

State of Rhode Island and Providence Plantations

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Statement of the
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Committee on Education and the Workforce
Subcommittee on Health, Education, Labor and Pensions

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Good morning Chair Walberg, Ranking Member Sablan, and committee members. I am Gayle Goldin, a state senator from the ocean state of Rhode Island. As an elected official who has worked hard on behalf of my constituents to adopt policies that reflect and respond to their needs, I urge you to reject H.R. 4219, an ill-crafted, harmful proposal that would severely undermine certainty for employees, employers, local enforcement agencies and the public's health while making a mockery of our state legislative process.

In addition to my job as a legislator, I am also a campaign advisor to Family Values @ Work, a national network of 27 state-based coalitions focused on creating family-friendly workplace policies. Family Values @ Work began nearly 15 years ago, to bring together broad and diverse coalitions in the states advancing public policies like paid sick days and family and medical leave insurance. Working with local and state elected officials, these coalitions and their partners have won paid sick days laws in 44 jurisdictions, and paid leave programs in 6 states and the District of Columbia. A sizeable body of evidence now exists documenting the benefits of these public policies for working people and their families, for businesses and for the community overall. Together, my experience in the state house and working with advocates, legislators, researchers and businesses from across the country as they look to adopt, implement and improve their own policies firmly underscores that H.R. 4219 is harmful, anti-democratic and wholly unnecessary.

My path to sitting in front of you this morning started in 2001, the year I broke my back and became a parent. In April of that year, I was standing on my pregnant sister's balcony, when the support beams gave way. I fell 16 feet, falling onto the cement stairs below. I was in Montreal, and a late season snowfall cushioned the stairs and likely prevented my paralysis. I spent weeks in the hospital, months in a brace and a year in physical therapy. Thankfully, as someone working in Rhode Island, I was covered by our state run Temporary Disability Insurance (TDI) and I received wage replacement for the weeks I was unable to work. I was also grateful that good public policy in Quebec allowed my sister to take time away from her job to help take care of me during my hospitalization. My husband, a lawyer in Boston, struggled between caring for me and keeping his job.

Less than three months later, my sister gave birth to a daughter and my husband I became parents to our son, Zack, through the incredible journey of adoption. My sister received 50 weeks of job-protected paid parental leave. We received none. We maxed out credit cards, while dealing with student loan debt from two graduate degrees, all while trying to balance new parenthood after an unforeseen medical crisis.

At first I thought it was a problem of our own making, but the reality is the American work world is designed around an antiquated and inaccurate idea about who employees really are and how they get by when serious health issues arise or when they become parents.

So, I started organizing. I began with talking to other adoptive parents, and then went to organizations that work on child welfare, and health care. Eventually, I joined with other Rhode Island women in a leadership institute to research California's paid leave law, and present our findings to union leaders, senior advocates, health care professionals, business owners, and legislators. We told our own stories of needing paid leave, and collected stories from others around the state.

In 2012, I ran for office because I wanted to make a difference in people's lives and make paid family leave a reality for Rhode Islanders. I'm proud that in 2013, we passed Temporary Caregiver Insurance (TCI), creating the first job-protected paid leave program in the nation, building it off our state-run TDI that has existed since 1942. TCI is funded through payroll deductions and provides people with a portion of their wages to care for a new child in their home or a seriously ill family member. The TDI/TCI fund remains solvent and is administered by the state, ensuring that everyone who pays into it can access the benefit when needed.

That victory in 2013 was years in the making. I met with labor leaders and business owners, I met with trade associations. I sat down with our Department of Labor and Training (DLT) to determine costs and projected use, I worked with national experts, and reached out to activists, policy analysts and lawyers in New Jersey, New York, and California to gain lessons learned from their efforts. I talked with my colleagues in the Senate and House about their own experiences needing leave as parents, as caregivers, as employees, and as employers. I met with my own constituents to find out how they would use paid family leave. At the same time, hundreds of constituents contacted their own legislators. Businesses wrote op-eds in support, a manufacturing firm owner hosted a press conference to show why a state family leave insurance would help his small company, doctors joined AARP members at the State House to lobby in support the bill, and I, other legislators, and our staff met with every single type of stakeholder to draft and redraft a bill that would take into account the reality of today's work world. We held multiple hearings. The Senate passed a bill, the House passed a bill. We negotiated, and finally found a compromise to send to the Governor's desk. But that's not where the story stops. After the law passed, I worked with DLT to ensure all businesses and employees knew about the leave benefit. We set up a website, researchers studied businesses experiences, and the United States Department of Labor invested grant funds into studying our program and found it to be successful.

Thousands of Rhode Islanders have benefited from paid family leave when they need extended time to care for a new child or a seriously ill loved one. I have had younger constituents tell me they have passed up job offers out of state because they wanted to raise a family in Rhode Island now that we have made it just a little bit easier to do so. I am very proud of our paid family leave law, but I know more needs to be done. People get stomach bugs, our children get the flu. Sometimes people need a couple of hours for a mammogram or a day for a colonoscopy. They shouldn't have to lose pay while caring for themselves during those times, either.

Yet, up until this month, over 40 percent of the Rhode Islander workforce could not earn a single paid sick day. Thousands more had sick time, but faced obstacles to using it. They were penalized for taking time when they were sick, or were unable to use the time to care for an ill loved one. Some had sick days, but no pay for the first day they were out. Others had to ask for sick time in advance, even though the flu and sinus infections don't give us any warning. And most people could not use that time to seek shelter or take legal action after experiencing domestic or sexual abuse.

The research is clear that the lack of paid sick days has a detrimental impact on a person's overall health and the health of our communities. People who do not have access to paid sick time are less likely to have preventive health care.¹⁰ Further, employees who lack paid sick time are more likely to go to work while ill, with potentially disastrous consequences.¹¹ Having access to paid sick time, on the other hand, reduces spread of contagious diseases¹² and reduces the incidence of on-the-job injuries.¹³

But most of us do not need research to show why we need paid sick time. Our own experiences show the importance of time off to care for ourselves. Much like with paid family leave, Rhode Islanders started organizing across the state, only this time, it was thousands of people. In a state of only one million people, legislators received postcards and emails and phone calls constantly. Legislators met with constituents, business owners, health care providers, researchers, economists, parents and employees.

In 2017, the legislature passed, and Governor Raimondo signed, the nation's eighth state paid sick and safe days law, which allows employees to earn an hour of paid sick time for every 35 hours they work, up to a handful of days per year. This time can be used for people who have the flu, whose child falls off the jungle gym and needs to get a broken arm set, for people to get to check-ups or routine medical screenings. Just as happened after paid family leave, DLT drafted regulations, and this time, DLT officials went on a statewide listening tour to hear from business owners and employees before regulations were finalized.

Over the years, policymakers and researchers have seen the value of adding safe time to paid sick days policies. I met Kathy McCormick when she came to the State House to testify in support of our sick days bill. Earlier in her life, Kathy had been in an abusive relationship. Her abuser was stalking her, physically preventing her from leaving for work or calling in. She lost two jobs as a result. Kathy finally landed a job with sick time, which helped a bit, but the pattern of abuse that led to her unexplained absences continued. She worked up the courage to tell her new boss what was happening. As Kathy testified, "My boss's commitment to allowing me the safe time I needed was critical to my survival and ability to ultimately get away from my abuser. The policy opens the door for important conversations – and in my case, helped me gain financial stability and maintain my health and the health of my son. It helped us stay safe." Kathy escaped her abuser when a new boss offered her safe time, but Kathy knows safety shouldn't depend on who your boss is. It should be made possible by public policy available to everyone. [Kathy's full story is attached to this testimony.]

Unfortunately, the only unique part of Kathy's story is that she found an employer willing to help her leave her abuser without losing her job or her income. According to the CDC, each year victims of domestic violence are forced to miss nearly 8 million days of paid work, costing more than \$700 million annually due to victims' lost productivity in employment.¹⁴ More than a third of rape or sexual assault victims lost more than 10 days of work following victimization, and more than half of stalking victims lost five or more days of work.¹⁵

For many people, the loss of pay can quickly add up to financial hardship. While American workforce productivity has increased by nearly 75 percent in the past four decades, hourly compensation has increased by only 12.5 percent.¹⁶ In 2015, nearly half of all adults said they could not afford a \$400

emergency expense. People are working harder, earning less, and making tough choices about having enough time to care for their families and take care of themselves. Taking a day off of work without pay, can mean the difference between eating, filling up a car with gas, or picking up a prescription after a doctor's visit.

I am here today, on behalf of Kathy, a million Rhode Islanders, and more than 33 million other Americans from 10 states, D.C. and 33 localities across the country that could see their guaranteed sick and safe time stripped away by H.R. 4219, the deceptively titled Workflex in the 21st Century Act.

This bill is not a comprehensive paid leave law like the one we have in Rhode Island. It is not a paid sick and safe time law like the one thousands of voters called for in Rhode Island. And it does not guarantee an employee the time off or flexibility that he or she might want or need, even in the most dire circumstances related to health or personal safety. This bill would not guarantee help for women like Kathy, for whom safe time to seek help related to domestic violence is a lifeline. Our laws in Rhode Island do provide these guarantees; H.R. 4219 would allow employers to unilaterally wipe them out.

H.R. 4219 would circumvent the protections and enforcement provided by state and local agencies that oversee these laws, creating a cumbersome and unclear system for employees and employers alike. State and local regulators would be faced with situations where they cannot easily know whether they have jurisdiction over a worker's complaint. This ambiguity may further exacerbate income inequality. Under this bill, employers could offer a qualifying benefit to higher income earning employees, while leaving lower wage earners without any. Given the ambiguity of the bill's language, it is unclear if offering a benefit to some employees would be enough to exempt the employer from all local or state laws, stripping lower wage earners from the sick time and fair scheduling protections. The language may even remove job protection for unpaid leave that Rhode Islanders have enjoyed for over thirty years, when our state Parental, Family and Medical Leave Act became law.

The loopholes and the intentional two-tiered system in HR 4219 will lead to uncertainty for all parties - workers who are unsure what laws govern their employer, employers who are reliant on the U.S. Department of Labor to say whether their new ERISA plan meets the conditions set out in the law, and local enforcement agencies who do not know which employers are following local rules and which have chosen to bypass them.

In addition, despite a name that gives a nod to workplace flexibility, H.R. 4219 does not require that employees be provided any say in their schedules. For example, an employee who would like to plan her shift for her part-time job in order to attend a school meeting has no guarantee that she can. The so-called flexibility that employers would have to offer - one of six options, which an employee may or may not choose to use - could wipe out the growing number of fair and predictable scheduling laws that lawmakers and advocates have passed. One form of so-called flexible scheduling included in the law, a biweekly work schedule, could circumvent overtime protections and create less predictability in hours and wages from one week to the next without regard to employees' personal or family needs and responsibilities.

While H.R. 4219 bill does nothing for working people who are the backbone of the American economy, it does quite a bit for large corporations who want to evade hard-won state and local laws that guarantee statutory protections to tens of millions of people and their families. Nothing in this proposal prevents the people who may, on paper, have sick time from being denied that time, constrained in how they use it and for whom, or punished if they do use it. H.R. 4219 is filled with loopholes that will make it easy for employers to retaliate, and allow supervisors to discipline employees who need to modify their work schedule or use an unexpected sick day. That is exactly why legislators like me around this country have

passed sick and safe time, paid family leave and fair schedule laws: so employees know when and how to use them, and a local or state enforcement agency can ensure they have access to them.

It is offensive to me, as a state senator, that the proponents of H.R. 4219 are trying to diminish my ability to serve my own constituents. This bill undermines the carefully crafted state and local laws that my colleagues and I have worked hard and thoughtfully to create. We talk to business owners, we talk to employees, health care professionals, and community activists. The laws we pass reflect those conversations and the unique needs of our community. At the same time, these state and local paid sick and safe time laws have much in common with one another.

Employers who operate in multiple states already deal with different employment laws, minimum wage, and health care systems. Employers can accommodate these fluctuations by raising the bar to the highest standard for all employees. For instance, if an employer wants to comply with all existing paid sick day laws in this country, that employer can establish a company-wide policy where every employee can accrue sick time for every 30 hours of work, up to 72 hours per year. In fact, employers like Starbucks have already made these adjustments to their policies for employees across the country.

Congress should set a floor for good policy, not pull the rug out from those of us who are elected to the state and local level and the constituents we represent.

The good news is we know exactly what would work for our nation. We can learn from cities and states across the country, and, instead, pass several bills currently pending in Congress that would provide adequate and affordable paid family and medical leave, paid sick and safe time, and predictable schedules.

I urge you to reject H. R 4219 and instead, focus on what really works:

- The Healthy Families Act, which sets a minimum guarantee to employees that they can earn up to seven paid sick and safe days and is patterned on the dozens of state and local laws that we know have positive health and economic effects for workers, families businesses and communities;
- The Family and Medical Insurance Leave (FAMILY) Act is based on the paid family and medical leave insurance programs in Rhode Island, California, New Jersey, New York and – soon Washington state, the District of Columbia and Massachusetts – and is supported by the majority of small businesses and voters. The FAMILY Act would create a national paid family and medical leave insurance fund to help ensure that a working parent can care for a new child and all working people can take paid time to address their own or a family member's serious health issue. It would be available to every employee and every entrepreneur in this country.
- The Schedules That Work Act, which would create incentives for employers to offer predictability and notice in scheduling and make it easier for working people to request flexibility that will better enable them to continue their education, find safe and affordable child care, hold a second job to support their families and plan their lives.

Carved into the Rhode Island State House marble is a quote from the royal charter of 1633 calling the founding of our state “a lively experiment.” I’m proud of the work we do in Rhode Island and I know my constituents are deeply thankful to live in a state where their elected officials care about making the state economy work for everyone. H.R. 4219 will take away Rhode Island’s capacity to continue our nearly

400-year tradition of lively experiments by undermining our current laws, disadvantaging small business, and hurting our workforce.

I strongly urge you to reject H.R. 4219.

Thank you.

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