

Testimony of Michelle D. Bernard
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Chairman Woolsey, Ranking Member Price, and other distinguished Members, I sincerely thank you for giving me the opportunity to testify before you today on this important topic.

My name is Michelle D. Bernard and I am the president of the Independent Women's Forum. We are a nonprofit group that is dedicated to educating the public about the issues of greatest concern to women, and believe that free markets and economic liberty are fundamental to women's prosperity and well being. IWF believes that encouraging a dynamic, diverse job market is one of the most important policy issues facing American women today.

Yet my testimony today will not just reflect the perspective and analysis of the Independent Women's Forum. It is also based on my personal experience. I am the mother of two young children. I have taken time out of the workforce after a child's birth. I have sought at home, part-time employment and flexible work schedules in order to balance my desire to spend hands-on time with my children and still pursue my career.

I am also an employer. IWF is a small organization, with a total of 11 full-time staff members. Currently, everyone who works for me happens to be a woman. Six of my eleven employees have children. I have two employees on maternity leave and another a few weeks away from giving birth. I know from an employer's perspective both the benefits and challenges of working with employees to create arrangements that work for the good of the organization as well as for the personal needs of the employee.

Like most employers, I recognize the benefits of finding mutually beneficial work arrangements. While many focus on what employers aren't doing for their workers, it's also important to recognize that most businesses, large and small, already provide their employees with more benefits and flexibility than is required by federal law.

For example a study conducted by the Families and Work Institute¹ found that:

- 70 percent of employers allowed at least some employees to periodically change start and quitting times;
- 31 percent allowed at least some employees to change starting and quitting times daily;
- More than half (55 percent) allowed at least some employees to move from full-time to part-time work, then back in the same position;
- 44 percent allowed at least some employees to share jobs;

- 44 percent also allowed employees to compress their work week;
- More than one third (35 percent) allowed at least some employees to work at home or off-site on a regular basis;
- 85 percent employers allowed at least some employees to return to work gradually after childbirth;
- 86 percent of employers provided women with 12 weeks or more of job-guaranteed leave after the birth of a child; and,
- More than half (54%) reported that their female employees received some pay from any source during the period following giving birth.

The U.S. Department of Labor reports that, as of 2006, 82 percent of American workers in the private sector had access to some sort of paid leave, whether paid sick leave, vacation, or personal leave. Not surprisingly, full-time workers were much more likely to have access specifically to paid sick leave than part-time workers (nearly 70 percent of full-time workers had paid sick leave, compared with 20 percent of part-time workers).² As of 2000, 4 million Americans were telecommuting on most days and 20 million were telecommuting at least one a month.³ The Department of Labor also found that, as of 2004, 27 percent of full-time and salaried workers worked in arrangements that allowed them to vary their work start and end times.⁴

These statistics are encouraging, but we all know that they still mean that there are millions of workers without paid leave, or certainly sufficient paid leave, and many who crave more flexibility. I know that there are heartbreaking anecdotes of people who face illnesses, either personally or among their families, and who then must struggle to meet the demands of their job. I know too many women have too little time, and too little support, after giving birth.

Those who propose new laws and regulations to require businesses to provide specific leave benefits or more flexible work arrangements do so because of their concerns for these individuals. I share that concern, but I am also concerned about the unintended consequences of government mandates for the employer-employee relationship. We cannot ignore that there are real costs associated with many of these provisions, such as requiring employers to provide a specific amount of leave time (paid or unpaid) or requiring the availability of more flexible work schedules. These provisions have real effects on a company or organizations' bottom line.

Consider the situation with leave benefits. Simply put, when employees take time out of the work force, businesses must replace those workers or shift their responsibilities to other employees, resulting in lost productivity. If employers are required to increase the amount of leave time we offer employees, our costs are going to go up. It will become more expensive to retain or hire workers. As a result, businesses will have an incentive to hire fewer workers or to outsource jobs. As of 2006, more than 30 percent of the average worker's total compensation was paid as benefits. If mandates drive costs up, that means there will be less money available to pay workers directly as compensation.

This isn't just economic theory, this is a fact. I can show you on my own balance sheet. As a non-profit organization, I don't have the option of passing new costs on to customers. We are funded through private donations. As a result, I have a set pool of money that can be used for compensation. If the costs of benefits go up, that means that there will be less for raises and for workers. That means that in tough economic times like these I may be forced to scale back. I may face the grim prospect of actually having to let someone go or reducing peoples' take-home pay. These are the difficult calculations being made at organizations and companies throughout the country, large and small. On a macro level, raising the cost of employment means a loss of job opportunities in the United States, particularly for employees whose job responsibilities can be fulfilled from alternative locations.

Indeed, low-income workers who tend to have the lowest skills are the most likely to be affected adversely by costly new mandates. Employers seeking to remain competitive and reduce their employment costs will seek ways to combine jobs. Low skill jobs are typically the easiest to combine. Those with the highest level of skills will be retained by employers, but those who most need those important skill-building, entry-level jobs will likely be left with fewer options and opportunities.

Sometimes the costs of proposals aren't obvious. Providing for more flexible schedules, for example, or work-at-home arrangements sound like a win-win for employers and employees. And I firmly believe that it certainly can be. But such arrangements can work well in particular situations, but wouldn't work so well for others. One of my employees, whose primary job is researching and writing, works almost entirely from home. This works for us: she has flexibility, but can easily be held accountable for her performance based on her output. Yet there are other positions where being physically in the office is a necessity.

Right now, I have the flexibility as an employer to negotiate flexible arrangements. Employees know that it is a responsibility. Once such flexibility becomes a right, I will have a lot less control of managing my employees' performance. It will become more difficult for me to reward positive performance and take action against those who aren't working as they should. It would open employers like me up to a new raft of lawsuits and administrative tasks, all of which are a real burden on business.

I've focused thus far on the economic impact of government mandates, but I also want to highlight that at its core mandates are a loss of freedom for individuals. A law requiring employers to offer seven days of paid sick leave, for example, means that it has become illegal for two adults to create an employment contract without that provision. Why is this government's job? Isn't this a decision best left to individuals?

It is important to remember that, while some employees may want generous benefit packages, others may prefer more money in their wallets. Conversations about mandated benefits tend to focus on those who make the most use of those benefits, particularly women with children. Yet we can't forget that there are many workers without significant family obligations. They are much less likely to make use of these benefits and are more likely to have to pick up the slack when other workers

do make use of them. Why should they not be able to negotiate a reduced benefit package that allows them to have more money in their pockets?

I'm a big believer in family-friendly workplaces. But government mandates are the wrong way to get us there. The best way is to encourage a thriving economy that offers workers numerous job opportunities so that we can negotiate arrangements that make sense for our unique situations. Government can help women by encouraging more job creation and making it easier for women to start businesses of their own. Start by simplifying our tax code, which is a drag on everyone's time, but particularly on those who run small businesses. Lower taxes, particularly taxes directly related to job creation. Reduce regulations that drive up costs and make doing business more complicated and expensive. End the counterproductive taxes that discourage savings so that people are better able to provide for themselves in times of need.

Remember that for every story you hear about someone who would benefit from a law mandating employer-provided benefits, there's another story about someone looking for a job whose prospects of finding work are reduced because of the high cost of employment. Particularly in economic times like these, new government mandates that raise the cost of employment are the wrong direction. Policymakers need to focus on job creation, not dictating the content of employment contracts. A thriving job market is the real key to providing women with the work opportunities that we crave.

Thank you again for your time and I look forward to your questions.

Endnotes

¹ Ellen Galinsky, "National Study of Employers 1998-2005," Families and Work Institute, February 16, 2006.

² U.S. Department of Labor Fact Sheet on "Leave Coverage and Usage for U.S. Workers," February 27, 2007, 2.

³ U.S. Census Bureau, "Census 2000 PHC-T-35. Working at Home: 2000," Table 1-4, available at <http://www.census.gov/population/cen2000/phc-t35/tab01-4.xls>.

⁴ Bureau of Labor Statistics Press Release, "Workers on Flexible and Shift Schedules in 2004 Summary," July 1, 2005.