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## **Testimony Regarding the Budget Oversight Hearing**

**Submitted to the record of the Committee of the Whole on  
June 25, 2021 by Sarah Brafman, Senior Policy Counsel and Cassandra Gomez, Staff  
Attorney, A Better Balance**

We are submitting this testimony on behalf of A Better Balance, a national nonprofit advocacy organization with a regional office in Washington, D.C. that uses the power of the law to advance justice for workers, so they can care for themselves and their loved ones without jeopardizing their economic security. Through legislative advocacy, direct legal services and strategic litigation, and public education, our expert legal team combats discrimination against pregnant workers and caregivers and advances supportive policies like paid sick time, paid family and medical leave, fair scheduling, and accessible, quality childcare and eldercare. When we value the work of providing care, which has been long marginalized due to sexism and racism, our communities and our nation are healthier and stronger. To that end, we have been leaders in the fight for workplace leave laws around the country for over a decade.

A Better Balance has been proud to work with other advocates in the District to enact and implement the paid family and medical leave program. **We urge the Council to reject Mayor Bowser’s proposals to reduce employer contributions to the Universal Paid Leave Implementation Fund. Instead, we strongly suggest that the Council use the Universal Paid Leave Fund surplus to temporarily expand the maximum duration of paid family and medical leaves and close several gaps that exclude workers from using this critical program, as detailed below.**

### **I. The Paid Family and Medical Leave Program Is No Less Important Today Than It Was When the Council Initially Enacted It.**

When the Council passed the Paid Leave Act in 2017, it recognized the importance of paid family and medical leave and recognized the positive impact it would have for workers and families in the District. In the four years since this critical law was enacted, employers began contributing to the Universal Paid Leave Fund in July 2019, and workers began using the program beginning less than one year ago in July 2020. While much has changed since the law’s original enactment, the need for paid family and medical leave in Washington, D.C. has not.

Nationwide, about 3 in 5 private sector workers lack access to short-term disability insurance through their employers, leaving them vulnerable when they need time off from work to address



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their serious health needs.<sup>1</sup> And in the U.S., only 20% of private sector workers receive paid family leave through their employers to bond with a new child or care for a seriously ill or injured family member; among low-income workers, the number is even lower.<sup>2</sup> This lack of access has forced far too many workers to sacrifice their savings, or lose their job altogether, when they need time to care for themselves or their families. In particular, paid family and medical leave has been critical for workers as we continue to grapple with the COVID-19 pandemic, and it will be needed to address the lasting health impacts of this crisis.

A robust and growing body of research demonstrates the substantial health benefits of paid family and medical leave for working families. Paid medical leave—which provides workers extended time off to deal with their own serious health needs—allows workers to get the treatment they need, when they need it. And family care leave has significant health benefits for both caregivers and care recipients. Washington, D.C.’s paid family and medical leave program provides crucial rights for workers, and will help the District along the road to recovering from COVID-19.

## **II. The Council Should Reject Mayor Bowser’s Proposed Reallocation and Budget Cuts To the Universal Paid Leave Fund, and Use the Fund’s Current Surplus To Aid Workers Through *This* Program.**

Given the significance of Washington, D.C.’s paid family and medical leave program, the Council should ensure that the law—that the Council successfully enacted and the District implemented—is preserved, and we would encourage you to expand the program so that the funds available in the Universal Paid Leave Fund can be fully utilized for their designated purpose. Mayor Bowser’s proposed budget would debilitate the paid family and medical leave program two-fold. First, it would seriously decrease the employer contribution rate, decreasing the fund’s revenue by a staggering \$168.2 million. Second, it treats the Paid Family and Medical Leave fund as a slush fund, using the surplus to pay for a number of other things, many of which have nothing to do with paid family leave.

Under the Mayor’s proposal, employers would receive what is, in effect, a tax cut at the expense of workers and their families via “a one-time reduction” in contributions to the Universal Paid Leave Fund from the statutorily required 0.62% to the proposed budget’s diminished 0.27% in

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<sup>1</sup> U.S. Bureau of Labor Statistics, *Employee Benefits Survey: Mar. 2020*, Table 16 (2020), <https://www.bls.gov/ncs/ebs/benefits/2020/employee-benefits-in-the-united-states-march-2020.pdf>.

<sup>2</sup> *National Compensation Survey: Employee Benefits in the United States, Mar. 2020*, U.S. Bureau of Labor Statistics, Table 31 (2020), <https://www.bls.gov/ncs/ebs/benefits/2020/employee-benefits-in-the-united-states-march-2020.pdf>.



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fiscal year 2022. This cut would be in direct violation of statutory requirements,<sup>3</sup> which provide for employer contributions of 0.62% of employee wages, and would cost the program \$168.2 million. The Council must not allow this detrimental proposal to pass—as the program is still in its infancy and we continue to grapple with the COVID-19 pandemic; this change could have very negative ramifications on the District.

According to reports from the Mayor’s office, the Universal Paid Leave Fund currently has a \$400 million surplus. Rather than diverting any surplus funds from the Universal Paid Leave Fund, we strongly advise that they be used to provide paid family and medical leave benefits to workers, as required by the statute.<sup>4</sup> In particular, we recommend expanding the program as follows:

- **Increase the length of paid family and medical leave duration.** Under the current paid family and medical leave program, the maximum length of time for which workers can take leave is 2 weeks for medical leave, 6 weeks to care for a seriously ill family member, and 8 weeks to bond with a new child. We recommend that for a 1-year period, the Council increase the maximum duration for all leaves to 8 weeks to match the maximum amount of time granted to new parents. Not only would this be a great help to workers who need time off to care for themselves and their family members, this temporary change would also bring the District’s paid leave program closer to the standard maximum leave durations allowed in similar programs around the country—currently, of the 10 jurisdictions with paid family and medical leave laws on the books, Washington, D.C. provides the fewest number of weeks for medical leave, and falls second to Rhode Island for the fewest number of weeks for family leave to care for a seriously ill family member.<sup>5</sup>
- **Ensure that paid family and medical leave is job protected.** As it stands, workers that take paid family and medical leave pursuant to the District’s law are not entitled to their jobs upon return from leave. Without a legal right to get their job back, many workers may be unwilling to put their livelihoods in jeopardy by taking the leave they need because the risk to their long-term economic security is too great. To ensure that no worker feels afraid to use their leave rights for fear of losing their job, we strongly recommend amending the program to include job protection. This will increase workers access to the program, and put Washington, D.C.’s law in line with the new standard for

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<sup>3</sup> “A covered employer shall contribute an amount equal to 0.62% of the wages of each of its covered employees to the Universal Paid Leave Fund in a manner prescribed by the Mayor.” D.C. Code § 32-541.03(a).

<sup>4</sup> See D.C. Code § 32-551.01(b).

<sup>5</sup> A Better Balance, *Comparative Chart of Paid Family and Medical Leave Laws in the United States* (May 17, 2021), <https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/>.

all recently enacted paid family and medical leave laws, including Massachusetts and Connecticut.<sup>6</sup>

- **Allow newly unemployed workers to access benefits.** Presently, workers who have recently lost their job are not eligible for paid family and medical leave benefits. Thus, the many individuals who became unemployed during the COVID-19 pandemic are unable to access the paid family and medical leave benefits that their former employers have already paid for on their behalf. This is an unnecessary barrier to the program that unfairly denies deserving Washingtonians needed relief—workers should not have to be currently employed to receive paid family and medical leave benefits.
- **Increase the base period for benefit determination.** Similar to the previous point, many workers have experienced decreased incomes due to job loss or hour reduction in response to the pandemic. Such workers may therefore receive a smaller benefit amount while receiving paid family and medical leave benefits, which are currently calculated using the worker’s average weekly wage “during the 4 out of the 5 quarters immediately preceding the qualifying event during which the eligible individual’s wages were highest.”<sup>7</sup> To protect workers who have lost income—or who have had no income—during the pandemic from losing access to paid family and medical leave, we recommend that the look back period on which benefits are based be extended.
- **Reduce the unpaid waiting period.** Currently, workers who qualify for paid leave pursuant to the law must endure a one-week unpaid period prior to receiving the benefits for which they are eligible. This wait period weighs heavily on low-wage workers, and workers who live paycheck to paycheck. To relieve workers of this unnecessary burden, we strongly recommend reducing the unpaid waiting period. Three states, Connecticut, Oregon, and Colorado, are leading the way by ensuring that there is no unpaid waiting period for their respective paid family and medical leave programs.<sup>8</sup>

The paid family and medical leave law that the Council enacted creates a floor, not a ceiling—given the amount of funds identified by Mayor Bowser that workers have been unable to access, it is clear that the program needs to be expanded so that more workers are able to utilize it. Mayor Bowser’s proposed cuts would hurt workers and the District, and we implore you to protect this vital program. Thank you for your consideration and the opportunity to submit this written testimony.

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<sup>6</sup> *Id.*

<sup>7</sup> D.C. Code § 32-541.01(1).

<sup>8</sup> A Better Balance, *supra* note 5.