

Good morning, members of the Senate Labor Committee and good morning to all those in attendance. My name is Anne Marie Pearson and I am here to speak to you about SB 479 and its origin. In June 2008, my sister, Joanne, was diagnosed unexpectedly with late stage gynecologic cancer. We were devastated by the news and needed to make plans for Joanne's care as her health deteriorated quickly. In a very short period of time, Joanne needed around the clock care and we were forced to make tough decisions about her health. Joanne was not married, nor did she have any children. Our father is deceased and our mother was elderly with medical conditions of her own. Taking care of Joanne and getting her safely to all her chemotherapy and radiation treatments and her oncologist visits became difficult. We all have our jobs and our responsibilities, but this was one that I could not walk away from - - - this was family.

Terminal illness does not leave much time for research nor does it wait for any resolution to occur. I applied for Family Medical Leave at my place of employment; however, I was denied since Joanne was a 'sibling' who is not covered as an eligible individual under the current law. Disappointed, but not giving up, I appealed that decision, citing 'in loco parentis' because of our family situation, however, it was denied once again. Having no other option, I made the difficult decision to voluntarily resign my position of 17 years to help take care of my sister until she passed away. I do not regret this decision to resign and would certainly make the same decision all over again. For some people, though, the loss of employment would be devastating. While I am not a nurse by trade, I accepted my new position as caregiver and was trained by critical care nurses in our home to administer Joanne's IV medicines. At the time, Hospice was not an option for us, so our family took care of her until she passed away on February 13, 2009.

As I thought about our experience, I realized that we cannot be the only family in Pennsylvania in this situation. No one single law can dictate who is considered "family" anymore. Death, divorce, separation, and single people all play a role in today's family unit. I felt that Pennsylvania law should be changed to include a provision to include siblings under special circumstances, like my sister's, as eligible individuals that we may take protected leave from our jobs for. I approached my elected representative and draft legislation was modeled after the several other states that have already passed similar statutes.

I often thought 'who would have taken care of Joanne' if I did not sacrifice my livelihood and my job? Would she have to put in a home or in the care of the state? Today's economy is not one in which anyone can afford to choose between taking care of a family member or keeping their job. Unfortunately for many Pennsylvanians, this is a harsh reality without this legislation.

I know what's involved from an insider's perspective, the challenges that families face and decisions that were made on behalf of my sister, as well as the challenges that employers face as a Human Resources Specialist myself with 26 years of experience in the field. And in saying that....please allow me a moment to discuss some of the concerns that will be brought before you in a light of opposition to this common sense, UNPAID bill that does not have start up costs as the Family Medical Leave legislation has been in full administrative effect for 25 years now.

Concern #1: Too many people will take advantage of the new legislation and there will be overuse and abuse.

Response: In an effort to make the bill as business friendly as possible, the language in the bill has been modified several times to allow the fewest people to even qualify for use. We have changed the language to specify "siblings that are not married and do not have any children or parents able to take care of them". We continued to narrow the eligibility even further to specify the illness to include only "terminal illness" to reduce the chance that people may use any vague or unclear illness or symptoms to qualify. These language adjustments have reduced the number of those actually eligible to a miniscule amount.

Concern #2: Adding another family member to the FMLA law is simply not needed.

Response: The common-sense approach applies to this concern. Today's family unit is no longer simply 'father-mother-child'. Extended families are common and caregiving responsibilities reach across generations. In the workplace, mentally, physically, and emotionally exhausted employees are responsible for lost productivity and reduced quality product and service issues which are directly tied to an organization's bottom line. Caregivers also have higher absenteeism and tardiness rates, as well as poor health conditions which give way to higher medical costs for the company due to stress related illnesses.

Concern #3: The Family Medical Leave is just "not good for business"

Response: According to the most recent business survey conducted in 2012 by the US Department of Labor, Family Medical Leave is indeed working for employers!

- Only 59% of the entire workforce is eligible for FML
- Only 13% of that amount actually take leave from their jobs
- More women than men take leave due to the dual demands of work and family
- The leaves are usually very short with 40% being away 10 days or less and more than 70% returning to their positions within a period of 40 days.
- The leave is UNPAID, let me say that again....UNPAID.....so the employer saves in both payroll taxes and payroll expenses as this leave happens.
- Abuse does happen but it is very rare. Fewer than 2% of employers suspected abuse while only 1.6% of employers reported confirmed cases of abuse.
- 85% of employers report that they consider FML administration to be easy
- 90% of employers report that FML had a positive or no noticeable effect on employees and on business

Concern #4: Companies are not expanding benefits because they do not want extra regulation.

Response: This statement could not be more the opposite as businesses are jumping at the chance to make themselves “employers of choice” among prospective job applicants. Competition is tough and employers need to attract good talent in order to be profitable. While salary is an important component, a *company's benefits and perks are held in such high esteem and value by the employees* and across the country, enhanced leave programs are being rolled out in many organizations. Some companies have gone to great and incredible lengths to create a good work-life balance, and in a particular division of the company (Mars, Inc.) that my sister, Joanne, worked at, they have even announced a benefits program allowing for **paid bereavement days** for the loss of a beloved pet.

Employees are THE most valuable asset that an organization can possess. Companies will attract and retain productive and dedicated employees with their commitment to providing a healthy balance between work and family responsibilities.

Concern #5: The Chamber of Commerce polls its members/business owners and they say, in speaking for the business members, that they do not want benefit enhancements and believe it is too costly and too troublesome.

Response: According to the yearly business polls that are listed on the PA Chamber of Commerce’s own website, for the past consecutive 5 years, anywhere from 0% to 2% of business owners consider Human Resources to be an issue or an area of concern for them.

Likewise, data from the Council of State Chambers of Commerce leaked to the Center for Media and Democracy showed that over 80% of 1,000 C-suite executives polled support increased paternity leave, 72% support increased maternity leave, 80% support an increase in the minimum wage, and 73% support paid sick days. This business poll was leaked during a closed-door webinar sponsored by the Council of State Chambers to coach lobbyists to thwart the “empathy” the business members feel for their employees and their support for family friendly workplace policies.

Regardless of this, support for improving the way we work is overwhelming....even among the business owners.

Concern #6: Both Human Resources professionals and business owners are claiming administration is too difficult.

Response: The Family Medical Leave legislation has been administered now for 25 years and HR professionals have had ample time to become well versed. The fact that it is said that

there may be difficulty in administration stems from the fact that the employers do not know that they have resources at their fingertips to assist them with the administration. The PA Department of Labor has a toll free number for employer assistance, as well as numerous fact sheets that are available online on commonly asked questions and problems. I want to be clear in saying that Employers indeed have rights themselves under the Family Medical Leave law and they should be aware of them. Should a person in this role at your organization claim that he or she is struggling with the FML administration, perhaps the business owner may not have this person in the appropriate role or he/she may need some FML training. And finally, there are organizations available to the business community to outsource its Family Medical Leave administration and handle all aspects of the process for them.

Concern #7: Legal challenges will arise and the business may be in legal jeopardy when we allow Family Medical Leave to happen.

Response: It's no secret that we live in a litigious society and lawsuits can occur for the most minor of offenses. For example, just in the year 2017, there were over 84,000 discrimination and retaliation complaints. In 2017, there were only 1,165 FML complaints. FML lawsuits are certainly not keeping lawyers or employers busy. If you would please take a look at your handout with the Department of Labor logo at the top: You will see that since inception, the number of FML Complaint cases have steadily decreased over the years. From these same numbers of complaints, the actual number of cases found to be WITHOUT MERIT has steadily increased.

It's easy to see that this legislation has a positive impact on business and its workers WITHOUT posing an undue hardship on the employer.

In conclusion, I can say that after working with humans in the Human Resources field for 26 years, I'm a big believer in "take care of your employees and they will take care of your business." It really is possible to be committed to both your job and your family at the same time. After all, my sister was at her organization for 31 years until she passed away and I was at mine for 17 years. Had this tragic life event not happen to us, both of us would have still been with our respective employers to this day. True commitment does still exist.

Thank you for your time, for listening to my story, and for supporting strong families and strong businesses.



The
Family
and
Medical
Leave
Act

Senate Bill 479 - Pennsylvania Family Medical Leave Act (Joanne's Law)

Family And Medical Leave Act Enforcement Statistics

	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Number of Complaint Cases	3,795	2,912	2,833	2,790	3,501	3,565	3,350	2,784	2,161	1,983	1,889	1,841	2,094	2,132	1,723	1,634	1,502	1,419	1,246	1,165
Percent of No-Violation Cases	38%	39%	44%	48%	50%	54%	55%	51%	49%	45%	47%	49%	58%	58%	55%	54%	54%	53%	53%	50%

Source: U.S. Department of Labor, Wage and Hour Division

Important Points:

- 1) Since inception, the number of Family Medical Leave Complaint Cases has steadily DECREASED.
- 2) From these same numbers of complaints each year, the actual number of cases found to be WITHOUT MERIT has steadily increased.
- 3) Business owners and Human Resources professionals ARE INDEED getting more skilled in the administration of FMLA requests.

Family Medical Leave is working for business!

FMLA is Working

The Department of Labor surveyed employers and employees nationwide on leave taking under the Family and Medical Leave Act. On the 20th Anniversary of the FMLA, DOL can conclude that the FMLA continues to make a positive impact on the lives of workers without imposing an undue burden upon employers. The FMLA is working.

91%

of employers report that complying with the FMLA has had either a positive effect or no noticeable effect on employee absenteeism, turnover and morale.



85%

of employers report that complying with the FMLA is very easy, somewhat easy, or has no noticeable effect.

Intermittent Leave



24%

A relatively small portion of leave taken for FMLA reasons is intermittent leave.

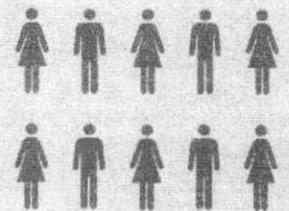
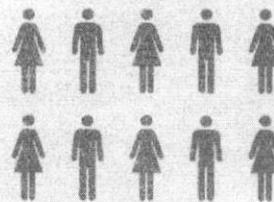


Fewer than
2%

of employees who take intermittent leave are off for a day or less.

Nearly 60%

of employees meet all criteria for coverage and eligibility under the FMLA.



13%

of all employees reported taking leave for an FMLA reason in the past 12 months.

Misuse of FMLA is Rare



Fewer than
2%
of covered worksites reported confirmed misuse of FMLA

Fewer than
3%
of covered worksites reported suspicion of FMLA misuse

Education Continues

The DOL's Wage and Hour Division continues to advance the knowledge of the employer and employee communities in the administration and usage of the FMLA. As education continues, the positive impacts of the FMLA will continue to benefit the workplace nationwide.

For more information, please call 866-4US-WAGE (487-9243), or visit

DOL's FMLA homepage

<https://www.dol.gov/whd/fmla/index.htm>

FMLA Employee Guide

<https://www.dol.gov/whd/fmla/employeeguide.htm>

DOL 2013 FMLA Survey

<http://www.dol.gov/asp/evaluation/fmla/fmla2012.htm>



U.S. DEPARTMENT OF LABOR
Wage and Hour Division

