

AAUW Paid Sick Days Resource Kit

As members of Congress, we don't lose our pay or risk our jobs
if we stay home when illness strikes.
But millions of Americans aren't so fortunate.

—Sen. Edward M. Kennedy,
Paid Sick Days Hearing



Table of Contents

Section 1 – Introduction	Page	4
Section 2 – Facts and Figures	Page	5
Section 3 – Federal Legislation	Page	5
Section 4 – Building AAUW Support	Page	6
Section 5 – Build a Coalition	Pages	7
Section 6 – Plan House Parties	Page	7
Section 7 – Plan an Issue Forum or Women’s Summit	Page	8
Section 8 – Press Outreach	Page	10
Section 9 – Meeting with a Public Official	Page	11
Section 10 – Turn Out Voters	Page	13
Appendices	Page	14
A. Excerpt from CDC Guidance for Businesses and Employers	Page	15
B. Talking Points	Page	16
C. Existing Paid Leave Laws in the United States	Page	17
D. Sample Press Release	Page	18
E. Sample Media Advisory	Page	19
F. AAUW Public Policy Resources	Page	20
G. Legislation/Ballot Initiatives	Page	22
H. AAUW Position Paper	Page	39

Section 1 – Introduction

Millions of Americans still do not have the option of taking a sick day to care for family members or themselves without putting their jobs, their health care benefits, or their family stability at risk.

According to the U.S. Bureau of Labor Statistics, nearly half of American private-sector workers—roughly 86 million Americans—have no paid sick days. Low-wage workers are especially hard hit, with 79 percent having no paid sick time. Food service, hotel, child care, retail, and nursing home workers are all less likely to have paid sick days, even while their jobs require a higher frequency of contact with the public. In fact, 94 million working people don't have paid sick days to care for an ill child.

AAUW believes that creating work environments that help employees balance the responsibilities of work and family is good public policy—good for workers, good for families, and good for business.

AAUW has long supported flexible workplace policies to address the family responsibilities of employees. AAUW efforts in this area include long-term advocacy from 1983 to 1992 to pass the Family and Medical Leave Act, which was finally signed into law in 1993.

However, the rights guaranteed by the Family and Medical Leave Act are still not enough to keep many employees from facing the agonizing choice between staying at home to care for a sick family member or going to work. Under FMLA, employers are not required to provide any compensation for workers who are forced to stay home to care for sick family. Currently, there is a national movement underway to make needed changes to ensure that workers do not have to choose between a paycheck and caring for their families.

For these reasons, AAUW strongly supports the Healthy Families Act in Congress. The bill provides seven accrued paid sick days a year for full-time employees to be used for their own medical needs or to tend to the medical needs of a child, spouse, or parent. Part-time employees would receive a pro-rated share of paid sick days.

Despite the FMLA and a patchwork of state laws and employer-based benefits, family and personal sick leave remain elusive to many working Americans. And despite the relative wealth of the United States, family oriented workplace policies in this country lag dramatically behind those in much of the rest of the world, including all high-income countries and many middle- and low-income countries as well. Clearly, there is still much room for improvement to make our workplaces more family friendly.

AAUW will work to advance policies to improve workplaces for employees with family responsibilities of all kinds. Such protections and improvements are critical to women's equal opportunity and economic security.

Many states and cities are considering paid sick days legislation and ballot initiatives similar to the Healthy Families Act. In fact, the impetus for including safe days in sick day legislation in the national dialogue came from its resounding support in successful efforts in Milwaukee, Wisconsin, and Washington, D.C. Because the state-by-state process is slow going and inconsistent, a federal piece of legislation is key for affecting all Americans.

Failure to pass federal paid sick day legislation has led many states and localities to craft their own legislation to provide workers with the much needed benefits. San Francisco passed a paid sick days ballot measure in November 2006; Washington, D.C., passed a paid sick and safe days law through its city council in March 2008; and Milwaukee, Wisconsin, residents voted for a paid sick and safe days ballot initiative in November 2008. This resource kit contains information and guidelines useful for advocates for paid sick days.

Section 2 – Facts and Figures

Because women still do the majority of caregiving work, many women struggle to balance work and family obligations. Many times, women are faced with the choice of staying at home to care for a sick family member, often without pay and risking disciplinary actions for their absence, or going to work. This choice forces many employees to make decisions harmful to both their work environment and to their families. Supporting paid sick leave helps to alleviate this issue.

Why do we need paid sick leave?

- During the peak months of the H1N1 flu outbreak, about 8 million people infected with the virus went to work without taking any time off.¹
- More than 22 million working women do not have paid sick days.²
- Forty-seven percent of women working in the private sector have no paid sick days.³
- In the retail trade industry and the accommodations and food service industry—industries that employ the most women—55 percent and 78 percent of the workers do not have paid sick days.⁴
- Eighteen percent of women put off getting health care because they cannot take time off of work. Twenty-seven percent of low-income women (those with income below the 200 percent of the poverty level) face this situation.⁵
- Eighty percent of the time, it is mothers who assume the primary responsibility for selecting their children’s doctors, taking the children to doctor’s appointments, and arranging for their children’s follow-up care.⁶
- In light of this, 40 percent of working mothers do not have sick or vacation leave and 53 percent cannot take time off to care for sick children.⁷
- Only half of working mothers receive compensation when they stay home to care for sick children. Of women living in poverty, only 25 percent receive compensation when they stay home to care for their sick children.⁸
- Providing paid sick leave is a public health initiative that reduces “presenteeism,” (i.e., always being present at work even when not productive or posing a health risk to others), promotes preventative care, reduces the spread of contagious disease, and creates healthier families.

Section 3 – Federal Legislation

The Healthy Families Act would allow for workers to accrue seven paid sick days a year. This would benefit more than 66 million Americans: 46 million would gain access to paid sick days; 19 million would gain paid sick days for leave for doctors’ visits and family care; and 1 million Americans would gain

¹ Institute for Women’s Policy Research. (February 2010). *Sick at Work: Infected Employees in the Workplace During the H1N1 Pandemic*. Retrieved February 15, 2010 from www.iwpr.org/pdf/B284sickatwork.pdf

² Institute for Women’s Policy Research. (February 2007). *Women and Paid Sick Days: Crucial for Family Well-Being*. Retrieved January 15, 2008 from www.iwpr.org/pdf/B254_paidicksickdaysFS.pdf.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

additional paid sick days. Passage of the Healthy Families Act now is particularly timely on the heels of guidance from the Centers for Disease Control and Prevention that tells employers that, regardless of the size of their business or the function or services they provide, "All employers should plan now to allow and encourage sick workers to stay home without fear of losing their jobs."⁹ For the 43 percent of private sector workers¹⁰ and more than 22 million working women¹¹ without sick days, this is unaffordable and unrealistic.

The Healthy Families Act would guarantee workers up to seven accrued paid sick days per year to care for their own medical needs and those of their families and to deal with an incidence of domestic violence. The bill, which applies to workplaces with 15 or more employees, contains the following provisions:

- Workers accrue paid sick days to be used for an employee's medical condition, doctor's appointment, or other preventative or diagnostic treatment and to care for a family member with comparable needs. In addition, the Healthy Families Act permits victims to use the accrued days to deal with the aftermath of an incidence of domestic violence.
- New in the 111th Congress, the Healthy Families Act now provides that workers accrue the seven days based on the hours they work, a model in line with current business practices. Specifically, the Healthy Families Act allows workers to earn a minimum of one hour of paid sick time for every 30 hours worked, up to 56 hours (seven days) per year, unless the employer selects a higher limit. The version moving through the 111th Congress also newly includes the safe days provisions for domestic violence victims.
- The Healthy Families Act allows employers to maintain existing policies that meet these standards and encourages employers to provide greater benefits.
- This legislation also allows employers to request certification for leave from employees who request three or more consecutive days. Employers must keep health information and the details of any domestic violence leave certification confidential and separate from personnel files.

Section 4 – Building AAUW Support

The following are steps you can take to support a paid sick leave initiative in your state or locality. It's not too early to start educating and building a coalition.

Educate and mobilize AAUW members and branches.

- Make sure your state and branch board is firmly behind the effort to support paid sick leave. In particular, work closely in partnership with the state public policy chair and—if she has one—her committee.

⁹Centers for Disease Control, (October 2009). CDC Guidance for Businesses and Employers To Plan and Respond to the 2009–2010 Influenza Season. Retrieved February 15, 2009 from <http://cdc.gov/h1n1flu/business/guidance/>

¹⁰U.S. Department of Labor, Bureau of Labor Statistics. (August 2007). *National Compensation Survey: Employee Benefits in Private Industry in the United States, March 2007*, Table 19. Retrieved January 16, 2008, from <http://www.bls.gov/ncs/ebs/sp/ebsm0006.pdf>.

¹¹Institute for Women's Policy Research. (February 2007). *Women and Paid Sick Days: Crucial for Family Well-Being*. Retrieved January 15, 2008 from http://www.iwpr.org/pdf/B254_paidicksickdaysFS.pdf.

- Create a task force of AAUW leaders made up of people who have a passion for public policy and who are willing to put time and effort into the campaign. Target past state presidents as potential task force members, because they generally know a number of people throughout the state, which expands your audience.
- If possible, see if your AAUW state or branch budget can provide some financial support and encourage branches to contribute financial support to the coalition effort.

Section 5 – Build a Coalition

Building coalitions among other groups and organizations within your community that support paid sick leave can help with project planning and extend the benefits, reach, and impact of your efforts. By working together, organizations are able to pool resources, volunteers, and expertise, as well as boost the outreach, visibility, and credibility of your organization.

Begin by identifying prospective coalition partners, both individuals and groups. Clarify what you would like each potential partner to bring to the project, such as skills, expertise, volunteers, financial, or other resources. Consider what your organization can provide to theirs.

Next, designate a member of your organization who has connections with a potential partner to contact members of the organization to discuss working together. Hold a small meeting for leaders of your group and potential collaborators to discuss possibilities for support and involvement. Identify the role you want your partners to play in the coalition; demonstrate how collaboration with your group will benefit collaborators, your organization, and the community; discuss problems that might arise from working together; and clarify limitations on the use of your group's name.

Once you have decided to work together, formalize the agreement in writing and inform team members about any agreements you reach. Communicate regularly with coalition partners and help when it's the right thing to do, even if it doesn't directly benefit your team. As you build a coalition in support of your current project, consider the coalition's potential role (if any) on future related issues.

If you join a coalition at the state or local level, it is essential that you keep AAUW's Public Policy and Government Relations Department informed of your membership and activities. This helps the national AAUW staff keep a handle on the scope of work being done in the states and pass along best practices so that we can spend more time advocating and less time reinventing the wheel.

Section 6 – Plan House Parties

To support a paid sick leave ballot measure, you will need to educate the public about how paid sick leave supports both families and businesses. One very effective way to educate the public about paid sick leave is to hold house parties.

House parties are good opportunities to educate people who are interested but lack information about paid sick leave. A house party is typically an informal afternoon or evening gathering and can be used as part of an ongoing campaign to raise awareness about a particular issue or simply as a one-time event. To host a successful series of house parties, it is best to develop a plan and assemble a coordinating committee. At a planning meeting, the coordinating committee should set realistic goals about the number of house parties to hold over a certain period of time, assign tasks, and set a date to come together to discuss the comments they received at each house party.

- Invite friends, co-workers, neighbors, and anyone else who might be interested. Try to ensure that about six to 15 people attend the meeting.
- Show an educational video or have a guest speaker and then hold a discussion afterwards.
- Provide snacks or plan to have a potluck.
- Provide AAUW materials.
- Have an action for people to take afterwards, such as doing research, holding another house party, recruiting new people to the effort, attending a public meeting, or writing a letter to the editor of a local newsletter or newspaper.
- After the event, the host and speaker should de-brief what happened and take notes about the ideas generated. You may want to use a reporting form to gather information from each of the house parties held.
- A few days after each house party, the host should contact the attendees and ask them if they have more ideas and to follow up on any commitments made.

At a typical house party, the host greets the guests, introduces everyone, and describes the agenda for the meeting. The speaker will give her presentation and pass out any handouts and fact sheets. Attendees are given time for questions and discussion.

A house party is an opportunity to invite people who agree with our position to find out more about paid sick leave. It may also provide an opportunity to convince fence sitters, e.g., those who are undecided about getting involved in the movement to protect paid sick leave.

Section 7 – Plan an Issue Forum or Women’s Summit

Unlike house parties, issue forums not only reach the public, they can also reach the media. The following are guidelines for planning an issue forum:

- Work in coalition with a wide range of diverse organizations to reach more women, increase membership, attract an audience, and gain additional exposure.
- Schedule the event at a convenient time. Avoid religious or government holidays, dates when other community functions are scheduled, and business hours.
- Choose an accessible site that will attract a range of women from the community, preferably a well-known and wheelchair-accessible site, such as a local school, community center, or library.
- Invite speakers with demonstrated knowledge or personal experience with the issue. Consider the goals of your program and invite the people you believe would best meet those goals and deliver the information. Invite them in writing several months in advance, if possible.
- Send speakers a membership brochure, fact sheets, and the AAUW Public Policy Program brochure to educate them about AAUW. If you invite more than one speaker, be sure to divide topic responsibilities and ensure that the speakers know who will be joining them on the panel and what topics the other speakers will be addressing. Ask speakers to limit their remarks to three or four specified issues.
- Arrange for a moderator. A well-known, nonpartisan moderator who is respected in your community will generate interest in the event and add credibility. The moderator opens the forum by introducing the speakers and issues to be discussed. The speakers then give their presentations.

The remainder of the forum should be open for questions from the audience. Ask members of AAUW or co-sponsoring organizations to be prepared to ask questions.

- Thank the speakers with letters or phone calls to promote a good relationship. Be certain to send a letter of appreciation to the moderator. Gift memberships are also a nice touch.

Generating an Audience

- Send an advisory to notify the news media about your event three to five days in advance. (See Appendix E., page 20, for a sample media advisory.)
- Allocate a central, unobstructed space close to electrical outlets for TV camera crews and reporters. (See “Section 8 – Press Outreach” for complete details of how to plan a media event.)
- Inform AAUW members of the event and recruit them to attend. Invite neighboring branches and other area members. Spread the word early so that branch public policy chairs can recruit members to attend. Contact the AAUW Public Policy and Government Relations Department at VoterEd@aauw.org or 202/785-7793 about ways that staff can assist you in spreading the word.
- Add the event to the AAUW Member Showcase (www.aauw.org/showcase/), accessible from the AAUW website homepage. You can also type “Member Showcase” into the search box on the upper right side of any page of the AAUW website.
- Send invitations to coalition partners and other important guests. Ask each of your coalition partners to commit to inviting a specific number of people to attend. Invite as many groups as possible to participate, even if they did not help plan the event. A diverse group of co-sponsors will have more credibility and attract a much wider audience.
- You can find women voters living as close as next door. In addition to reaching your neighbors and co-workers, make an extra effort to market the event to the women you would like to attend. Outreach to coalition partners and the community can help you gain exposure and expand membership. Be sure to submit an announcement to free community bulletin boards in newspapers and community cable outlets.

Planning

- Compile a news media list. Identify reporters, editors, and departments in your state’s newspapers and broadcast stations that focus on AAUW priority issues and are likely to use AAUW news. Create an information sheet that includes their phone and fax numbers and e-mail addresses.
- Designate a news media spokesperson. Make the spokesperson available to the news media by placing her or his name and contact information on all press releases and mailings.
- Three to five days prior to the event, fax a media advisory to the appropriate reporters on your media list. The advisory should be brief and include the “who,” “what,” “when,” “where,” and “why” of the upcoming event. Be sure to include contact information in case reporters have questions. See Appendix E on page 20 for a sample media advisory.
- Call reporters the day after you send the media advisory and explain that you are following up on your written materials. If they haven’t seen the materials, offer to fax them again.
- The morning of the event, send a press release to capture reporters’ interest. Press releases should give full details of the event, including quotes from spokespersons or participants. In addition to your story, the release should include an attention-grabbing headline and the name and phone number of the contact person. Limit your release to one side of one typed page, make it available at

your event, and distribute it more broadly afterward, particularly to those reporters whom you contacted but who did not attend.

- During the event, prepare a table with a sign-in list and news media kits. Sign-in sheets help you identify which reporters attended your event. Media kits should contain the vital information a reporter will need to cover your event. Include items such as a forum agenda, statements from the speakers, a copy of the press release, and background information on AAUW and other event co-sponsors. Help reporters write a complete story by talking with each reporter who attends. Offer reporters a quick interview before or after the program.
- Take digital photos (the higher the resolution the better the quality will be) of your program events and activities for the AAUW website and other AAUW communications vehicles. Send them to Ashley Carr, AAUW director of communications, at carra@aauw.org.

Section 8 – Press Outreach

Write letters to the editor.

Writing letters to the editor of your local paper is another great way to energize branch members, promote AAUW's visibility in the community, and spread the word about important issues. Generate letters by holding a letter writing party or distributing outlines of sample letters for volunteers to personalize.

The following are some tips for writing effective letters to the editor:

1. **Pick a timely topic.** Newspapers rarely publish letters on topics that are not already being covered in the news.
2. **Assume nothing.** Do not assume that your readers are informed on your topic. Give a concise but informative background before plunging into the main issue. Refer to any newspaper article or editorial to which you are responding by date and title. Also include any relevant credentials that prove you are informed about your topic.
3. **Be brief.** Remember: "Brevity is the soul of wit." State your position as succinctly as possible without eliminating necessary detail. Most papers limit letters to the editor to around 250 words. If yours is longer, it may be cut or not printed at all.
4. **Find a local angle.** Readers are more interested in an issue when they see how it affects their lives and communities. Find a way to show how your issue will affect the readership of the paper to which you send your letter.
5. **Avoid form letters.** Do not send the same letter to two competing papers in the same circulation area or many copies of an identical letter to a single paper. Each member of your branch should write a different letter.
6. **Identify yourself.** Always identify yourself as a member or leader, if applicable, of AAUW.

Write an op-ed.

Op-ed pieces are printed "opposite the editorial page" and are written by community leaders and syndicated columnists, not by the newspaper's staff writers. Op-eds are lengthier than letters to the editor and are somewhat more substantive pieces, typically around 700 words in length. Op-ed pieces can be very influential in shaping public debate and can serve as stepping stones to interview requests. Contact the newspaper's op-ed page editor and ask for the guidelines for submitting an op-ed. AAUW's position papers can give you great ideas and talking points.

Create a press release.

- **Grab their attention.** Use the title line of your press release to attract attention. Think of the title as the ideal headline you would like to see or hear if the media covers the story.
- **Keep it direct.** Your press release should read like a news story. Write the most important details first and use a catchy lead sentence to engage your readers.
- **Use compelling quotes.** Quotes are the most important part of your press release. The quotes in your press release might be used by reporters writing articles on your subject. Quotes in press releases should include a sound bite or visual image.
- **Use the sample press release.** See Appendix D. on page 19 for a sample press release.

After the Event

Follow up again. Contact reporters who covered the event to find out if they need additional information or quotes to complete their stories. Even if they have enough information, you may get an opportunity to correct inaccuracies. Call reporters who did not attend the event to offer additional information, including the news media kit, in case they intend to publish an article on the event.

Section 9 – Meeting with a Public Official

If paid sick days are being pursued in your state or locality through legislation, rather than through a ballot initiative, you'll need to build support for the legislation with lawmakers. The best way to secure a legislator's or city councilor's support is by meeting with her or him and requesting support in person. This section details how to request and hold a meeting with a public official. Connecting with your elected officials in a face-to-face meeting is a great way to develop a relationship with them and to influence the stands they take on issues that are important to you. Below are helpful tips for before, during, and after a visit.

Requesting the Visit

- **Make your request in writing and follow up with a call** to the appointment secretary or scheduler.
- **Make sure the scheduler knows that you are a constituent.**
- **Suggest specific times and dates for your meeting.** Let the person know what issue and legislation (by bill number, if one is available) you wish to discuss.

Preparing for the Visit

- **Decide who will attend the meeting.** Try to include people who represent different groups that have an interest in the legislation.
- **Gather information.** Learn about your elected officials' record on the issue. Become familiar with the opposition's views and arguments on the issues to help you answer questions.
- **Agree on talking points.** Keep your message simple and to the point.
- **Plan your meeting.** People can get nervous in a meeting, and time is limited. Be sure that you lay out the agenda for the meeting beforehand, including who will start the conversation and who will make key points.
- **Decide what you want to achieve.** What is it you want your elected official to do—vote for or against the bill? Asking an elected official to do something specific will give you a benchmark for success!
- **Prepare materials to leave with the elected official or staff.** A letter or fact sheet summarizing your concerns.

During the Visit

- **Make introductions** and clearly indicate who in the meeting is a constituent. Elected officials are most responsive to the people who can keep them in office—their constituents—so always have constituent representation in any meeting.
- **Provide brief, clear statements** about the problem and your solution.
- **Personalize your comments and provide local context.** Make a strong connection between the issue and the local community that the elected official represents. Use of personal stories and local examples help illustrate why your issue is important.
- **Support your case with facts.** Don't overwhelm with numbers, charts, and data, but do use them judiciously to make your point and legitimize your argument.
- **Stick to your talking points!** Stay on topic, and back it up with no more than five pages of materials you can leave with your elected official.
- **Saying "I don't know." can be a smart political move.** You don't need to be an expert on the topic you are discussing. If you don't know the answer to a question, say you'll find out. This gives you the chance to contact the elected official again about the issue.
- **Listen carefully to your elected official's responses.** What is the person saying about the issue? What is his or her position? What questions or concerns does she or he have that might be answered? Pay attention to the direct and indirect statements of support or opposition.
- **Ask for support.** If you don't directly ask your elected official if he or she supports your position, you may never actually find out what the elected official thinks and intends to do. **THE "ASK" MUST BE CLEAR.** For example, "Can we count on you to support H.R. 154 when it comes to a vote next week?" After you ask, then pause. Let the elected official answer and clarify if the response is not yet clear. Once you get an answer, you will know if the elected official supports your position, opposes it, or is undecided.
 - **If the elected official supports your position,** say "thank you." Be a resource. If the legislator needs additional information or help in any way, offer to make that available.
 - **If the elected official opposes your position,** stay cordial and friendly. Even if you disagree on this issue, you may be in agreement on another issue. Keep the door open to working together in the future.
 - **If the elected official is undecided,** ask if there is additional information she or he needs on this issue and get it to him or her in a timely manner. Also think about whose voice it is important for the elected official to hear from on the issue and try to mobilize it on your behalf.

After the Visit

- Right after the meeting **compare notes with everyone in your group** to confirm what the elected official committed to do.
- Each person who took part in the meeting should **promptly send a personal thank you letter** to the elected official. Remind him or her of anything agreed to do.
- **Follow up in a timely fashion** with any requested materials and information.
- **Find out when the legislators will be in your home district** hosting town hall meetings or forums and organize a group to attend.

Section 10 – Turn Out Voters

If paid sick days are being pursued in your state or locality through a ballot initiative, rather than through legislation, you'll need to turn out your supporters on Election Day. Once you have educated and mobilized AAUW members and branches, built a coalition to support paid sick leave, and educated the public, you need to ensure that the educated public supports paid sick leave with their votes. AAUW's *Woman to Woman Voter Turnout: A Manual for Community-Based Campaigns to Mobilize Women to Vote* provides an in-depth, step-by-step process for increasing female voter turnout in your area.

The following is a brief synopsis:

1. Plan a voter turnout campaign that fits the budget, interest, and volunteer base of your AAUW branches. Plan at least four months before the election how you will contact targeted women.
2. Use effective voter turnout campaign techniques, such as door-to-door canvassing (most effective), phone calls, leafleting, print and broadcast advertising, and e-mail. Making multiple contacts with each targeted voter will increase your chances of mobilizing them to vote.
3. Create a plan that establishes the following:
 - Date of Election Day
 - Goals to be achieved by Election Day, such as the number of women you will contact
 - Dates for completing volunteer recruitment, voter contact, etc.
 - Campaign team appointments for various coordinator positions
4. Recruit up to twice as many volunteers as you anticipate needing to ensure that volunteers continue to feel needed, involved, and appreciated. Keep volunteers organized and ensure that they are equipped with all appropriate information when canvassing, such as the names, locations, and hours of polling stations. Be sure that those making contact by phone are provided with call sheets and a phone script.
5. Build coalitions so that your organization can pool resources, volunteers, and expertise with other organizations that are interested in getting women to the polls.
6. Create a target list of women who need to be encouraged to vote and who are also most likely to respond. Make repeated contacts and keep a record of your contact attempts with targeted voters. To create a target list, request a voter registration file from the registrar of voters, who may be willing to extract the specific records you need from more comprehensive reports.
7. Build a relationship between your branch and drop-off voters to encourage regular voting in the future. If possible, have the same volunteer who visited a target voter call during the week before the election. Organize child care at polling stations or offer to drive women to their polling place to help voter turnout and reduce barriers to women's voting.

If you would like an in-depth guide to boosting women's voter turnout in your area, please download the PDF of the AAUW manual, *Woman to Woman Voter Turnout: A Manual for Community-Based Campaigns to Mobilize Women to Vote* from the AAUW website, www.aauw.org/act/issue_advocacy/voter_ed/WomantoWoman.cfm, contact the AAUW Public Policy and Government Relations Department by e-mail (VoterEd@aauw.org), or phone 202/785-7793 to request a copy.



Appendices

Appendix A. Excerpt from CDC Guidance for Businesses and Employers

CDC Guidance for Businesses and Employers to Plan and Respond to the 2009–2010 Influenza Season¹²

October 21, 2009 5 p.m. ET

Actions Employers Should Take Now

- Review or establish a flexible influenza pandemic plan and involve your employees in developing and reviewing your plan.
- Conduct a focused discussion or exercise using your plan to find out ahead of time whether the plan has gaps or problems that need to be corrected before flu season.
- Have an understanding of your organization’s normal seasonal absenteeism rates and know how to monitor your personnel for any unusual increases in absenteeism through the fall and winter.
- Engage state and local health departments to confirm channels of communication and methods for dissemination of local outbreak information.
- Allow sick workers to stay home without fear of losing their jobs.
- Develop other flexible leave policies to allow workers to stay home to care for sick family members or for children if schools dismiss students or child care programs close.
- Share your influenza pandemic plan with employees and explain what human resources policies, workplace and leave flexibilities, and pay and benefits will be available to them.
- Share best practices with other businesses in your communities (especially those in your supply chain), chambers of commerce, and associations to improve community response efforts.
- Add a “[widget](#)” or “[button](#)” to your company web page or employee websites so employees can access the latest information on influenza.

¹² Centers for Disease Control, (October 2009). CDC Guidance for Businesses and Employers To Plan and Respond to the 2009–2010 Influenza Season. Retrieved February 15, 2009 from <http://cdc.gov/h1n1flu/business/guidance/>

Appendix B. Talking Points

Paid sick days are a public health necessity.

- While presenteeism at work and at school is a year round problem, it is especially an issue during flu season and during pandemics or outbreaks. When officials suggest those with symptoms stay home, it is a public health necessity that people do. But, for the majority of Americans without paid sick days that direction is directly at odds with getting a paycheck or keeping a job.

Paid sick days are crucial for working women.

- More than 22 million working women do not have paid sick days.¹³
- Forty-seven percent of women working in the private sector do not have paid sick days.¹⁴
- In the industries that employ the most women—retail trade and accommodations/food service—and coincidentally have immense public health implications, almost 9 million women do not have paid sick days.¹⁵
- Twenty-seven percent of low-income women put off getting health care because they cannot take time off from work. Eighteen percent of women in all income brackets face this situation.¹⁶

Women are still the primary family caregivers:

- Eighty percent of mothers assume primary responsibility in the family for selecting their children's doctor, taking children to doctor's appointments, and arranging for their children's follow-up care.¹⁷
- Forty percent of working mothers lack both sick and vacation leave.¹⁸
- Fifty-three percent of working mothers cannot take days off for sick children.¹⁹
- Half of working mothers must miss work when their child is sick with a minor illness (such as a cold or ear infection).²⁰

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Salganicoff, Alina, Usha R. Ranji, and Roberta Wyn. (2005) Women and Health Care: A National Profile. Kaiser Family Foundation. Retrieved January 15, 2008 from <http://www.kff.org/womenshealth/7336.cfm>.

¹⁷ Ibid.

¹⁸ Heymann, Jody S. (October 2001). *The Widening Gap: Why America's Working Families are in Jeopardy and What Can Be Done About It*. New York: Basic Books. Fact sheet retrieved April 9, 2008 from <http://www.iwpr.org/pdf/heyman.pdf>.

¹⁹ Wyn, Roberta, and Ojeda, Victoria. (2003). *Women, Work, and Family Health: A Balancing Act*. Retrieved April 9, 2008 from <http://www.kff.org/womenshealth/3336-index.cfm>.

²⁰ Ibid.

Appendix C. Existing Paid Leave Laws in the States

- **California:** In the state of California, under the country's most comprehensive paid family and medical leave insurance program, more than 13 million workers can receive 55 to 60 percent of their wages to take up to six weeks of leave a year to care for a newborn, newly adopted, or foster child, or to care for a seriously ill family member, and up to 50 weeks of leave a year to recover from their own serious illness, including pregnancy- or birth-related disability.
- **California, Hawaii, New Jersey, New York, Rhode Island, and Puerto Rico:** These states have state-administered Temporary Disability Insurance systems or require employers to offer them. This system offers partial wage repayment to employees who are temporarily unable to work for medical reasons.
- **Minnesota, Montana, and New Mexico:** These states have laws or pilot initiatives instituting At-Home Infant Care programs. These programs provide some wage repayment for low-income, working households while they provide care for their newborns or newly adopted children.
- **Wisconsin:** In this state, employees covered by the state's family and medical leave law may choose to substitute any type of accrued paid leave for job-protected leave specified under the law.
- **AZ, CA, CO, CT, FL, HI, ID, IN, IA, KS, KY, MD, MN, MT, NE, NV, NH, NC, ND, OK, SC, SD, TN, TX, UT, WA, WV:** These states all have laws or regulations allowing public employees to use sick leave to care for sick family members.
- **CA, CT, HI, MN, WA, WI:** These states have laws requiring private-sector employers to allow employees to use their sick leave to care for sick family members.
- The San Francisco **Paid Sick Leave Ordinance** requires that employers provide employees one hour of paid sick leave for every 30 hours worked.
- **The new Washington D.C. law** provides seven paid sick days for workers in companies of 100 or more employees, five paid sick days in companies of 25 to 99 employees, and three paid sick days for companies with fewer than 24 employees.
- **The Milwaukee ordinance** would provide private workers with one hour paid sick time for every 30 hours worked with a maximum of 72 hours (nine days) accrued time per year for individuals working in companies with more than 10 employees and 40 hours (five days) for individuals working for businesses with fewer than 10 employees. In addition, Ohio is also likely to consider its own ballot initiative for the fall.

Appendix D. Sample Press Release



Breaking through Barriers

FOR IMMEDIATE RELEASE

Contact:

Insert contact name and phone number.

Insert date you are sending the press release.

Town, State –

The most important part of a press release is a quote. Have a quote from AAUW branch or state leaders that declares paid sick leave’s importance to women.

###

-30- or the symbol ### signifies the end of the advisory.

Include AAUW “boilerplate” text at the end of the press release.

AAUW advances equity for women and girls through advocacy, education, philanthropy, and research. Since 1881, AAUW has been one of the nation's leading voices promoting education and equity for women and girls. AAUW has a nationwide network of more than 100,000 members and donors, 1,000 branches, and 500 college/university institutional partners. Since AAUW's founding more than 128 years ago, members have examined and taken positions on the fundamental issues of the day—educational, social, economic, and political. AAUW's commitment to educational equity is reflected in its public policy advocacy, community programs, leadership development, conventions and conferences, national partnerships, and international connections. Visit the AAUW website at www.aauw.org.

Appendix E. Sample Media Advisory



MEDIA ADVISORY

Breaking through Barriers

Insert date you are sending the advisory (around three days before the event).

Insert contact name and phone number.

CONTACT:

Insert title here.

Include a short intro paragraph—no more than two to four sentences. This should include a teaser for the event—statistics or background that demonstrate the importance of the issue at hand.

WHAT:

Include the details of your event here. List co-sponsors, speakers, date, time, and specific location.

WHO:

WHEN:

WHERE:

-30- or the symbol ### signifies the end of the advisory.

###

Include AAUW “boilerplate” text at the end of the press release.

AAUW advances equity for women and girls through advocacy, education, and research. Since 1881, AAUW has been one of the nation's leading voices promoting education and equity for women and girls. AAUW has a nationwide network of more than 100,000 members and donors, 1,000 branches, and 500 college/university institutional partners. Since AAUW's founding more than 128 years ago, members have examined and taken positions on the fundamental issues of the day—educational, social, economic, and political. AAUW's commitment to educational equity is reflected in its public policy advocacy, community programs, leadership development, conventions and conferences, national partnerships, and international connections. Visit the AAUW website at www.aauw.org.

Appendix F. AAUW Public Policy Resources

AAUW's advocacy work builds on a century of responsible public participation at the local, state, national, and international levels. The member-endorsed AAUW Public Policy Program illuminates and advances AAUW's mission of advancing equity for women and girls through advocacy, education, and research. The following resources are available online at www.aauw.org/TakeAction to help AAUW members and leaders implement that program. Members can also contact the AAUW Public Policy and Government Relations Department by calling 202/785-7793 or e-mailing VoterEd@aauw.org.

Action Network. The cornerstone of AAUW's e-advocacy efforts, Action Network, sends urgent e-mail notices to subscribers asking them to contact their members of Congress. With our online system, it takes just minutes to make your voice heard. Supporters also can find detailed information on legislation currently under consideration in Congress and write letters to the editors of their local papers. The network can also serve as a useful membership recruitment tool. Anyone with an e-mail address can subscribe by visiting www.aauw.org/actionnetwork.

Washington Update. This weekly e-mail bulletin for AAUW members offers an insider's view on the public policy process, the latest policy news, and updates from the AAUW Public Policy and Government Relations Department. Information about joining this list is available online.

Public Policy Program Brochure. AAUW's Public Policy Program establishes the federal action priorities on which AAUW members across the country will focus their advocacy efforts and guides the work of the national staff. The adoption of AAUW's two-year Public Policy Program at each national convention is the culmination of a process involving AAUW members nationwide. Information about and copies of the Public Policy Program brochure are available online.

Federal Policy Agenda. Based on AAUW's Public Policy Program, AAUW's 2009–10 federal policy agenda is a comprehensive set of goals aimed at advancing equity for women and girls that builds on previous policy gains. Some of the highlights from the 2009–10 federal policy agenda include promoting women's economic security, expanding educational opportunities for women and girls, and promoting and defending civil rights.

Position Papers. AAUW compiles current information and advocacy resources on issues related to our current public policy priorities to provide resource pages that offer the freshest information and most effective avenues for action. For updated position papers on AAUW's priority issues, visit www.aauw.org/takeaction.

AAUW Action Fund Congressional Voting Record. AAUW members have a long history of lobbying Congress and holding their legislators accountable for how they vote on AAUW priority issues. The AAUW Action Fund Congressional Voting Record informs AAUW members of positions taken by their senators and representatives on AAUW's federal legislative priorities. Copies of current and past voting records are available on the AAUW Action Fund website at www.aauwaction.org.

Woman-to-Woman Voter Turnout Manual. This manual provides help to AAUW branches and states that are interested in reaching out to women and mobilizing them to vote. Topics covered include planning a campaign, recruiting volunteers, identifying the drop-off women voters in your community,

working with coalitions, canvassing, and phone banking. To download the manual, visit www.aauw.org/onevote or phone 202/785-7793 to order a copy.

Pay Equity Resource Kit. This resource kit contains a variety of useful resources to help you take action on Equal Pay Day and beyond. The kit includes information about state and federal legislation and step-by-step suggestions to help you pursue pay equity projects. To download, visit www.aauw.org/payequity.

Paid Sick Days Resource Kit. This kit contains a variety of useful resources to help you take action in the fight for paid sick days. We've included information about state and federal legislation and step-by-step suggestions to help you pursue paid sick days projects in your area and beyond.

Affirmative Action Resource Kit. AAUW's Affirmative Action Resource Kit contains information on state-based anti-affirmative action initiatives and a variety of resources for taking action against them. It also contains step-by-step suggestions to help you plan a counter campaign and turn out voters to defeat such measures.

Programs in a Box. Programs in a Box help members choose and implement program activities for their branches. Each Program in a Box has hyperlinks to downloadable resources that provide wider programming options. Public Policy Programs in a Box are available on topics ranging from meeting with your public official to hosting public policy brunches or summits on various policy topics.

Manuals for State and Branch Public Policy Chairs. Use these guides to help you plan and implement public policy activities, to stay informed about AAUW's public policy efforts, to generate excitement about policy efforts with your members, and to integrate members into your state and branch activities.

Posters, Postcards, Stickers, and Pins. Signs and stickers are available for use at AAUW events at no charge, while supplies last. We have materials appropriate for pay equity programming as well as voter education and voter turnout programming. The AAUW logo and "I Am the Face of Pay Equity" designs are available on posters. The "Power of One Vote" design is available on posters, postcards (appropriate for a voter turnout mailing), stickers, and pins.

Leadership Development DVD/CD Webinar. This webinar reviews the DVD/CD training tool for state and branch leaders and the components of its seven modules and provides step-by-step instructions for using the materials to create an interactive education program. The webinar, resources, and facilitator's guides are available online.

AAUW Public Policy and Government Relations Staff

Lisa Maatz, director, AAUW Public Policy and Government Relations

Seth Chase, field director

Tracy Sherman, government relations manager

Adam Zimmerman, regulatory affairs manager

Lecia Imbery, grassroots coordinator

Anne Hedgepeth, government relations coordinator

Appendix G. Legislation/Ballot Initiatives

For additional information on Legislative/Ballot Initiatives see the following sources:

National Partnership for Women and Families:

http://paysickdays.nationalpartnership.org/site/PageServer?pagename=psd_toolkit_map_states

Ballot Initiative Strategy Center: <http://www.ballot.org>

The Sloan Work and Family Research Network of Boston College:

<http://wfnetwork.bc.edu/pdfs/sickleavebills.pdf>

9- to-5 Milwaukee Paid Sick Days: <http://www.9to5.org/sickdays/>

San Francisco Paid Sick Leave Ordinance

Section 2. The San Francisco Administrative Code is hereby amended by adding Chapter 12W, consisting of Sections 12W.1 through 12W.16, to read as follows:

SEC. 12W.1. TITLE.

This Chapter shall be known as the "Sick Leave Ordinance."

SEC. 12W.2. DEFINITIONS.

For purposes of this Chapter, the following definitions apply.

(a) "Agency" shall mean the Office of Labor Standards Enforcement or any department or office that by ordinance or resolution is designated the successor to the Office of Labor Standards Enforcement.

(b) "City" shall mean the City and County of San Francisco.

(c) "Employee" shall mean any person who is employed within the geographic boundaries of the City by an employer, including part-time and temporary employees.

"Employee" includes a participant in a Welfare-to-Work Program when the participant is engaged in work activity that would be considered "employment" under the federal Fair Labor Standards Act, 29 U.S.C. §201 et seq., and any applicable U.S. Department of Labor Guidelines. "Welfare-to-Work Program" shall include any public assistance program administered by the Human Services Agency, including but not limited to CalWORKS and the County Adult Assistance Program (CAAP), and any successor programs that are substantially similar to them, that require a public assistance applicant or recipient to work in exchange for their grant.

(d) "Employer" shall mean any person, as defined in Section 18 of the California Labor Code, including corporate officers or executives, who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of an employee.

(e) "Paid sick leave" shall mean paid "sick leave" as defined in California Labor Code §233(b)(4), except that the definition extends beyond the employee's own illness, injury, medical condition, need for medical diagnosis or treatment, or medical reason, to also encompass time taken off work by an employee for the purpose of providing care or assistance to other persons, as specified further in Section 12W.4(a), with an illness, injury, medical condition, need for medical diagnosis or treatment, or other medical reason.

(f) "Small business" shall mean an employer for which fewer than ten persons work for compensation during a given week. In determining the number of persons performing work for an employer during a given week, all persons performing work for compensation on a full-time, part-time, or temporary basis shall be counted, including persons made available to work through the services of a temporary services or staffing agency or similar entity.

SEC. 12W.3. ACCRUAL OF PAID SICK LEAVE.

(a) For employees working for an employer on or before the operative date of this Chapter, paid sick leave shall begin to accrue as of the operative date of this Chapter. For employees hired by an employer after the operative date of this Chapter, paid sick leave shall begin to accrue 90 days after the commencement of employment with the employer.

(b) For every 30 hours worked after paid sick leave begins to accrue for an employee, the employee shall accrue one hour of paid sick leave. Paid sick leave shall accrue only in hour-unit increments; there shall be no accrual of a fraction of an hour of paid sick leave.

(c) For employees of small businesses, there shall be a cap of 40 hours of accrued paid sick leave. For employees of other employers, there shall be a cap of 72 hours of accrued paid sick leave. Accrued paid sick leave for employees carries over from year to year (whether calendar year or fiscal year), but is limited to the aforementioned caps.

(d) If an employer has a paid leave policy, such as a paid time off policy, that makes available to employees an amount of paid leave that may be used for the same purposes as paid sick leave under this Chapter and that is sufficient to meet the requirements for accrued paid sick leave as stated in subsections (a)-(c), the employer is not required to provide additional paid sick leave.

(e) An employer is not required to provide financial or other reimbursement to an employee upon the employee's termination, resignation, retirement, or other separation from employment, for accrued paid sick leave that the employee has not used.

SEC. 12W.4 USE OF PAID SICK LEAVE.

(a) An employee may use paid sick leave not only when he or she is ill or injured or for the purpose of the employee's receiving medical care, treatment, or diagnosis, as specified more fully in California Labor Code §233(b)(4), but also to aid or care for the following persons when they are ill or injured or receiving medical care, treatment, or diagnosis: Child; parent; legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state or local law, or designated person.

The employee may use all or any percentage of his or her paid sick leave to aid or care for the aforementioned persons. The aforementioned child, parent, sibling, grandparent, and grandchild relationships include not only biological relationships but also relationships resulting from adoption; step-relationships; and foster care relationships.

"Child" includes a child of a domestic partner and a child of a person standing in loco parentis.

If the employee has no spouse or registered domestic partner, the employee may designate one person as to whom the employee may use paid sick leave to aid or care for the person. The opportunity to make such a designation shall be extended to the employee no later than the date on which the employee has worked 30 hours after paid sick leave begins to accrue pursuant to Section 12W.3(a). There shall be a window of 10 work days for the employee to make this designation. Thereafter, the opportunity to make such a designation, including the opportunity to change such a designation previously made, shall be extended to the employee on an annual basis, with a window of 10 work days for the employee to make the designation.

(b) An employer may not require, as a condition of an employee's taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.

(c) An employer may require employees to give reasonable notification of an absence from work for which paid sick leave is or will be used.

(d) An employer may only take reasonable measures to verify or document that an employee's use of paid sick leave is lawful.

SEC. 12W.5. NOTICE AND POSTING.

(a) The Agency shall, by the operative date of this Chapter, publish and make available to employers, in all languages spoken by more than 5% of the San Francisco workforce, a notice suitable for posting by employers in the workplace informing employees of their rights under this Chapter. The Agency shall update this notice on December 1 of any year in which there is a change in the languages spoken by more than 5% of the San Francisco workforce. In its discretion, the Agency may combine the notice required herein with the notice required by Section 12R.5(a) of the Administrative Code.

(b) Every employer shall post in a conspicuous place at any workplace or job site where any employee works the notice required by subsection (a). Every employer shall post this notice in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace or job site.

SEC. 12W.6. EMPLOYER RECORDS.

Employers shall retain records documenting hours worked by employees and paid sick leave taken by employees, for a period of four years, and shall allow the Agency access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Chapter. When an issue arises as to an employee's entitlement to paid sick leave under this Chapter, if the employer does not maintain or retain adequate records documenting hours worked by the employee and paid sick leave taken by the employee, or does not allow the Agency reasonable access to such records, it shall be presumed that the employer has violated this Chapter, absent clear and convincing evidence otherwise.

SEC. 12W.7. EXERCISE OF RIGHTS PROTECTED; RETALIATION PROHIBITED.

It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.

It shall be unlawful for an employer or any other person to discharge, threaten to discharge, demote, suspend, or in any manner discriminate or take adverse action against any person in retaliation for exercising rights protected under this Chapter. Such rights include but are not limited to the right to use paid sick leave pursuant to this Chapter; the right to file a complaint or inform any person about any employer's alleged violation of this Chapter; the right to cooperate with the Agency in its investigations of alleged violations of this Chapter; and the right to inform any person of his or her potential rights under this Chapter.

It shall be unlawful for an employer absence control policy to count paid sick leave taken under this Chapter as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action. Protections of this Chapter shall apply to any person who mistakenly but in good faith alleges violations of this Chapter.

Taking adverse action against a person within 90 days of the person's filing a complaint with the Agency or a court alleging a violation of any provision of this Chapter; informing any person about an employer's alleged violation of this Chapter; cooperating with the Agency or other persons in the investigation or prosecution of any alleged violation of this Chapter; opposing any policy, practice, or act that is unlawful under this Chapter; or informing any person of his or her rights under this Chapter shall raise a

rebuttable presumption that such adverse action was taken in retaliation for the exercise of one or more of the aforementioned rights.

SEC. 12W.8. IMPLEMENTATION AND ENFORCEMENT.

(a) Implementation. The Agency shall be authorized to coordinate implementation and enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the Agency shall have the force and effect of law and may be relied on by employers, employees, and other persons to determine their rights and responsibilities under this Chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient, and cost effective implementation of this Chapter, including supplementary procedures for helping to inform employees of their rights under this Chapter, for monitoring employer compliance with this Chapter, and for providing administrative hearings to determine whether an employer or other person has violated the requirements of this Chapter.

(b) Administrative Enforcement. The Agency is authorized to take appropriate steps to enforce this Chapter. The Agency may investigate any possible violations of this Chapter by an employer or other person. Where the Agency has reason to believe that a violation has occurred, it may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending completion of a full investigation or hearing.

Where the Agency, after a hearing that affords a suspected violator due process, determines that a violation has occurred, it may order any appropriate relief including, but not limited to, reinstatement, back pay, the payment of any sick leave unlawfully withheld, and the payment of an additional sum as an administrative penalty to each employee or person whose rights under this Chapter were violated. If any paid sick leave was unlawfully withheld, the dollar amount of paid sick leave withheld from the employee multiplied by three, or \$250, whichever amount is greater, shall be included in the administrative penalty paid to the employee. In addition, if a violation of this Chapter resulted in other harm to the employee or any other person, such as discharge from employment, or otherwise violated the rights of employees or other persons, such as a failure to post the notice required by Section 12W.5(b), or an act of retaliation prohibited by Section 12W.7, this administrative penalty shall also include \$50 to each employee or person whose rights under this Chapter were violated for each day or portion thereof that the violation occurred or continued.

Where prompt compliance is not forthcoming, the Agency may take any appropriate enforcement action to secure compliance, including initiating a civil action pursuant to Section 12W.8(c) and/or, except where prohibited by state or federal law, requesting that City agencies or departments revoke or suspend any registration certificates, permits or licenses held or requested by the employer or person until such time as the violation is remedied. In order to compensate the City for the costs of investigating and remedying the violation, the Agency may also order the violating employer or person to pay to the City a sum of not more than \$50 for each day or portion thereof and for each employee or person as to whom the violation occurred or continued. Such funds shall be allocated to the agency and used to offset the costs of implementing and enforcing this Chapter.

An employee or other person may report to the agency any suspected violation of this Chapter. The Agency shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person reporting the violation. Provided, however, that with the authorization of such person, the Agency may disclose his or her name and identifying information as necessary to enforce this Chapter or for other appropriate purposes.

(c) Civil Enforcement. The Agency, the City Attorney, any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a

court of competent jurisdiction against the employer or other person violating this Chapter and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, but not limited to, reinstatement, back pay, the payment of any sick leave unlawfully withheld, the payment of an additional sum as liquidated damages in the amount of \$50 to each employee or person whose rights under this Chapter were violated for each hour or portion thereof that the violation occurred or continued, plus, where the employer has unlawfully withheld paid sick leave to an employee, the dollar amount of paid sick leave withheld from the employee multiplied by three; or \$250, whichever amount is greater; and reinstatement in employment and/or injunctive relief; and, further, shall be awarded reasonable attorneys' fees and costs. Provided, however, that any person or entity enforcing this Chapter on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief, and reasonable attorneys' fees and costs.

(d) Interest. In any administrative or civil action brought under this Chapter, the Agency or court, as the case may be, shall award interest on all amounts due and unpaid at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code.

(e) Remedies Cumulative. The remedies, penalties, and procedures provided under this Chapter are cumulative.

SEC. 12W.9. WAIVER THROUGH COLLECTIVE BARGAINING.

All or any portion of the applicable requirements of this Chapter shall not apply to employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

SEC. 12W.10. OTHER LEGAL REQUIREMENTS.

This Chapter provides minimum requirements pertaining to paid sick leave and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of sick leave, whether paid or unpaid, or that extends other protections to employees.

SEC. 12W.11. MORE GENEROUS EMPLOYER LEAVE POLICIES. This Chapter provides minimum requirements pertaining to paid sick leave and shall not be construed to prevent employers from adopting or retaining leave policies that are more generous than policies that comply with this Chapter. Employers are encouraged to provide more generous leave policies than required by this Chapter.

SEC. 12W.12. OPERATIVE DATE.

This Chapter shall become operative 90 days after its adoption by the voters at the November 7, 2006 election. This Chapter shall have prospective effect only.

SEC. 12W.13. PREEMPTION.

Nothing in this Chapter shall be interpreted or applied so as to create any power or duty in conflict with federal or state law.

SEC. 12W.14. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.

In undertaking the adoption and enforcement of this Chapter, the City is undertaking only to promote the general welfare. The City is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. This Chapter does not create a legally enforceable right by any member of the public against the City.

SEC 12W.15. SEVERABILITY.

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

SEC. 12W.16. AMENDMENT BY THE BOARD OF SUPERVISORS.

The Board of Supervisors may amend this Chapter with respect to matters relating to its implementation and enforcement (including but not limited to those matters addressed in Section 12W.8) and matters relating to employer requirements for verification or documentation of an employee's use of sick leave, but not with respect to this Chapter's substantive requirements or scope of coverage; provided, however, that, in the event any provision in this Chapter is held legally invalid, the Board retains the power to adopt legislation concerning the subject matter that was covered in the invalid provision.

Milwaukee Paid Sick Day Ordinance (No. 080420)

This ordinance requires employers located within the geographic boundaries of the city to provide paid sick leave benefits as follows:

1. All employers shall provide a minimum of one hour of paid sick leave for every 30 hours worked by an employee. Employers will not be required to provide more than 72 hours of sick leave for an employee in a calendar year.
2. Employees of small businesses will not accrue more than 40 hours of paid sick leave in a calendar year, unless the employer selects a higher limit.
3. Paid sick leave shall begin to accrue at the commencement of employment, and employees shall be entitled to use accrued paid sick leave beginning on the 90th calendar day following commencement of their employment. After the 90th calendar day of employment, employees may use sick leave as it is accrued.
4. Any employer with a paid leave policy such as a paid time-off policy, who makes available an amount of paid leave sufficient to meet the accrual requirements of this ordinance that may be used for the same purposes and under the same conditions as paid leave under this ordinance, is not required to provide additional paid sick leave. The requirements of this ordinance apply to all employers within the city, except the federal government, the state of Wisconsin, including any office, department, agency, authority, institution, association, society or other body of the state, including the legislative and judiciary, or county or local government. Authority to enforce the provisions of this ordinance, including but not limited to the power to receive complaints, remedy violations, adopt rules, issue subpoenas and other redress following a hearing regarding a violation, is assigned to the equal rights commission.

Body

Whereas, A large number of workers in the city of Milwaukee do not have paid sick days available to them. This problem is most prevalent among part-time employees but also is widespread among full-time employees working in many sectors of the local economy. The problem is greatest among workers of the local economy. The problem is greatest among workers toward the lower end of the economic spectrum, although it is by no means limited to such workers and affects many middle-income workers as well as higher-income workers. Further, a large number of workers who have paid sick days available to them do not have an adequate number of hours of such leave to reasonably meet their needs. Even more of these workers are not allowed to use what paid sick days they have for the care of a family member.

; and

Whereas, The absence or inadequacy of paid sick days among workers in Milwaukee poses serious problems not only for affected workers but also for their families, their employers, the health care system, and the community as a whole. Among these problems are the following:

1. When workers have no paid sick days or an inadequate amount available to them, they are more likely to come to work when they are sick. Working when sick is often counterproductive from a health standpoint, because it may cause the employee's condition to worsen or may delay the employee's recovery, thus compounding the hardship to the employee and his or her family caused by the illness. In addition, the employee's job productivity is likely to suffer if he or she is working while sick or injured.
2. Employees who come to work when they are sick may expose other employees to infectious diseases, such as the flu. When that occurs, some of the employees who have been exposed will also become ill, which not only creates hardships for those workers and their families but also increases costs to the health care system and undermines job productivity.
3. In those industries where workers have substantial contact with customers, or with certain goods that come into contact with customers, such as food, there is a risk that a sick worker will jeopardize the health of members of the public by exposing them, directly or indirectly, to germs and disease.
4. When workers do not have paid sick days or an adequate amount of paid sick days available to them, they are more likely to come to work notwithstanding the medical problems facing their children or other family members. When that occurs, ill or injured family members may not receive the care, attention and medical assistance necessary to aid their recovery. Their health problems consequently may intensify or be prolonged, because it often will take longer for them to recover when responsible adult family members are not able to care for them at home or take them to medical appointments.
5. A worker who has no paid sick days or an inadequate amount to take time off to care for a sick child may send the child, even though sick, to school or a child care center, thereby exposing other children to germs and disease. Inevitably, some children thus exposed will become ill due to their close proximity to and interactions with the sick child. Equally problematic, a worker may keep an older child home from school to care for a younger ill sibling.
6. Without adequate paid sick days, working parents who must stay home when they, their children, or other family members are ill or injured lose earnings and may risk a loss of employment, thereby placing the family's economic security in jeopardy and increasing the likelihood that taxpayer-funded sources will have to be used to provide for the family's needs.
7. Without adequate paid sick days, it is much more difficult for workers to schedule medical appointments for themselves and their children and other family members. As a result, routine medical appointments that can prevent the onset of illness or injury are often not scheduled; and medical appointments to treat an existing illness or injury are not scheduled, or are scheduled only after the illness or injury has become acute. When medical care is sacrificed in the short run, medical costs increase in the long run. Hospitalization of patients, with its attendant costs, sometimes becomes necessary because preventive health measures were not taken earlier.
8. Without adequate paid sick days, it is much more difficult for workers to care for family members on a short-term basis. As a result, it sometimes becomes necessary for family members to be placed in nursing homes, thereby increasing nursing care costs.

; and

Whereas, The foregoing problems are particularly serious for single-parent households.

The unavailability or inadequacy of paid sick leave hits women and people of color in the Milwaukee workforce particularly hard, but no demographic or ethnic group is spared from hardship when sick leave is unavailable or inadequate. To safeguard the public welfare, health, safety and prosperity of Milwaukee, it is essential that all persons working in our community be able to earn paid sick days that

are adequate to ensure a decent and healthy life for them and their families. Ensuring the adequacy of paid sick days for employees in Milwaukee will ensure a more stable workforce in our community and thereby benefit not only workers and their families but employers and the community as a whole. It is in the interest of all Milwaukeeans to require that employers benefiting from the opportunity to do business here make available to their employees a reasonable number of paid sick days. Implementation of this policy serves the public interest and constitutes a significant public benefit.

;now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 109-15-4-h and i of the code is created to read:

109-15. Equal Rights Commission.

h. Enforce the provisions of ch. 112. The commission shall exercise all authority granted under this subsection with respect to violations of ch. 112 including but not limited to the power to receive complaints, remedy violations, adopt rules, issue subpoenas and order redress following a hearing regarding violation of ch. 112.

i. Use the procedures described in s. 109-17 in acting on complaints concerning violations of ch. 112.

i-1. Any party aggrieved by failure to act on a complaint filed or by the decision of an administrative law judge pursuant to the procedures described in s. 109-17 may seek review pursuant to s. 109-21 within the time limits and the procedure described in that section.

i-2. In the event the commission is abolished or reconstituted and its authority transferred to a successor entity, the successor entity shall have full authority to enforce the provisions of ch. 112.

i-3. In the event the commission, due to lack of funding or staffing, is unable to enforce the provisions of ch. 112, any agency enforcing rights protected under ch. 109 shall also have full authority to enforce the provisions of ch. 112.

Part 2. Chapter 112 of the code is created to read:

CHAPTER 112

PAID SICK LEAVE FOR EMPLOYEES PROVIDED BY
EMPLOYERS WITHIN THE CITY

112-1. Definitions. In this chapter:

1. CITY means as defined in ch. 1 of the city charter.
2. DOMESTIC ABUSE means as defined in s. 968.075(1)(a), Wis. Stats.
3. EMPLOYEE means any person who is employed within the geographic boundaries of the city by an employer, and includes a part-time or temporary employee.
4. EMPLOYER means as defined in s. 104.01(3)(a), Wis. Stats. For purposes of this chapter, "employer" does not include any of the following:
 - a. The United States government.
 - b. The state of Wisconsin, including any office, department, agency, authority, institution, association, society or other body of the state, including the legislature and the judiciary.
 - c. Any county or local government.
5. FAMILY MEMBER means any of the following:
 - a. A child as defined in s. 103.10(1)(a), Wis. Stats.
 - b. A parent as defined in s. 103.10(1)(f), Wis. Stats.
 - c. A person to whom the employee is legally married under the laws of Wisconsin.
 - d. A grandparent defined as the parent of a parent or spouse of a grandparent.
 - e. A grandchild defined as the child of a child.

- f. A biological, foster or adopted sibling or spouse of a biological, foster or adopted sibling.
- g. A domestic partner as defined in s. 111-3.
- h. Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
- 6. PAID SICK LEAVE means leave that is compensated at the same hourly rate as the employee earns from his or her employment and is provided by an employer to an employee for the purposes described in s. 112-3.
- 7. RETALIATORY PERSONNEL ACTION means the discharge, suspension or demotion by an employer of an employee or any other adverse employment action.
- 8. SEXUAL ASSAULT means as defined in s. 940.225, Wis. Stats.
- 9. SMALL BUSINESS means any private individual, firm, partnership, institution, corporation, or association for which fewer than 10 persons work for compensation during a given week. In determining the number of persons performing work for compensation during a given week, all persons performing work for compensation on a full-time, part-time, or temporary basis shall be counted, including persons made available to work through the services of a temporary services or staffing agency or similar entity. In situations in which the number of persons who work for compensation per week fluctuates above and below 10 or more per week over the course of a year, business size will be determined for the current calendar year based upon the average number of persons who worked for compensation per week during the preceding calendar year.
- 10. STALKING means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

112-3. Accrual of Paid Sick Leave.

- 1. All employees have the right to paid sick leave as provided in this chapter.
- 2. Except as provided in sub.3, all employers shall provide a minimum of one hour of paid sick leave for every 30 hours worked by an employee. Employers will not be required under this section to provide more than 72 hours of sick leave for an employee in a calendar year.
- 3. Employees of small businesses will not accrue more than 40 hours of paid sick leave in a calendar year, unless the employer selects a higher limit.
- 4. Employees who are exempt from requirements under s. 13(a)(1) of the Federal Fair Labor Standards Act with respect to payment of overtime will be assumed to work 40 hours in each work week for purposes of paid sick leave accrual unless their regular work week is less than 40 hours, in which case paid sick leave accrues based upon that regular work week.
- 5. Paid sick leave shall accrue in hour unit increments.
- 6. Paid sick leave as provided in this section shall begin to accrue at the commencement of employment.
- 7. Employees shall be entitled to use accrued paid sick leave beginning on the 90th calendar day following commencement of their employment. After the 90th calendar day of employment, employees may use sick leave as it is accrued.
- 8. Paid sick leave shall be carried over to the following calendar year; however, an employee's use of sick leave provided in each calendar year shall not exceed 40 hours for employees of small businesses and 72 hours for employees of all other businesses.
- 9. Any employer with a paid leave policy, such as a paid time-off policy, who makes available an amount of paid leave sufficient to meet the accrual requirements of this chapter that may be used for the same purposes and under the same conditions as paid sick leave under this chapter is not required to provide additional paid sick leave.
- 10. Nothing in this chapter shall be construed to prevent employers from adopting or retaining leave policies that are more generous than the policies required under this chapter.

11. Nothing in this chapter shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement or other separation from employment for accrued paid sick leave that has not been used.

12. When there is a separation from employment and the employee is rehired within one year of separation by the same employer, previously accrued paid sick leave that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued paid sick leave at the commencement of employment following a separation from employment of one year or less.

112-5. Use of Paid Sick Leave.

1. Paid sick leave shall be provided to an employee by an employer for:

a. An employee's mental or physical illness, injury or health condition or need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive medical care.

b. Care of a family member with a mental or physical illness, injury or health condition who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or who needs preventive medical care.

c. Absence necessary due to domestic abuse, sexual assault or stalking, provided the leave is for any of the following:

c-1. Seek medical attention for the employee or employee's child, spouse, parent, grandparent or extended family member to recover from physical or psychological injury or disability caused by domestic or sexual violence.

c-2. Obtain services from a victim services organization.

c-3. Obtain psychological or other counseling.

c-4. Seek relocation due to the domestic or sexual violence or stalking.

c-5. Take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic or sexual violence.

2. An employer may not require, as a condition of an employee's taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.

3. An employer may not impose unreasonable barriers to use of paid sick leave or require unreasonable documentation of illness when an employee takes sick leave.

4. An employer may not penalize an employee for use of sick leave by reducing any benefits of employment otherwise due the employee.

112-7. Exercise of Rights Protected; Retaliation Prohibited.

1. An employer or any other person shall not interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this chapter.

2. An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has exercised rights protected under this chapter. Such rights include but are not limited to the right to use paid sick leave pursuant to this chapter; the right to file a complaint or inform any person about any employer's alleged violation of this chapter; and the right to inform any person of his or her potential rights under this chapter.

3. No employer may treat sick leave taken under this chapter as an absence that may lead to or result in discipline, discharge, demotion, suspension or any other adverse action, or treat the use of paid sick leave guaranteed under this chapter as a negative factor in hiring, evaluation or promotion.

4. Protections of this section shall apply to any person who mistakenly but in good faith alleges violations of this chapter.

112-9. Notice and Posting.

1. Employers shall give notice that employees are entitled to paid sick leave, the amount of paid sick leave, and the terms of its use guaranteed under this chapter and that retaliation against employees who request or use paid sick leave is prohibited.
2. Employers may comply with this section by supplying each of their employees with a notice in English, Hmong and Spanish that contains the information required in sub. 1.
3. Employers may comply with this section by displaying a poster in a conspicuous and accessible place in each establishment where such employees are employed which contains in English, Hmong and Spanish all information required under sub. 1.

112-11. Employer Records. Employers shall retain records documenting hours worked by employees and paid sick leave taken by employees, for a period of 5 years.

112-13. Confidentiality and Nondisclosure. An employer may not require disclosure of information relating to domestic abuse, sexual assault or stalking or the details of an employee's medical condition as a condition of providing paid sick leave under this chapter. If an employer possesses health information or information pertaining to domestic abuse, sexual assault or stalking about an employee or employee's child, parent, spouse, extended family member or other individual described in s. 112-1-4, such information shall be treated as confidential and not disclosed except to the affected employee or with the permission of the affected employee.

112-15. Encouragement of More Generous Leave Policies; No Effect on More Generous Policies.

1. Nothing in this chapter shall be construed to discourage or prohibit an employer from the adoption or retention of a paid leave policy more generous than the one required herein.
2. Nothing in this chapter shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous leave to an employee than required herein.
3. Nothing in this chapter shall be construed as diminishing the rights of public employees regarding paid sick leave or use of sick leave.

112-17. Other Legal Requirements. This chapter provides minimum requirements pertaining to paid sick leave and shall not be construed to preempt, limit or otherwise affect the applicability of any other law, regulation, requirement, policy or standard that provides for greater accrual or use by employees of sick leave, whether paid or unpaid, or that extends other protections to employees.

112-19. Preemption. Nothing in this chapter shall be interpreted or applied so as to create any power or duty in conflict with federal or state law.

Part 3. This ordinance shall be effective upon publication as provided in s. 9.20(7), Wis. Stats. Implementation of all provisions of this ordinance shall be accomplished no later than 90 days following publication.

Accrued Sick and Safe Leave Act of 2008 (Washington D.C.)

AN ACT IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require employers in the District of Columbia to provide paid leave to employees for illness and for absences associated with domestic violence or sexual abuse.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Accrued Sick and Safe Leave Act of 2008".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Domestic violence" means an intrafamily offense as defined in D.C.

Official Code § 16-1001(5).

(2)(A) "Employee" shall have the same meaning as provided in section 2(1) of the District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990

(D.C. Law 8-181; D.C. Official Code § 32-501(1)).

(B) The term "employee" shall not include:

(i) An independent contractor;

(ii) A student;

(iii) Health care workers who choose to participate in a premium pay program; or

(iv) Restaurant wait staff and bartenders who work for a combination of wages and tips.

(3)(A) "Employer" means a legal entity (including a for-profit or nonprofit firm, partnership, proprietorship, sole proprietorship, limited liability company, association, or corporation), or any receiver or trustee of an entity (including the legal representative of a deceased individual or receiver or trustee of an individual), who employs an employee.

(B) The term "employer" shall include the District government.

(4) "Family member" means:

(A)(i) A spouse, including the person identified by an employee as his or her domestic partner, as defined in section 2(3) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3));

(ii) The parents of a spouse;

(iii) Children (including foster children and grandchildren);

(iv) The spouses of children;

(v) Parents;

(vi) Brothers and sisters; and

(vii) The spouses of brothers and sisters.

(B) A child who lives with an employee and for whom the employee permanently assumes and discharges parental responsibility; or

(C) A person with whom the employee shares or has shared, for not less than the preceding 12 months, a mutual residence and with whom the employee maintains a committed relationship, as defined in section 2(1) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(1)).

(5) "Paid leave" means accrued increments of compensated leave provided by an employer for use by an employee during an absence from employment for any of the reasons specified in section 3(b).

(6) "Premium pay program" means a plan offered by an employer pursuant to which an employee may elect to receive extra pay in lieu of benefits.

(7) "Sexual abuse" means any offense described in the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001 *et seq.*).

(8) "Student" means an employee who:

(A)(i) Is a full-time student, as defined by an accredited institution of higher education;

(ii) Is employed by the institution at which the student is enrolled;

(iii) Is employed for less than 25 hours per week; and

(iv) Does not replace an employee subject to this act; or

(B) Is employed as part of the Year Round Program for Youth, as established by the Department of Employment Services.

Sec. 3. Provision of paid leave.

(a)(1) An employer with 100 or more employees shall provide for each employee not less than one hour of paid leave for every 37 hours worked, not to exceed 7 days per calendar year.

(2) An employer with at least 25, but not more than 99, employees shall provide for each employee not less than one hour of paid leave for every 43 hours worked, not to exceed 5 days per calendar year.

(3) An employer with 24 or fewer employees shall provide not less than one hour of paid leave for every 87 hours worked, not to exceed 3 days per calendar year.

(4) For the purposes of paragraphs (1) through (3) of this subsection, the number of employees of an employer shall be determined by the average monthly number of full-time equivalent employees for the prior calendar year. The average monthly number shall be calculated by adding the total monthly full-time equivalent employees for each month and dividing by 12.

(5) In the case of employees who are exempt from overtime payment under section 213(a)(1) of the Fair Labor Standards Act of 1938, approved June 25, 1938 (52 Stat. 1060; 29 U.S.C. § 201 *et seq.*), employees shall not accrue leave for hours worked beyond a 40-hour work week.

(b) Paid leave accrued under this section may be used by an employee for any of the following:

(1) An absence resulting from a physical or mental illness, injury, or medical condition of the employee;

(2) An absence resulting from obtaining professional medical diagnosis or care, or preventive medical care, for the employee, subject to the requirement of subsection (d) of this section;

(3) An absence for the purpose of caring for a child, a parent, a spouse, domestic partner, or any other family member who has any of the conditions or needs for diagnosis or care described in paragraph (1) or (2) of this subsection; or

(4) An absence if the employee or the employee's family member is a victim of stalking, domestic violence, or sexual abuse; provided, that the absence is directly related to social or legal services pertaining to the stalking, domestic violence, or sexual abuse, to:

(A) Seek medical attention for the employee or the employee's family member to recover from physical or psychological injury or disability caused by domestic violence or sexual abuse;

(B) Obtain services from a victim services organization;

(C) Obtain psychological or other counseling;

(D) Temporarily or permanently relocate;

(E) Take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence or sexual abuse; or

(F) Take other actions to enhance the physical, psychological, or economic health or safety of the employee or the employee's family member or to enhance the safety of those who associate or work with the employee.

(c)(1) Paid leave under this section shall accrue in accordance with the employer's established pay period. An individual shall accrue paid leave at the beginning of his or her employment. An employee may begin to access paid leave after 90 days of service with his or her employer.

(2) An employee's unused paid leave accrued during a 12-month period shall carry over annually. An employee shall not use in one year more than the maximum hours as allowed in subsection (a)(1), (2), and (3) of this section, unless the employer chooses otherwise.

Unused paid leave accrued under this act shall not be reimbursed upon the termination or resignation of any employee.

(3) An employee who is discharged after the completion of a 90-day probationary period and is rehired within 12 months may access paid leave immediately.

(4) Upon mutual consent by the employee and the employer, an employee who chooses to work additional hours or shifts during the same or next pay period in lieu of hours or shifts missed, shall not use paid leave; provided, that the employer does not require the employee to work such additional hours or shifts.

(d) An employee shall make a reasonable effort to schedule paid leave under subsection (b) of this section in a manner that does not unduly disrupt the operations of the employer.

(e) If an employee does not suffer a loss of income when absent from work, for the number of days up to the days of paid leave provided for in subsection (a)(1), (2), and (3) of this section, an employer shall not be required to provide paid leave for such employee in accordance with this act. Notwithstanding the foregoing sentence, the provisions of section 9 shall apply to employees who do not suffer a loss of income when absent from work.

(f) If employees of beauty, hair, and nail salons are paid by commission (whether commission only or base wage plus commission), the sick leave rate of pay shall be calculated as follows: divide the employee's total earnings in base wages and commissions for the prior calendar year by the total hours worked as a commissioned employee during the prior calendar year. If employees do not have a prior calendar year's work history, divide the employee's total earnings in base wages and commissions since the employee's date of hire by the total hours worked as a commissioned employee since that date.

Sec. 4. Notification.

Paid leave shall be provided upon the written request of an employee upon notice as provided in this section. The request shall include a reason for the absence involved and the expected duration of the paid leave. If the paid leave is foreseeable, the request shall be provided at least 10 days, or as early as possible, in advance of the paid leave. If the paid leave is unforeseeable, an oral request for paid leave shall be provided prior to the start of the work shift for which the paid leave is requested. In the case of an emergency, the employer shall be notified prior to the start of the next work shift or within 24 hours of the onset of the emergency, whichever occurs sooner.

Sec. 5. Certification.

(a)(1) An employer may require that paid leave under section 3(b) for 3 or more consecutive days be supported by reasonable certification.

(2) Reasonable certification may include:

(A) A signed document from a health care provider, as defined in section

2(5) of the District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501(5)), affirming the illness of the employee;

(B) A police report indicating that the employee was a victim of stalking, domestic violence, or sexual abuse;

(C) A court order; or

(D) A signed statement from a victim and witness advocate, or domestic violence counselor, as defined in D.C. Official Code § 14-310(a)(2), affirming that the employee is involved in legal action related to stalking, domestic violence, or sexual abuse.

(3) If certification is required by an employer, the employee shall provide a copy of the certification to the employer upon the employee's return to work.

(b)(1) This act shall not require a health care professional to disclose information in violation of section 1177 of the Social Security Act, approved August 21, 1996 (110 Stat. 2029;

42 U.S.C. § 1320d-6), or the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (110 Stat.

2033; 42 U.S.C. § 1320d-2, note).

(2) All information provided to the employer under section 3 shall not be disclosed by the employer, except to the extent that the disclosure is:

- (A) Requested or consented to by the employee;
- (B) Ordered by a court or administrative agency; or
- (C) Otherwise required by applicable federal or local law.

Sec. 6. Current paid leave policies.

(a) An employer with a paid leave policy providing paid leave options, such as a paid time-off program or universal leave policy, shall not be required to modify such policy if the policy offers an employee the option, at the employee's discretion, to accrue and use leave under terms and conditions that are at least equivalent to the paid leave prescribed in this act.

(b) The terms and conditions of an employer's policy shall be presumed equivalent if they allow an employee to:

- (1) Access and accrue paid leave at least at the same rate as or greater than the hours of paid leave provided in section 3(a)(1), (2), and (3); or
- (2) Use the paid leave for the same purposes as those set forth in section 3(b), including unscheduled leave.

Sec. 7. Effect on existing employment benefits.

(a) This act shall not diminish the obligation of an employer to comply with any contract, collective bargaining agreement, or any employment benefit program or plan that provides greater paid leave rights to employees than the rights established under this act.

(b) The paid leave requirements under this act shall not be waived for less than 3 paid leave days by the written terms of a bona fide collective bargaining agreement.

Sec. 8. Encouragement of more generous paid leave policies.

This act shall not prevent an employer from the adoption or retention of a paid leave policy more generous than the one required by this act.

Sec. 9. Prohibited acts.

(a) A person shall not interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided by this act.

(b) An employer shall not discharge or discriminate in any manner against an employee because the employee:

- (1) Opposes any practice by an employer made unlawful by this act;
- (2) Pursuant or related to this act:
 - (A) Files or attempts to file a charge;
 - (B) Institutes or attempts to institute a proceeding; or
 - (C) Facilitates the institution of a proceeding;
- (3) Gives any information or testimony in connection with an inquiry or proceeding related to this act; or
- (4) Uses paid leave provided under this act.

(c) Nothing in this act shall prohibit an employer from establishing and enforcing a lawful policy relating to improper use of paid leave or from seeking more frequent certifications from an employee if there is evidence of a pattern of abuse of paid leave.

Sec. 10. Posting requirement.

(a) The Mayor shall prescribe, and the Mayor shall provide to employers, in languages in accordance with the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15- 167; D.C. Official Code § 2-

1931 *et seq.*), and an employer shall post and maintain in a conspicuous place, a notice that sets forth excerpts from or summaries of the pertinent provisions of this act and information that pertains to the filing of a complaint under this act. The notice shall be published in all languages spoken by 3% of or 500 individuals in the District of Columbia population, whichever is less.

(b)(1) An employer who willfully violates this section shall be assessed a civil penalty not to exceed \$100 for each day that the employer fails to post the notice; provided, that the total penalty shall not exceed \$500.

(2) No liability for failure to post notice will arise under this section if the Mayor has failed to provide to the business the notice required by this section.

(c) An employer shall post the notice in English and all languages spoken by employees with Limited or no-English Proficiency, as defined in section 2(5) of the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1931(5)).

(d) Employers shall be furnished copies or summaries of this act prepared by the Mayor on request.

Sec. 11. Administration.

This act shall be administered by the Department of Employment Services.

Sec. 12. Effect on other laws.

This act shall not:

(1) Supersede any provision of law or contract that provides greater employee paid leave rights than the rights established under this act; or

(2) Modify or affect any federal or District law prohibiting discrimination on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, or political affiliation.

Sec. 13. Penalties.

Except as provided in section 10(b), an employer who willfully violates the requirements of this act shall be subject to a civil penalty of \$500 for the first offense, \$750 for the second offense, and \$1000 for the third and each subsequent offense.

Sec. 14. Rules.

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this act within 60 days after its effective date. If rules are promulgated, the Mayor shall submit the proposed rules to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within this 30-day review period, the proposed rules shall be deemed approved.

Sec. 15. Hardship exemption.

The Mayor shall exempt, by rule, businesses that can prove hardship as a result of this act. The Mayor shall submit the proposed hardship exemption rules to the Council for a 45-day period of review, excluding Saturdays, Sunday, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within the 45-day review period, the proposed rules shall be deemed disapproved.

Sec. 16. Report by the District of Columbia Auditor.

The District of Columbia Auditor shall prepare and submit to the Mayor and Council, annually, a report of this act's economic impact on the private sector. Among other things, the District of Columbia Auditor shall audit a sample of District businesses to determine:

- (1) The compliance level of businesses with the posting requirements; and
- (2) Whether companies are utilizing staffing patterns to circumvent the intention of this act.

Sec. 17. Applicability.

- (a) This act shall apply 6 months after its effective date.
- (b) In the case of a collective bargaining agreement in effect on the effective date set forth in subsection (a) of this section, this act shall apply on the earlier of the date of the termination of the agreement or the date that occurs 18 months after the date of the effective date of this act.

Sec. 18. Appropriations contingency.

This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 19. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 20. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia.

Appendix H: AAUW Position Paper

Balancing Work and Life: Family-Friendly Workplace Policies

The American Association of University Women believes that creating work environments that help employees balance the responsibilities of work and family is good public policy—good for workers, good for families, and good for business. AAUW’s 2009–11 Public Policy Program supports “greater availability of and access to benefits and policies that promote work-life balance,” which are critical for women for “equitable access and advancement in employment.”¹

Despite the Family and Medical Leave Act (FMLA) and a patchwork of state laws and employer-based benefits, family and personal sick leave remain elusive to many working Americans. In addition, despite the relative wealth of the United States, family oriented workplace policies in this country lag dramatically behind those in much of the rest of the world, including all high-income countries and many middle- and low-income countries as well. For example, of the 173 countries surveyed by Harvard and McGill University researchers, the United States is one of only five countries that do not guarantee some form of paid maternity leave, a distinction it shares with Lesotho, Liberia, Swaziland, and Papua New Guinea.² Further, of 21 high-income countries reviewed in a 2008 report by the Institute for Women’s Policy Research, 17 countries have statutes that allow parents to move to part-time work or adjust their working hours, 12 have statutes to help workers adjust work hours for training and education, and five allow schedule adjustments for those with family care-giving responsibilities for adults. The United States offers none of those family-friendly policies.³ Clearly, there is still much room for improvement to make our workplaces more family friendly.

Encouraging Flexibility in the Workplace

The past 50 years have seen substantial changes in the composition of the American workforce. Two-thirds (64 percent) of women with children under six are in the labor force.⁴ Nationwide, 22.9 million families provide care for an adult family member or friend, and nearly 80 percent of those care recipients are over the age of 50.⁵ New and unique solutions are necessary to meet the demands of families and the obligations of work. Traditional scheduling and inflexible practices are often detrimental to the balance most employees try to strike. Inflexibility, in turn, negatively impacts recruiting and retention for employers. AAUW supports flexible work policies that take many forms, including job sharing, telecommuting, and career flexibility. Further, policies such as affording employees greater control over their own work schedules, including start and end times; the right to request schedule adjustments and flexible work policies from their employers; and the right to part-time parity in wages, benefits, and government protections, are important improvements for the 111th Congress to work towards.

Family and Medical Leave

AAUW led the advocacy charge from 1983 to 1992 that resulted in finally passing FMLA, which was signed into law in 1993. FMLA helps employees balance the increasing demands of work and family at little or no cost to employers. It allows eligible women and men who work for employers with 50 or more employees to take up to 12 weeks of unpaid leave each year for certain family and medical purposes. Specifically, employees may use FMLA leave when they are seriously ill or when they must care for a newborn or adopted child or a seriously ill member of their immediate family. Employees receive continued health insurance benefits while on leave and are guaranteed the same or an equal

position to the one they held prior to their leave. Under FMLA, employees are eligible if they have worked for an employer for at least 12 months and worked for 1,250 hours over the 12 months before leave is needed.

More than 60 million covered and eligible employees have used FMLA to take care of themselves and their families during times of critical need without jeopardizing their health insurance benefits or job security.⁶ In 2005 alone, more than 7 million employees took some type of family medical leave.⁷ In January 2001, the bipartisan Commission on Family and Medical Leave released a study reporting that almost 90 percent of covered employers said that complying with FMLA brought no or minimal increase in their administrative costs.⁸ Further, while the vast majority of employers reported that FMLA had no impact on business practices, productivity, and outcomes, some employers reported cost savings associated with lowered employee turnover as well as improved morale.⁹

Despite the law's clear success, in the 15 years since the law's passage some clear areas for improvement have emerged. One of the biggest challenges in FMLA coverage clearly arises from its unpaid status. For example, 78 percent of eligible employees who have needed FMLA-covered leave have not been able to take it because they could not afford to.¹⁰ Furthermore, prior presidential administrations have sought to chip away at the protections of FMLA with mixed results. AAUW will continue its efforts to protect FMLA from these threats.

Possibilities for FMLA Expansion

To build on the success of this law, members of Congress have discussed a variety of proposals to expand FMLA to cover more Americans and more family and medical needs. In the 110th Congress, FMLA was expanded to cover members of the Armed Forces and their families. Regulations released to clarify this expansion were largely positive for service members, and AAUW supported this vital FMLA expansion. In the 111th Congress, AAUW supports the following FMLA enhancements, which have appeared in a variety of legislative proposals since FMLA was enacted:

- *Lower the eligibility threshold for employers from 50 or more employees to 25 or more employees.* Currently, the FMLA covers just 11 percent of all establishments¹¹ and only about two-thirds of employees.¹²
- *Allow covered and eligible employees to take up to 24 hours of leave per year to participate in their children's academic school activities or literacy training.* Currently, FMLA allows leave for serious health needs of family members, but it does not give parents unpaid leave and job protection to address their children's educational needs, such as attending parent-teacher conferences or visiting new schools.
- *Expand the definition of "family member" under the FMLA to include siblings, domestic partners, and adult children.* Current FMLA protections apply only to spouses, parents caring for minor children, and adults caring for elderly parents. As a result of changing family situations, there are a significant number of women who are not married and have no children, but many still have caregiving responsibilities. Documentation showing caregiver status would be relatively easy to provide. Those who make sacrifices to care for loved ones deserve FMLA protections regardless of the caregiver's legal relationship to the person needing care.
- *Include safe days in FMLA for victims of domestic violence.* In addition to devastating emotional and physical effects, victims of domestic violence often suffer economic

consequences of their abuse. In a survey by the Centers for Disease Control and Prevention, an estimated \$727.8 million of productivity was lost annually due to domestic violence, with more than 7.9 million paid workdays lost each year.¹³ Victims of domestic violence often require time away from work for medical treatment, to obtain legal assistance, to visit court for a protection order, to seek documentation of their injury, or to find new housing or child care. Providing these safe days in FMLA benefits for battered women can help prevent victims from losing their jobs and possibly turning to welfare or returning to their abuser for financial support.

Threats to Family and Medical Leave

Despite the important achievements of the law and the evidence of its benefit to workers, attacks continue against the important protections FMLA affords. Most business groups opposed the FMLA, and even state governments tried to shrink from their responsibilities under the law. In May 2003, the U.S. Supreme Court affirmed (6-3) that states must comply with the FMLA in *Hibbs v. Nevada Department of Human Resources*.¹⁴ State employees are entitled to the same family leave rights as other working Americans. AAUW signed on to an *amicus* brief in support of *Hibbs* and applauded the Court's ruling. In addition, on the federal level, a number of regulations have been put in place that have limited the benefits available or made it more difficult for employees to take family and medical leave.

- In 2003, the Bush administration repealed a regulation instituted under the Clinton administration that allowed states the option of using their unemployment insurance (UI) fund to help parents take time off to care for their newborn babies. This repeal prevents the 16 states that have already proposed paid leave legislation from utilizing part of the UI funds and prevents other states who might have been interested in exploring this option in the future.
- In November 2008, the U.S. Department of Labor finalized new FMLA regulations. Included in these changes are positive expansions that apply to members of the Armed Forces. However, the changes include provisions that decrease the time workers have to give notice of their need for leave, while at the same time increasing the requirements for requesting leave. In addition, workers will have a tougher time using paid leave in conjunction with FMLA leave, leaving many workers unable to afford to take leave at all. Finally, employers will have greater access to health information on workers and their families, jeopardizing their medical privacy. AAUW spoke out against these changes, explaining that now is the time to expand family and medical leave, not make it more difficult to use or to limit benefits. AAUW will continue to advocate for more coverage for more people under FMLA, and to rescind the harmful new regulations.

Paid Leave

AAUW has long supported flexible workplace policies to address the family responsibilities of employees. Offering workers the option of taking time off when they or a family member is sick is not just good for families, it's good for business. At least 145 countries worldwide provide paid sick days, with 127 providing a week or more annually. More than 79 countries provide sickness benefits for at least 26 weeks or until recovery.¹⁵ But many hardworking Americans do not have access to the important benefit of paid sick leave. In fact, 43 percent of the private sector workforce has no paid sick days.¹⁶ Low-wage workers are especially hard hit, with 56 percent receiving no paid sick days.¹⁷ Further, 27 percent of low-income women put off getting health care because they cannot take time off from work, and 18 percent of women at all income levels face this situation.¹⁸ More than 22 million working women do not have paid sick days,¹⁹ and as a result, half of working mothers report that they must miss work and often go without pay when caring for a sick child.²⁰ Lastly, with more than a third of Americans

already experiencing significant elder care responsibilities,²¹ coupled with the aging of the baby boomers, the problem is likely to worsen in the years ahead.

Without sick days, employees often come to work ill, decreasing productivity and infecting coworkers. Further, families with children are often confronted with difficult choices. For the 86 million Americans who do not have paid sick days,²² a decision to stay home to care for a sick child or family member could jeopardize their jobs or family income. The number of Americans who are 75 or older is expected to more than double between 1990 and 2030; by that time, we will have nearly 50 million individuals aged 65 or older.²³ Currently, 16 percent of Americans who are 18 and older care for a relative who is 50 years old or older. Many of these caregivers are employed—about half work full-time, and 11 percent are employed part-time.²⁴ These employees need flexibility to meet the demands of both responsibilities.

Further, employer-based paid leave policies are also often remiss in addressing the needs of new parents. Paid parental leave enables working parents to take care of and bond with their newborns and newly adopted children—which is critical to their children’s health and well-being—without having to worry about their paychecks. As more mothers have entered the paid labor force for their family’s economic security—increasing their labor force participation rate from 47 to 71 percent between 1975 and 2007²⁵—access to paid parental leave has become a necessity for today’s working families.

For these reasons, AAUW supports legislation such as the Healthy Families Act, which will provide seven accrued paid sick days for full-time employees and a pro-rated number for part-time employees and provisions that provide paid parental leave for all employees, including those working for the federal government.

State and Local Efforts to Improve Work/Life Policies

States and municipalities have also been building on the success of the FMLA and expanding other paid leave policies. Multiple victories have been achieved since California became the first state to pass a paid-leave bill in September 2002. Since then, San Francisco passed a paid sick days ballot measure in November 2006, Washington, D.C. passed a paid sick and safe days law through its city council in March 2008, and Milwaukee residents voted for a paid sick and safe days ballot initiative in November 2008. Campaigns are ongoing in other locations as well, and AAUW continues to support efforts to provide paid leave for all.

Resources for Advocates

It is AAUW advocates across the country who speak their minds on issues important to them that truly advance AAUW’s mission. Stay informed with updates on work-life policies and other issues by subscribing to AAUW’s Action Network. Make your voice heard in Washington and at home by using AAUW’s Two-Minute Activist to urge your members of Congress to support policies that help employees balance the responsibilities of work and family. Write a letter to the editor of your local paper to educate and motivate other members of your community. Attend town hall meetings for your members of Congress, or set up a meeting with your elected official’s district office near you to discuss these policies. AAUW members can also subscribe to *Washington Update*, our free, weekly e-bulletin that offers an insider’s view on the latest policy news, resources for advocates, and programming ideas. For details on these and other actions you can take, visit www.aauw.org/takeaction. For more information, read AAUW’s related position papers on pay equity and paid sick leave, and AAUW’s research, including *Behind the Pay Gap* and *Women at Work*. You can find these and other resources on our website at www.aauw.org.

Conclusion

AAUW will continue to oppose all efforts to weaken Family and Medical Leave Act protections, which would limit women's opportunity in the workplace. AAUW will also work to advance policies that will improve workplaces for employees with family responsibilities of all kinds. Such protections and improvements are critical to breaking through educational and economic barriers for women.

For more information, call 202/785-7793 or e-mail VoterEd@aauw.org.

AAUW Public Policy and Government Relations Department July 2009

¹ American Association of University Women. (June 2009). *2009-11 AAUW Public Policy Program*. Retrieved July 9, 2009, from www.aauw.org/act/issue_advocacy/principles_priorities.cfm

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⁴ Lowell, Vicky. (May 2004). *No Time to be Sick: Why Everyone Suffers When Workers Don't Have Paid Sick Leave*. Institute for Women's Policy Research. Retrieved October 23, 2008, from www.iwpr.org/pdf/B242.pdf.

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⁶ National Partnership for Women and Families. (February 2007). *Where Families Matter: State Progress Toward Valuing America's Families*. Retrieved January 15, 2008, from www.nationalpartnership.org/site/DocServer/Final_2006_Round_Up.pdf?docID=2161.

⁷ The Family and Medical Leave Act of 1993, Proposed Rule, 73 Fed. Reg. 7875. (2008) (to be codified at 29 C.F.R. § 825)

⁸ National Partnership for Women and Families. (2001) *Highlights of the 2000 U.S. Department of Labor Report*. Retrieved January 20, 2008 from www.nationalpartnership.org/site/DocServer/2000DOLLaborReportHighlights.pdf?docID=954.

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¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Centers for Disease Control and Prevention. (March 2003). *Costs of Intimate Partner Violence Against Women in the United States*. Retrieved January 15, 2008 from www.cdc.gov/ncipc/pub-res/ipv_cost/IPVBook-Final-Feb18.pdf.

¹⁴ *Hibbs v. Nevada Department of Human Resources*. 538 U.S. 721 (2003).

¹⁵ The Institute for Health and Social Policy. (2007). *The Work, Family, and Equity Index: How Does the United States Measure Up?* Retrieved January 15, 2008, from www.mcgill.ca/files/ihsp/WFEIFinal2007.pdf.

¹⁶ U.S. Department of Labor, Bureau of Labor Statistics. (August 2007). *National Compensation Survey: Employee Benefits in Private Industry in the United States, March 2007, Table 19*. Retrieved January 16, 2008, from www.bls.gov/ncs/ebs/sp/ebsm0006.pdf.

¹⁷ Ibid.

¹⁸ Salganicoff, Alina, Usha R. Ranji, and Roberta Wyn. (2005) *Women and Health Care: A National Profile*. Kaiser Family Foundation. Retrieved January 15, 2008 from www.kff.org/womenshealth/7336.cfm.

¹⁹ Institute for Women’s Policy Research. (February 2007). Women and Paid Sick Days: Crucial for Family Well-Being. Retrieved January 15, 2008 from www.iwpr.org/pdf/B254_paid sick days FS.pdf.

²⁰ Kaiser Family Foundation. (April 2003). Women, Work and Family Health: A Balancing Act. Retrieved January 15, 2008 from www.kff.org/womenshealth/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14293.

²¹ National Partnership for Women and Families. (June 2004). Get Well Soon: Americans Can’t Afford to Be Sick. Accessed January 24, 2008 from www.nationalpartnership.org/site/DocServer/GetWellSoonReport.pdf?docID=342.

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²³ Lowell, Vicky. Institute for Women’s Policy Research. (May 2004). *No Time to be Sick: Why Everyone Suffers When Workers Don’t Have Paid Sick Leave*. Retrieved October 23, 2008, from www.iwpr.org/pdf/B242.pdf.

²⁴ National Alliance for Caregiving and AARP. (April 2004). Executive Summary. Caregiving in the U.S.: Findings From the National Caregiver Survey. Retrieved October 23, 2008, from www.caregiving.org/data/04execsumm.pdf.

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