

Testimony of The Honorable Sydney Batch
Before the U.S. House of Representatives Education and Labor Committee,
Workforce Protections Subcommittee
Balancing Work, Health, and Family:
The Case for Expanding the Family and Medical Leave Act
February 11, 2020

Good morning, Chairwoman Adams, Ranking Member Byrne, and members of the Subcommittee. My name is Sydney Batch and I'm a state representative in the North Carolina House representing District 37, located in Southern Wake County. I am an attorney, one of three co-owners of a small law firm, a recent survivor of breast cancer, and the mother of fantastic sons ages six and nine. I am also a proud member of MomsRising.

I am here today because I have needed family and medical leave during the happiest and hardest times in my life. I know from personal experience how important family and medical leave is to my employees and constituents, to small businesses like mine, and to my community and state. And I know how badly our country needs a comprehensive family and medical leave plan that ensures all employees have the right to take leave and return to their same or a similar job (job protection); and provides wage replacement during leave.

We don't have that today. For 27 years, the Family and Medical Leave Act (FMLA) has helped working people in this country take unpaid leave when they've needed it most. But that law has limitations: notably, it exempts small businesses, employees who have been at their jobs for less than a year, and part-time workers; and it uses a definition of family that is too narrow. I encourage you to expand the FMLA to address those problems, even as we work to enact the comprehensive national paid leave insurance program our country desperately needs.

I'd like to share my personal experience with family and medical leave, because it addresses all of these issues. Because the law firm my husband, business partner and I run has eight employees, we're not covered by the FMLA. I had the flexibility to take three months of leave when each of my sons was born because I am an owner of the firm, but few people have that flexibility. My husband, who does, still had to return to work days after my son's birth because we couldn't afford to both take unpaid leave.

And while my unpaid leave created financial stress for my family, I didn't have the stress of worrying about whether my job would be there when I was ready to return, because of my position as an owner of the firm. My employees and other hard-working Americans should have the same kind of job protection.

What is the purpose of being able to take paid family leave if your job is not protected upon your return to work or, in the alternative, what is the purpose of having job protection if you are unable to take medical leave because you can't pay your bills without wage replacement? That is why it is essential for the federal government to expand FMLA protections and enact a paid leave insurance plan.

Recently, I had breast cancer. It was discovered in August of 2018 and fortunately, it was at an early stage. I had a mastectomy on a Friday in September and my husband was back at work the following Monday. In 2019, I needed a second mastectomy and reconstructive surgery. So, all told, I had three surgeries and underwent radiation treatment over the course of just one year.

My mother took unpaid time off to care for me and helped me get to my medical appointments. In December 2019, I began five weeks of radiation treatment. While the radiation treatments did not last long, the long commute to and from the facility and the side effects were extremely taxing. My sisters, mother, grandmother and friends helped out when they could negotiate time away from their jobs, so that I could receive the medical care I needed. But the leave they took to help me was unpaid because the FMLA does not have an inclusive definition of “family” and does not cover siblings and care for adult children. The FMLA should be expanded to cover leave taken by relatives like my mom, sisters and grandmother, as well as domestic partners and people who aren’t blood relatives but are essential to care and recovery. They all deserve to access the unpaid leave the law provides.

Let me tell you about a few constituents who also suffered without the leave they needed:

- Jonathan, in Wilmington, had a sibling who was dying of cancer. He passed away just three months after being diagnosed with stage 4 bladder cancer. Because his dying relative was a sibling, the FMLA did not apply so Jonathan could only take quick weekend trips to see his sibling. It was 400 miles each way. Covering leave to care for siblings would have made a tremendous difference for Jonathan and his brother.
- Meryl, in Weaverville, had a mom who was 59 years old when she had a stroke. Meryl’s mom had been at her job for 35 years. Meryl’s father was laid off when he took earned time off to care for his wife, because his leave had no guaranteed job protection. After it happened, he was too proud to tell her and didn’t want to add to her stress. So he pretended to go to work each morning and instead went to the unemployment office. Eventually they had to sell their home because of the income they lost. Job protection and paid leave insurance that provided wage replacement would have made all the difference.

Sadly, their experiences are far from unique. All working people deserve to be able to get support from a range of family members when they are seriously ill. I support Rep. Carolyn Maloney’s FMLA Modernization Act (H.R. 5456), as does MomsRising.

All working people also deserve the wage replacement that a paid insurance leave plan can provide. And all working people, no matter the size of their employer, deserve to know that they won’t lose their jobs when they need time away from work to care for and bond with new babies, recover from illness, and care for aging parents or other relatives who are struggling with serious illness. I am no more deserving of that than my employees -- and that includes those who work part-time and those who have been with my firm for less than a year.

I want what is best for my employees because I care deeply about them and because I know that making it possible for them to hold onto their jobs while caring for their families or recovering from illness is good for them and good for our firm. In fact, a major California study noted that, although all employers report positive outcomes associated with paid leave, small businesses (those with fewer than 50 employees) report even more positive or neutral outcomes than large businesses (with 500 or more employees) in profitability, productivity, retention and employee morale.

I also know, from my own experience and the experiences of friends with small firms, that small businesses *can* afford to implement the leave provided by the FMLA. There is simply no reason to exclude people at firms with fewer than 50 employees from the protections the FMLA provides. When leave is required by law, it becomes part of a firm's standard operations, like other payroll benefits, and we are prepared when employees need leave. The FMLA structure already exists and firms of all sizes should benefit from it. That would prevent us from having to start from scratch to create and pay for a family and medical leave program when the need arises.

One of the greatest barriers that prevents working people from taking leave is the lack of wage replacement. I can emphatically say that small firms like mine would benefit from laws guaranteeing paid family and medical insurance leave as well. We pay 100 percent of our employees' health insurance and have a 401K retirement plan for them, as well. But paid family and medical leave is a benefit we simply can't provide right now. However, if a state or federal paid leave insurance program was in place and we paid into it with every payroll, it would provide a major boost to my company. In my view, the FAMILY (Family And Medical Insurance Leave) Act (H.R. 1185) is the strongest and most comprehensive national paid leave insurance program currently before Congress. If enacted it will meet the needs of working people, families and businesses, alike. Enacting the FAMILY Act will strengthen our public health and our economy. This legislation is a top priority for families and small businesses like mine, and I urge Congress to pass it as quickly as possible.

Another serious barrier that prevents working people from taking leave is the lack of job protection. Any paid family and medical leave insurance program must provide job protection or workers simply won't be able to take the paid leave it provides. That's why ensuring that all workers -- including those at small businesses, those who work part-time, and those who are recent hires -- have job protection through the FMLA is essential.

I am proud to support an executive order signed by North Carolina Gov. Roy Cooper, which offers paid parental leave to state employees. It's a start for our state, but it covers only state employees and not those in the private sector. We must do more. That's why I am co-sponsoring a bold, comprehensive paid family and medical leave insurance program in North Carolina that shares the costs of the program through an employer-employee cost share. The proposed legislation would cover all businesses, no matter their size, and people who are self-employed, like myself. It uses a more inclusive definition of family so that siblings, grandparents, domestic partners, and people whose close relationship is equivalent to family can utilize paid

leave insurance. It also provides job protection and addresses the needs of military families, many of whom live in my state.

All working people need and deserve this protection and employers of all sizes benefit from it too.

My views are grounded in my own personal experiences, but are shared by fellow small business owners and constituents I have spoken with.

Some opponents have argued that requiring small businesses to provide paid or even unpaid family and medical leave will harm their bottom lines. However, these sky-is-falling predictions have been disproven. Fortunately, we now have comprehensive paid family and medical leave insurance programs in place around the country that show us how beneficial these programs are. We need – always – to look at actual facts and see what real, on-the-ground experiences can teach us. On this, they are clear: comprehensive paid family and medical leave insurance works well, strengthening our economy, business bottom lines, families and communities. But every working person who takes family and medical leave needs job protections -- and the best way to guarantee that is to expand the FMLA to cover all working people.

I am thrilled to see Republican and Democratic leaders – from Washington state to New York state, from Utah to Tennessee – adopting paid leave insurance programs. I am a passionate supporter of comprehensive paid family and medical leave insurance. As a mom, a small business owner and a legislator, I will continue to fight for it in North Carolina.

But people move from state to state, and we need to guarantee paid leave for everyone, so Congress has an essential role. I hope you will quickly expand the Family and Medical Leave Act so more people can access the unpaid leave and job protection it provides; so it no longer exempts small businesses, employees who have been at their jobs for less than a year, and part-time workers; and so it uses a more inclusive definition of family. An expanded FMLA and the enactment of paid family and medical leave insurance legislation will finally bring the comprehensive medical and family leave coverage that every worker in America deserves.

Thank you.