needing time themselves to heal from an illness or injury.

Employers can do a lot by implementing effective practices, many of which cost little or nothing and all of which strengthen the bottom line. These include flexible scheduling -- allowing employees to take a parent for a checkup or attend a child's school play and make up the time, to stagger start and end times to accommodate child care hours or commuter traffic, and to swap shifts with co-workers. Any overtime or shift changes should be voluntary. Employees should have paid time off for routine illness in addition to accommodation for more demanding

events like a new child or a seriously ill family member. The guarantees and time period of the FMLA should be the minimum employers adopt. Employers should also offer quality part-time options – reduced hours with at least pro-rated benefits, equitable hourly rates, and equal access to training and promotional opportunities. That could mean employees working a shorter week, sharing a job with someone else, gradually increasing hours after returning from leave, or gradually cutting hours when phasing into retirement. Policies should be formal and open to all employees.

What workers want is recognition that life doesn't begin and end at the work site. Even employers who can't afford to set up an on-site child care center can link employees with local referral agencies. Those with more resources can provide subsidies for dependent care, elders as well as young children, or help increase the supply of quality care. Innovative employers have also come up with short-term, no-interest loans to help employees stay employed when hit with unexpected expenses.

How successful such policies are depends on corporate culture. As Barbara Wankoff from KPMG noted, employers can offer all kinds of programs and policies, "but it's the message that leadership sends with those policies that really dictates how they're used." Above all, we need a sea change in how employers measure success, advancing people based on work quality rather than face time.

As I said, successful policies exist in many places. Research reminds us over and over that workers who feel respected as whole people return the favor by improved loyalty and performance. Costs for family-friendly benefits pale besides the price tag for employee turnover. Deloitte and Touche, for instance, claims to have saved \$41.5 million in turnover costs as a result of family-flexible policies. Expenses per employee are less when low-wage workers leave the job, but the overall costs remain significant because of the high rate of turnover.

Retention isn't the only benefit. In a study of 28 leading corporations that have implemented flexible schedules, employers find positive effects of these work arrangements on employee commitment, employee satisfaction, productivity, cycle time, customer commitment, and response time.

What is seldom discussed are the costs of *not* acting to change our outdated workplace rules. Success stories like SAS do move other employers to action. But expecting all business owners to follow suit is like thinking two-year-olds can decide when they need a time out. We need to guarantee a reasonable floor for all workers, and that means public policy changes. These include guarantees of paid sick days, accessible and affordable family leave paid for by the shared risk of a social insurance fund, equity for part-time workers, and quality, affordable dependent care. It also means a reasonable work week with no mandatory overtime. Such policies will work only with a meaningful wage floor: money is a work-life issue.

I coordinate a network of state coalitions working to expand paid leave and other family flexible options. These groups are made up of diverse allies from the AARP to the ACLU – grassroots groups fighting for kids, economic justice, worker rights and aging populations, alongside progressive employers, teachers and school principals, interfaith councils and

disability activists. The network, known as the Multi-States Working Families Consortium, is a new model of collaboration, where groups raise funds together and share them equally. They also share strategies, materials, and organizing tips.

Each of these groups and many others are winning changes at the state and local level, as well as working together for new federal policies. In 2004, a state coalition in California successfully won expansion of its Temporary Disability Insurance program to cover leave for other family care purposes. Groups in New York and New Jersey, two other states with TDI funds, are working to do the same. Washington just became the first state without TDI to grant wage replacement for new parents. Massachusetts and Illinois are looking for ways to do the same for all forms of family leave. A number of states have bills pending to expand access to FMLA or to allow its use for routine school and medical appointments. Last November San Francisco passed the first citywide ordinance to guarantee a minimum number of paid sick days to all employees. Groups from Maine to Montana are introducing similar measures in city councils and state legislatures.

Together such coalitions are laying the basis for a family-friendly future and building the power to make it happen. Their successes should spur action on the federal level, badly needed to guarantee a level playing field throughout the country. The changes we seek aren't a favor for women, but a better way of doing business and valuing families.

When we were trying to win a state FMLA bill in Wisconsin, we took a group of children to meet with the Secretary of Employment Relations. They represented the broad range of reasons why we need time to care – childhood cancer, adoption, sick grandparent or sibling, disability, car accident. The Secretary was clearly moved by their stories. “We’re so used to hearing from lobbyists,” he said, “we forget about the people who are affected by the bills we pass.” I urge you to listen instead to the children.

Thank you very much.