



Testimony of Pronita Gupta, Director of Job Quality, Center for Law and Social Policy

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Chairman Mendelson and Members of the Committee of the Whole, my name is Pronita Gupta, and I am the Director of Job Quality at the Center for Law and Social Policy (CLASP). CLASP is a national organization that works to improve the lives of low-income people by developing and advocating for federal, state, and local policies that strengthen families and create pathways to education and work. We advocate for and conduct research and analysis on job quality policies, including paid sick days, paid family and medical leave, and fair scheduling. Further, we work with community and government partners to promote effective implementation and enforcement of labor standards policies.

I thank you for the opportunity to provide testimony in support of the Universal Paid Leave Act and about my concerns regarding the proposed alternatives which can weaken the program and hurt working families, especially low-income families. Prior to joining CLASP, I was the Deputy Director of the Women's Bureau in the US Department of Labor under President Obama. One of my primary responsibilities was overseeing the Department's Paid Leave Analysis grant program. The District was one of our first grantees and I was thrilled to see how the research and feasibility analysis produced from this grant helped inform the development of the Universal Paid Leave Act. I believe that the Universal Paid Leave Act, as passed, fulfills the underlying mission of the grant program –namely to expand access to paid family and medical leave and meet a critical need faced by most working families, especially low-income families. Under this important legislation, workers no longer need to make the painful tradeoff between caring for their child, a seriously ill loved one or for their own serious illness, and the need for a paycheck. The District is just one of the 6 states to offer paid family and medical leave –an important benefit the majority of workers in the US cannot access.

That is why I am so concerned about efforts to repeal and replace the Universal Paid Leave Act (UPLA). First and foremost, UPLA meets three critical standards of effective social policy¹ It:

- Reduces inequality
- Promotes economic security
- Promotes greater gender equity

In contrast, the repeal and replace proposals that finance the program through an employer mandate risk undermining those standards and could result in first **Increasing Inequality**. Currently in the US, 86 percent of all workers lack access to paid family leave including over 95 percent of low-wage workers.ⁱⁱ An important feature of the Universal Paid Leave Act is that it covers all private and nonprofit sector workers in DC. This includes part-time workers, tipped workers and self-employed residents. However, some of the alternative proposals would no longer cover part-time workers or the self-employed. Any proposal that decreases access for women, low-income workers, older workers, immigrant workers or communities of color will be a step in the wrong direction.

The employer mandate approach also could **Increase economic insecurity**. Paid Family and Medical leave programs must ensure that workers who take leave do not have to compromise their economic security in order to take that leave. Research shows that many low-wage workers lose all their income while on unpaid family and medical leave, and many low-wage workers of color cannot afford to take any *unpaid* family leave. For example, 72 percent of Latino workers are neither eligible for nor able to afford to take FMLA leave.ⁱⁱⁱ

While the Universal Paid Leave Act and many of the replacement proposals have a progressive wage replacement rate that would allow low-wage workers to utilize and benefit from the program, employer mandates would undercut this gain. An employer mandate would require the individual business to solely fund the entire paid family and medical leave program, which would further incentivize those businesses to pursue cost-cutting measures that in turn lead to the denial of benefits, pressure to take less leave, or retaliation through a reduction or change in work hours--actions that undermine the economic security of working families.^{iv v} The research report for Montgomery County, Maryland, one of the 2015 DOL Paid Leave Analysis grantees, further reiterates this point. The report states, "...structuring a PFML program as an employer mandate is likely to result in negative outcomes for women, older workers, workers with disabilities, other workers who are the most likely to need leave and the businesses that employ them." Additionally, that "employer mandates are inconsistent with programs intended to help reduce employment discrimination."^{vi}

The employer mandate approach also could **Increase gender inequity**. While the gender wage gap has narrowed over time, it still continues to persist and is getting worse for Black women, who in 2016, earned 62.5 cents for every dollar earned by a White man.^{vii} International studies have indicated that under employer mandates, women often face employment discrimination and the gender gap actually increases.^{viii}

Workplace policies, such as paid family and medical leave, have been identified as effective tools in closing this gender gap.^{ix} Studies from California's Paid Family Leave Insurance Program further demonstrate the positive impact paid leave can have on increasing women's workforce participation and wages.^x This is vital in a jurisdiction like DC where 72 percent of women are now primary or co-breadwinners in their families.^{xi}

An Employer Mandate Can Undermine Enforcement and Worker Protections. These three standards can be further undermined by poor implementation and the lax enforcement of worker protections. Since the District of Columbia does not have a Temporary Disability Insurance Program, it cannot piggy back onto an existing infrastructure as has been done in California, New Jersey, and Rhode Island. These states were able to expand their temporary disability insurance programs to include paid family leave. DC will have the opportunity to establish a completely new program which will need to include processes to make medical determinations, decisions about program eligibility, wage replacement and appropriate benefit levels, and will have to develop a system to process and disperse payments. Fortunately, the Council approved the necessary startup funds since this work is resource-intensive. It is my understanding the executive branch is anxious to do its job and move forward to create the implementation scaffolding for the Universal Paid Leave Act. If an employer mandate replaces or is added to the Universal Paid Leave Act, it will require the creation of an additional new enforcement scheme. A bifurcated program where the DC government must develop and manage both a new social insurance program and provide oversight of companies who have opted to self-insure will plunge DC government into double-duty enforcement by the DC government and will increase administrative costs. Why do that?

CLASP has a long history of working to both develop critical social policies and to advocate for the proper implementation and enforcement of these policies. We work closely with state and local agencies charged with implementing policies, labor enforcement agencies and advocates to improve policy implementation and foster systems change that increases access and improves services. We recognize that a law is only effective if it is correctly implemented and robustly enforced. However, even with strong laws and penalties, enforcement can be a challenge. For example, wage theft continues to plague our labor market, though many states and cities have adopted strong penalties. An Economic Policy Institute study of wage theft in the 10 most populous states found that 2.4 million workers per year report being paid less than the minimum wage in their state, accounting for a total underpayment of over \$8 billion in wages annually.^{xii} The reason these violations continue to abound is because most enforcement agencies are “overburdened and under-resourced.”^{xiii}

Furthermore, retaliation against workers who speak out or raise concerns about their rights continues to be widespread. According to a national survey, 43 percent of workers who complained to their employers about their pay and working conditions were subject to retaliation.^{xiv}

A key virtue of a social insurance program is that the government agency collects and disburses the program funds. So, under the social insurance model if an employer retaliates, the employee is able to secure the benefit from the agency. You may get fired but you at least had income throughout your cancer treatment and can decide if you have the stamina to make an appeal for being wrongfully fired. Of course, social insurance also makes it harder for low road employers to try and skip out on contributing their fair share to the insurance pool. However, if the enforcement agency also must develop an employer compliance program that will both

impede the implementation of the social insurance program and add risk to worker rights and protections.

The need for paid family and medical leave in the District is considerable. The current Universal Paid Leave Act will help protect workers from the full force of discrimination and levels the playing field for all businesses is the right policy to meet this need.

Thank you.

ⁱ Sarah Jane Glynn, *State Paid Leave Administration*, Center for American Progress, 2015, <https://www.americanprogress.org/issues/economy/reports/2015/09/30/122354/state-paid-leave-administration/>.

ⁱⁱ Liz Ben-Ishai, *Wages Lost, Jobs at Risk: The Serious Consequences of Lack of Paid Leave*, Center for Law and Social Policy, 2015. <http://www.clasp.org/resources-and-publications/publication-1/2015-02-03-FMLA-Anniversary-Brief-3.pdf>.

ⁱⁱⁱ Zoe Ziliak Michel, Liz Ben-Ishai, *Good Jobs for All: Racial Inequities in Job Quality*, Center for Law and Social Policy 2016, http://www.clasp.org/resources-and-publications/publication-1/Race-and-Job-Quality-Brief-3_30ar.docx-FINAL.pdf.

^{iv} Sarah Jane Glynn, *Implementing Paid Family and Medical Leave Insurance: Montgomery County, Maryland*, Office of Legislative Oversight, Montgomery County, MD, The Institute for Women’s Policy Research, Center for American Progress, 2016, <https://www.montgomerycountymd.gov/OLO/Resources/Files/2016%20Reports/FullPaidLeaveReport.pdf>.

^v Sarah Jane Glynn, *State Paid Leave Administration*, Center for American Progress, 2015, <https://www.americanprogress.org/issues/economy/reports/2015/09/30/122354/state-paid-leave-administration/>.

^{vi} Office of Legislative Oversight, Montgomery County, Maryland, the Institute for Women’s Policy Research and the Center for American Progress, U.S. Department of Labor Women’s Bureau Paid Leave Analysis Grant Final Report for Montgomery County, Maryland, 2016, https://www.dol.gov/wb/media/MoCo_Final_Report_2016_Final_Narrative_Report.pdf

^{vii} Jennifer Clark, “Gender Wage Gap Narrows for First Time in a Decade, but Women Won’t See Equal Pay for 43 More Years,” Institute for Women’s Policy Research, September 13, 2017, <https://iwpr.org/gender-wage-gap-narrows-first-time-decade-women-wont-see-equal-pay-43-years/>.

^{viii} Sarah Jane Glynn, *Implementing Paid Family and Medical Leave Insurance: Montgomery County, Maryland*, Office of Legislative Oversight, Montgomery County, MD, The Institute for Women’s Policy Research, Center for American Progress, 2016, <https://www.montgomerycountymd.gov/OLO/Resources/Files/2016%20Reports/FullPaidLeaveReport.pdf>.

^{ix} “The State of the Gender Pay Gap,” Council of Economic Advisers, June 2016, https://obamawhitehouse.archives.gov/sites/default/files/page/files/20160614_gender_pay_gap_issue_brief_cea.pdf.

^x Liz Ben-Ishai, *Wages Lost, Jobs at Risk: The Serious Consequences of Lack of Paid Leave*, Center for Law and Social Policy, 2015. <http://www.clasp.org/resources-and-publications/publication-1/2015-02-03-FMLA-Anniversary-Brief-3.pdf>

^{xi} Sarah Jane Glynn, *Breadwinning Mothers are Increasingly the U.S. Norm*, Center for American Progress, 2016, <https://www.americanprogress.org/issues/women/reports/2016/12/19/295203/breadwinning-mothers-are-increasingly-the-u-s-norm/>.

^{xii} David Cooper, Teresa Kroeger, *Employers steal billions from workers’ paychecks each year*, Economic Policy Institute, 2017, <http://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year->

[survey-data-show-millions-of-workers-are-paid-less-than-the-minimum-wage-at-significant-cost-to-taxpayers-and-state-economies/](#).

^{xiii} Daniel Galvin, *Deterring “Wage Theft”: Alt-Labor, State Politics, and the Policy Determinants of Minimum Wage Compliance*, Institute for Policy Research, Northwestern University, 2016, <https://www.ipr.northwestern.edu/publications/docs/workingpapers/2015/IPR-WP-15-08.pdf>.

^{xiv} “The Top 5 Enforcement Tools for Local Minimum Wage Laws,” National Employment Law Project, December 2015, <http://www.nelp.org/content/uploads/Policy-Brief-Top-Five-Enforcement-Tools-Local-Minimum-Wage.pdf>.