

**Commission to Develop
a Paid Family and Medical Leave Benefits Program**

Written Comments

**Submitted to Commission after 5:30 pm December 13, 2021
and before 12:00 pm December 14, 2021**



December 14, 2021

Senator Daughtry, Representative Cloutier, and members of the Commission to Develop a Paid Family and Medical Leave Benefits Program: my name is Gia Drew, and I'm here on behalf of EqualityMaine and our partners at GLBTQ Legal Advocates & Defenders, MaineTransNet, ACLU of Maine, and Maine Women's Lobby.

All of our organizations support your important work to develop a paid family and medical leave program for working Mainers. Only 15% of American workers have access to any sort of paid leave,¹ and fewer than 60% of the workforce has access to unpaid leave under the Family Medical Leave Act. Among those, many don't take leave, because they can't afford unpaid time off of work.² This leads to disruption in the workforce, negative public health outcomes, and struggling families, communities, and employers.

As you consider all the possibilities for designing and implementing a system of paid family and medical leave for Maine, we urge you to consider "family" in ways that are realistic and inclusive. The government uses the construct of family to make determinations about access to rights, resources, and benefits. Historically, family definitions in law and policy have often failed to meet the needs of families in the United States, and they frequently fall short today. The overwhelming majority of households—more than 80 percent, according to the United States Census—depart from the so-called nuclear family model of a married couple and their minor children.

LGBTQ individuals and families continue to experience the collateral consequences of narrow family definitions in local, state, and federal policy. Many LGBTQ individuals forge close relationships with friends and informal support networks—known as chosen families—often because they face rejection

¹ U.S. Department of Labor, Bureau of Labor Statistics. (2017, September). Employee Benefits in the United States National Compensation Survey: Employee Benefits in the United States, March 2017 (Tables 16 and 32). Retrieved 16 October 2017, from <https://www.bls.gov/ncs/ebs/benefits/2017/ebbl0061.pdf>

² Klerman, J., Daley, K., & Pozniak, A. (2012, September 7). Family and Medical Leave in 2012: Technical Report (p. 21). Abt Associates Publication. Retrieved 4 March 2015, from <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>

and separation from their biological families. These relationships become paramount when needing to take time off from work to recover from illness or care for sick loved ones, and more inclusive definitions of family in workplace leave policies would make a significant difference.

To that end, attorneys at GLAD have put together a proposal for an inclusive definition of family that we have attached to our testimony. This definition recognizes the many types of families that exist, is comparable to other states with paid leave and the federal FMLA, and ties directly into current Maine law by cross-referencing the Maine Parentage Act in determining parent-child relationships - a landmark piece of family law that was sponsored by your colleague on this commission, Senator Kim Rosen. We urge you to adopt this definition in any paid leave program that you design, in order to ensure families of all kinds have the ability to take care of each other when the need arises.

Finally, you may be wondering how other states have dealt with this in their work on paid leave. New Jersey, Connecticut, Oregon, and Colorado have all adopted broad and inclusive family definitions, including chosen family, in their recently adopted paid leave laws. We urge you to uphold Maine's proud legacy of supporting families of all kinds by following their lead.

Thank you, and I'd be happy to answer any questions.

Proposed family definition

- (a) Regardless of age, an employee's child in accord with the Maine Parentage Act, Tit. 19-A, Ch. 61, a biological, adopted or foster child, a stepchild, a legal ward, a child of a domestic partner, a child to whom the covered individual stands in loco parentis, or a person to whom the covered individual stood in loco parentis when the person was a minor;
- (b) An employee's parent in accord with the Maine Parentage Act, Tit. 19-A, Ch. 61, a biological, adoptive or foster parent, stepparent or legal guardian of a covered individual or covered individual's spouse or domestic partner or a person who stood in loco parentis when the covered individual or covered individual's spouse or domestic partner was a minor child;
- (c) A person to whom the covered individual is legally married under the laws of any state or jurisdiction, or a domestic partner of a covered individual as defined in section 843, subsection 7;
- (d) A grandparent, grandchild or sibling (whether a biological, foster, adoptive or step relationship) of the covered individual or covered individual's spouse or domestic partner; or
- (e) As shown by the covered individual, any other individual with whom the covered individual has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship.
- (f) Any reference to in loco parentis includes, but is not limited to those relationships within the scope of the federal FMLA.

Lorrayne Carroll
31 North St.
Portland

To the Commission,

Thank you for your work on this crucial aspect of our daily lives. I registered for the Public Hearing and at this point (9:30 am on 12/14/21), I cannot find a link to submit written testimony, so I include it in this email. Again, I urge you to ensure that Maine's Paid Family and Medical Leave legislation be structured as a **universal, public resource**, not a private or private-public arrangement.

Good luck with your research, deliberations, and drafting. The workers of Maine, and their families, depend on you.

In peace,
Lorrayne Carroll

TESTIMONY

While I understand that framing this legislation in terms of a "benefits" program follows a convention of seeing medical care and family leave through the lens of employment only, I urge the commission to broaden that view. Both medical care and family leave are requirements for a healthy, sustainable community. The pandemic has driven that point home, as has the record numbers of people opting out of employment because the lack of robust PAID family and medical leave gave them no choice: continue working while sick or continue working while family members are sick. That is no choice for an ethical, pragmatic person who wishes to see the pandemic end. It is no choice for a person who cares for themselves and others as part of a family, a neighborhood, a school district, a workplace, a community, a state, a nation, a world.

Apart from this historical moment of pandemic, however, conditions that require a person to take paid leave from employment have always existed. That is, historically, communities learned to take care of each other in order to survive. Mutual care, beginning with child-rearing and support for elders, is a cornerstone of all **sustainable** societies—here I emphasize **sustainable** because, without mutual care, a society dissolves.

When my 100-year-old mother, who lived alone in an upstate New York apartment, was left without daily caregivers in the first year of the pandemic, the University of Maine's Family Medical Leave provision allowed me to stay with her for extended periods, preparing her meals, helping her bathe, ensuring her safety and comfort. My mother, whose limited resources qualified her for the Medicare-Medicaid Programs, needed my assistance in gaining access to these various programs because I could navigate the phone calls and the websites that attend on their administration.

Without the FML provision in my union's contract, I would not have been able provide any of that necessary support for my mother. She would not have had a trusted family member to care for her as she came to the end of her long, fruitful life. I was able to give her that comfort because of paid Family Leave. All other developed nations have this as a public provision in their health care legislation; Maine should have it too. While I am grateful that my union, Associated Faculties of the University of Maine System, has fought—and continues to fight—for contracts that include paid medical and family leave, this crucial, mutual-caring, community-supporting right should be readily available to all Maine workers. That is why I urge the Commission to draft and help to pass **universal, public paid family and medical leave** legislation for all Maine workers.

Maine Paid Family and Medical Leave Commission
Meeting for Public Comment

Tuesday, December 14th, 9am

Hello members of the Commission. My name is Kara Kaikini and I live in Freeport. I am here today as a Lactation Consultant and as the Board President of the Maine State Breastfeeding Coalition. The breastfeeding coalition supports comprehensive Paid Family and Medical Leave because paid family leave has been shown to correlate with a significant increase in breastfeeding rates (Huang & Yang, 2013) and significantly decreases the risk of postpartum depression (Chatterji, P. C., & Markowitz, S. M., 2012).

Feeding breast milk exclusively for the first six months of life is recommended by the American Academy of Pediatrics (AAP, 2012) among many other health organizations. In Maine, there is a 24% decrease in breastfeeding between birth and 8 weeks of life and a 61% decrease in exclusive breastfeeding by 6 months of age. Over 16% of mothers said they didn't *start* breastfeeding because they knew they'd have to go back to work or school. Mothers who have a lack of maternity leave are less likely to start breastfeeding due to workplace barriers to expressing and collecting their milk (Snyder et al, 2018). An additional 17% who started breastfeeding stopped because of returning to work (Maine CDC, 2019). Workplace lactation policies are not in place for every Maine mother. They may not be given sufficient time or space to pump, or have a supportive work environment with coworkers or management who will accommodate their needs to express milk in order to feed their babies or prevent a milk-retention infection like mastitis. Workplace accommodations is another structural issue in need of additional support, but absolutely related to the

need for a paid leave program that is sufficient in length, adequate in wage replacement, and inclusive of a broad range of family definitions.

Returning to work after having a baby is a physically and emotionally trying time. Birthing mothers' bodies are recovering from delivery; their sleep patterns are altered; and they feel exhausted, sore, inadequate and stressed. For breastfeeding mothers in particular, they may be having painful challenges themselves, or their babies may be struggling to gain weight or to take a bottle. Returning to work before 12 weeks is unreasonable and unhealthy. They need this time to recover, rest, bond with their babies, and establish infant feeding that aligns with the health organizations' recommendations and their own goals. In addition, access to quality infant care is extremely hard to come by in Maine which is an additional stress factor for new families who don't have reasonable paid leave of at least 12 weeks.

Mothers also need their partners to have adequate time to be home to care for them. I recently spoke with a new mother who hemorrhaged after her recent delivery, developed postpartum pre-eclampsia, and has come home to a toddler with significant behavioral challenges. She has said over and over again how grateful she is that her husband is able to be home with her longer than he was with their first. She simply could not safely care for herself, her toddler, and her newborn on her own right now.

Mothers often blame themselves when they aren't able to meet their breastfeeding goals, or the recommended duration of exclusive breastfeeding for 6 months and continued breastfeeding for 12 months, despite the fact that they are doing everything *they* can to meet their goals. The financial, mental and physical health of Maine's new parents and their babies need the kind of *systemic* support a comprehensive paid leave program would offer.

Thank you for taking this opportunity to thoughtfully consider the establishment of at least 12 weeks of job-protected, paid family and medical leave for our state workers.

Thank you for your time and consideration.

~Kara Kaikini, MS, IBCLC

Kara.Kaikini@gmail.com



December 14, 2021

Dear Senator Daughtry, Representative Cloutier, and members of the Commission on Paid Family and Medical Leave,

I join you today on behalf of the Maine Women's Lobby. For over forty years, the Maine Women's Lobby has advocated for public policy which increases the health, wellness, safety, and economic security of Maine women and girls, with a focus on the most marginalized populations and communities. We also are honored to be the conveners of the Maine Paid Leave Coalition, a group of 26 member organizations representing hundreds of thousands of Mainers in support of paid family and medical leave – who support the creation of this practical, affordable, and powerful program.

An article in the Portland Press Herald, May 19, 2020 was titled: *“Maine women and young adults hit hardest by unemployment.”*

One year later:

Portland Press Herald, March 16, 2021: *“Crisis far from over for Maine women suffering prolonged unemployment.”*

Last month:

Bangor Daily News, November 9, 2021: *“Economic burden of the pandemic falls largely on Mainers of color.”* The first line: *“The pandemic shined a lens on existing racial and gender disparities in Maine,”* and went on to discuss the caregiving burden that falls largely to women of color.

The pandemic has resulted in generation-defining job losses among women in Maine and across the country, and these losses have been concentrated among Black, brown, and Indigenous women, who are more likely to be their family's primary source of income¹.

The Maine Dept. of Labor has reported a gender disparity in job losses every month of the pandemic, and at the national level it has been even higher. One of the key reasons for this is because women are far more likely to leave the job force due to essential caregiving responsibilities.² **Long before the pandemic, women were disproportionately affected by the lack of caregiving infrastructure:**

- **One in four women in the USA take fewer than 11 days of parental leave after giving birth despite a recommended 6–8-week recovery period.**³

¹ Center for American Progress. (2021). When Women Lose All the Jobs: Essential Actions for a Gender-Equitable Recovery.

² MECEP analysis of US Census Bureau, American Community Survey, 2014-2018 5-Year Estimates for Maine, retrieved by Sarah Austin (2020).

³ Abt Associates Inc, Klerman, J. A. K., Daley, K. D., & AP, P. (2014, April). Family and Medical Leave in 2012: Technical Report.

- Women who drop out of the workforce early to provide care **lose an average of \$324,000** in lifetime earnings, social security, and pension benefits.⁴
- Low-wage earning women, especially Black, brown, and Indigenous women, are more often employed in service sector and hospitality industries – deemed ‘essential’ but underpaid, undervalued, and far less likely to have access to paid leave and family friendly work schedules.⁵

A paid family and medical leave program is so universally understood to be vital to the health of families and our workforce that **every country in the world besides the USA and Papua New Guinea has implemented at minimum a national policy for paid leave following the birth of a child.**

The key barrier to creating a system of paid family and medical leave system has often been cited as the burden of up-front costs to establish the infrastructure for program administration, since a system can be designed to be self-funding once it’s created. While I understand the reality of establishing a new program of this size, I want to challenge us to think about the costs of inaction. **Without a system of paid family and medical leave, we are already paying the costs - but those costs are externalized, hidden in the lives of often invisible caregivers, women, people of color.**

- Families lose out on essential income when people simply must stay home to care for their loved ones.
- Babies lose out on the healthy benefits of breastfeeding and are sometimes harmed or even killed in unsafe care arrangements when parents must go back to work before infants are eligible for formal childcare.
- Mainers get sick and die, often without the care of their families by their sides.
- Our tax dollars invest in public benefits when families can’t make ends meet, but the existence of a paid leave program means that women are 40% less likely to use those public benefits following the birth of a child⁶.

Far from being radical, a system of paid family and medical leave is a practical and achievable way for us to invest in COVID response and the daily lives of our community members, and there has literally never been a better time. **With significant state surplus projections and federal investment in building infrastructure, we know we have the resources.** And with the leadership of ten other states from Colorado to New Jersey paving the way, we have the information. We simply need the political will.

⁴ MetLife. (2011). Caregiving Costs to Working Caregivers. <https://www.caregiving.org/wp-content/uploads/2011/06/mmi-caregiving-costs-working-caregivers.pdf>

⁵ Robin Bleiweis, “Quick Facts About the Gender Wage Gap,” Center for American Progress, March 24, 2020, available at <https://www.americanprogress.org/issues/women/reports/2020/03/24/482141/quick-facts-gender-wage-gap/>.

⁶ Linda Houser and Thomas P. Vartanian, “Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses and the Public, Rutgers Center for Women and Work (January 2012), <http://smlr.rutgers.edu/paymatterscwwreport-january2012>

The best estimates⁷ are that after startup, a universal, twenty-week, inclusive program could be supported with a payroll tax of less than .80. Split between employers and employees, as a program should be, that would be an expense of about **40 cents each per hundred dollars earned**. This includes a **small business exemption of the employer-side tax for self-employed individuals and businesses of fewer than 10 employees**. This would ensure that the program is accessible for small businesses, who significantly benefit from these programs - which is why our Coalition includes small businesses who aspire to offer these benefits as part of a statewide program.

We would lift up the principles of the Maine Paid Leave Coalition to offer guidance on the specific elements of a policy. When it comes to the individual elements of a program, most of them don't have a significant impact on the overall costs – so I encourage you to think expansively about who is covered, and then keep your focus on how to shape the program, grappling with the questions of **where in state government is a natural host or fit**; how we can **ensure that our tax dollar investment supports meaningful public investment in Maine** rather than contracting out to a private entity; and how we can **commit to invest the resources that we know we have** right now into something that will dramatically improve the lives of almost every Mainer.

Thank you for your important work! We are grateful to you and this opportunity.



Destie Hohman Sprague, Executive Director, Maine Women's Lobby

⁷ Modeling completed from Maine Center for Economic Policy and Maine Paid Leave Commission, and based on the US Dept. Of Labor "Worker's Plus" software. This was discussed further at the December 7 meeting of the Commission.