



*Congressional Testimony of
Debra Ness
President of the National Partnership for Women & Families
Before the Subcommittee on Workforce Protections
Regarding the “Support for Injured Servicemembers Act”*

Good afternoon Chairwoman Woolsey, members of the subcommittee, and my distinguished fellow panel members. Thank you for inviting us to talk about a law that is vital to America’s working families – the federal Family and Medical Leave Act – and how we can make sure that it is available to support our military families when they need it most.

I am Debra Ness, President of the National Partnership for Women & Families, a non-profit, nonpartisan advocacy organization with more than 35 years of experience promoting fairness in the workplace, access to quality health care, and policies that help women and men meet the competing demands of work and family.

One of the accomplishments we are most proud of is our work on the Family and Medical Leave Act. We wrote the initial draft of the bill; built a broad-based, strong coalition of more than 250 national and local organizations to support it; and pushed for nine years until it was enacted. We were fortunate to have Senator Dodd as our champion in the Senate, and to have many champions in the House of Representatives as well. And of course it was President Clinton who finally signed the FMLA into law after it was vetoed twice by the first President Bush.

We are still the stewards of the FMLA, working to make its protections available to all workers who need it. The FMLA is the only federal law that helps our nation’s workers meet the dual demands of work and family. It provides unpaid, job-protected leave for up to 12 weeks a year to care for a newborn, newly adopted or foster child, to care for a seriously ill family member, or to recover from an employee’s own serious illness. It also protects the health insurance of those on leave.

Since it was enacted in 1993, the FMLA has given more than 60 million workers the opportunity to care for themselves and their family members in times of need — without putting their jobs on the line.

The FMLA is one of the most popular laws in the country. More than 80 percent of employees surveyed by the Department of Labor say that all workers should be able to take up to 12 weeks of leave a year for family and medical reasons – a finding duplicated in poll after poll. It has high support across all demographic, political, and regional groups.

The FMLA has also been accepted and welcomed by employers. Data from the most recent national research on the FMLA, conducted by the Department of Labor, show that the vast majority of U.S. employers report that complying with the FMLA has a positive/neutral effect on

productivity (83 percent), profitability (90 percent), growth (90 percent), and employee morale (90 percent). The Act benefits employers in numerous ways, most notably the savings derived from retaining trained employees, from keeping productive workers on the job, and from a positive work environment.

The Department of Labor recently published a summary of comments submitted by employees and employers that are a testament to the important role the FMLA plays in our nation's efforts to maintain a healthy, productive workforce. Many of the comments are available on the Department's website, and I want to share just a few of them with you today:

Comments from workers:

- “Without [the FMLA], I couldn't have cared for both of my parents at different times in their lives and kept my job.... Because of the act I was able to keep my parents out of nursing homes and still keep my job to support them later. This is the best thing you can do for working families around our country.”
- “FMLA not only allows me to take time off for ...therapy/medical appointments but also allows [me] to take time off as needed when I have sporadic episodes in which the medicine does not work, needs to be fine tuned, or changed which is essential to my well-being.... FMLA saved my job and I also believe saved my life, and to this day gives me a sense of security against any discipline or termination based on my legitimate medical needs.”
- “I used FMLA three times in the last 9 years (with and without pay); each time I was very grateful to know that my job status was protected when I was out on leave. All three times I returned to work and rededicated myself to my job. FMLA helped me, my family, and my loyalty and productivity in the workplace.”

And from employers:

- “If I have an employee with a child or family member with a serious illness, and this employee is unable to be with that family member when needed, they are distracted at work and their productivity suffers. In contrast, if they are allowed time to care for that family member, their productivity increases. They know what they have to accomplish and – sometimes by working at home, or working extra hours, or skipping lunch, or working exceptionally hard – they get it done. And in the end I have an extremely loyal employee.”
- [Administering FMLA leave is] no more difficult to navigate than any other labor oriented legislation. In fact I find it very straight forward and it has been a literal lifesaver for some of our people.... In the long run, most people will appreciate the extra protection offered by the employer during a difficult time and will return as more motivated employees once the crisis has passed.”

The FMLA has been a tremendous benefit to working families – but it has limitations and does not cover all of our nation’s workforce. For example, the FMLA covers only 60 percent of the workforce because it covers only employers with 50 or more employees. The decision in 1993 to leave *unprotected* those working for employers with fewer than 50 employees was due in large part to claims made by some stakeholders that the law would harm employers and the economy. We now have nearly 15 years of experience with the law, and these concerns have been proven false.

Further, the FMLA provides only *unpaid* leave. This means that for the vast majority of low-wage workers who have no paid leave benefits, the FMLA remains an empty promise. Seventy-eight percent of those who need but do not take family and medical leave do not take it because they can not afford to, according to the Department of Labor. And 300,000 personal bankruptcies a year are caused by lack of paid medical leave, according to research by Harvard Professor Elizabeth Warren.

We are grateful to the Congressional leaders who have introduced bills to expand the FMLA, so more workers can benefit from its essential protections. We applaud Chairwoman Woolsey for introducing The Balancing Act, a comprehensive measure that would expand the FMLA, facilitate the creation of state paid family and medical leave programs, and provide other badly needed supports to working families. And we thank Senators Dodd and Stevens for introducing legislation that would create a national paid family and medical leave insurance program.

With our nation at war, and so many of our servicemembers coming home and needing care while they recover from very serious injuries, we need to ensure that the protections of the FMLA are adequate to serve the needs of our military families.

The President’s Commission on Care for America’s Returning Wounded Warriors issued its report this past summer, and one of its six broad recommendations was that Congress should change the Family and Medical Leave Act to allow up to six months leave for spouses and parents of seriously injured soldiers.

We could not agree more. According to the Commission, more than 3,000 servicemembers have been seriously injured during operations in Iraq and Afghanistan. Many return from these conflicts with serious injuries, including traumatic brain injuries and amputations, both of which require extensive medical care and rehabilitation. And recovering in the care of a loved one is the best option for a significant number of these wounded veterans.

Some already have that support. Thirty-three percent of active duty, 22 percent of reserve component, and 37 percent of retired or separated servicemembers reported that a family member or close friend relocated for extended periods of time to be with them while they were recovering in the hospital. Additionally, 21 percent of active duty, 15 percent of reserve component and 24 percent of retired or separated servicemembers reported that family members or friends gave up a job to be with them or to act as their caregivers.

They shouldn’t have to. We are grateful that leaders in both houses of Congress are moving quickly to implement this Commission recommendation. Last month, the Senate unanimously

enacted *The Support for Injured Servicemembers Act*, which amends the FMLA to provide up to six months of job-protected leave for a family member (spouse, son, daughter, parent, or next of kin) who is otherwise eligible for the FMLA and who is providing care for a servicemember recovering from a combat-related injury or illness.

This is the first time that an FMLA expansion has been adopted by either house of Congress since the law was enacted in 1993. The measure was enacted as an amendment to the legislation reauthorizing the Children's Health Insurance Program, and was sponsored by Senators Dodd and Clinton, and co-sponsored by Senators Dole, Graham, Mikulski, Chambliss, Brown, Cardin, Menendez, Salazar, Kennedy, Reed, Boxer, Murray, Lieberman and Roberts. Earlier this month Chairwoman Woolsey introduced the companion measure in the House, which has five co-sponsors (Representatives Miller, Filner, Berkley, McCarthy, and Skelton), and which is the subject of this hearing today.

We heartily endorse this legislation and urge you to enact it quickly, so that military families can immediately begin taking advantage of the extended leave that it provides. It is a modest and critically important step forward in improving health care for our veterans and providing better support for our military families.

The President's Commission report could not have been more clear - today's veterans and their families need access to extended FMLA leave. We ask our military families to make great sacrifices. Now we have an opportunity to show them how much we appreciate all that they have done by giving them time off from work to provide care for their loved ones through *The Support for Injured Servicemembers Act*.

Thank you for the opportunity to speak here today. I am happy to answer any questions you might have.