



May 17, 2019

Councilmembers David Ryu and Nury Martinez
Los Angeles City Hall
200 N. Spring Street
Los Angeles, CA 90012

Dear Councilmembers Ryu and Martinez,

We, the undersigned, commend your leadership in introducing the Motion for Paid Parental Leave that would help more pregnant and parenting workers take the time they need to recuperate from giving birth and to bond with a new child. The Motion for Paid Parental Leave will allow new parents full pay when they take Paid Family Leave (PFL) to care for their child or use State Disability Insurance (SDI) to care for their own disability relating to childbirth by requiring employers to make up the difference between these existing state benefits and the employee's regular wages. This will make a huge difference for Los Angeles families, as lack of adequate wage replacement is one of the main reasons low-income parents and caregivers are prevented from accessing California's Paid Family Leave program.

The California Work & Family Coalition and its Los Angeles members and partners have been working on this issue since the first Paid Family Leave law passed in 2002. As you know, our leave laws are complex, and there are multiple barriers to new parents and caregivers taking leave when they need it most, including the wage replacement rate, discrimination, lack of job protection, and fear of retaliation. Low awareness of the program also contributes to low usage. We appreciate your willingness to take our suggestions and concerns seriously and are looking forward to working with you to make this Ordinance as inclusive and equitable as possible. Together, we hope to ensure all Los Angeles workers who pay for these essential benefits can access them. **Please see below for our suggestions, which draw from best practices in state and local law:**

Include Caregivers: Los Angeles County is home to 1/3 of California's 4.8 million family caregivers. Many people balance care for a loved one with a serious health condition and full-time work. Just like new parents, family caregivers can also receive a percentage of their wages from California's PFL program when they need to take leave. A recent study on California caregivers and Paid Family Leave showed that caregivers face the same barriers as new parents to taking leave – inadequate wage replacement, fear of retaliation or job loss, and low awareness of the program.¹ Increasing access to California's Paid Family Leave program for caregivers benefits all families, including new parents. Often, a co-parent or another family member will need to take time to care for the birth parent before or after a new child

¹ Human Impact Partners and California Work & Family Coalition. October 2018. Understanding Working and Caregiving: An Analysis of California's Paid Family Leave. Oakland, CA.



arrives in the home. Parents or other family members also often care for seriously ill older children or adults. Governor Gavin Newsom's recent proposed expansion of California's PFL program includes coverage of family caregivers. California's Paid Family Leave program is an important benefit for diverse families of all types and ages. Thus, it is important that the Ordinance covers all reasons for taking Paid Family Leave, including caregiving.

Include anti-discrimination and anti-retaliation language to protect the rights of historically marginalized groups of people, including Black, Latino/a/x, Asian, Indigenous, Tribal, Native American, low-income, and immigrant workers when taking caregiving leave, pregnancy disability leave, or bonding time. Black mothers face a higher rate of serious complications related to pregnancy and childbirth, in addition to discrimination, that can prove a barrier to accessing adequate leave for their own prenatal and postnatal care and for baby bonding. Data from the LA County Department of Public Health indicate that nearly 1 in 5 (19.5%) Black birth parents have experienced discrimination because of their pregnancy, compared to 13.3% of all pregnant parents of other races and ethnicities. Further, the rate of job loss during pregnancy among Black birth parents who wanted to continue working was double that of all pregnant parents who experienced the same (14.7% versus 7.2%, respectively).² Reports also show that low-income and new immigrant workers are less likely to take Paid Family Leave due to the lack of job protection and the threat of negative repercussions. Including anti-discrimination and anti-retaliation protections ensures that all eligible workers can access benefits under California's Paid Family Leave program without fear of retaliation, discrimination, unwarranted discipline, or firing by their employer.

Maintain and Protect Pregnancy Disability Leave: It is important to maintain current state-level distinctions between Pregnancy Disability Leave (PDL) and bonding leave. Birth parents are covered by PDL, which provides additional protections for workers while they are disabled by their pregnancy, childbirth, or related conditions. The distinction in the law between pregnancy disability leave and bonding leave is crucial to ensuring birth parents receive the time off they need to care for their own health. The Ordinance should align with state law in making this distinction so that birth parents' rights under state law are maintained. **See below for a more detailed explanation:**

- **Importance of disability leave:** Because all birth parents do experience a disability period, our law functions to allow them time off and wage replacement to care for their own health that is separate and distinct from the time off and wage replacement they are entitled to bond with their new child. Removing that distinction would result in less time off and wage replacement for birth parents.
- **Importance of "disability" frame in pregnancy leave:** In its current form, the LA Ordinance proposes removing the term "disability" from California's state laws regarding pregnancy leave. Removing the term "disability" from the Ordinance and California's state laws is unworkable and outside of existing legal frameworks. The term "disability" in the Pregnancy Disability Leave law plays an important role in the legal context. A birth parent is classified as disabled if they are unable to perform any one or more of the essential functions of the job due to their pregnancy.³ All people, at some point in their pregnancy, will be unable to do an essential function of their job

² Los Angeles County Department of Public Health, Maternal, Child & Adolescent Health Division (MCAH), Los Angeles Mommy and Baby Project, 2016 Surveillance Report.

³ Cal. Code Regs., tit. 2, § 11035 (2019).

and can be classified as disabled. This classification, as determined by their healthcare provider, gives them access to protective laws like Pregnancy Disability Leave,⁴ and the Americans with Disabilities Act⁵ that prohibit discrimination against people who are disabled, mandate job protection, and allow leave. There are vital legal protections rooted in the legal definition of disability. To remove the reference would put the jobs and incomes of thousands in peril.

- **Importance of not stigmatizing disability:** Removing the term “disabled” is misguided. We do not endorse the implication that there is something inherently wrong or offensive about the term “disability.” Pregnancy can be a disability, if the pregnant person can no longer do a function of their job due to the pregnancy and that reality is not to be countered, subverted, or vilified, because there is nothing wrong or problematic about living with disabilities. We work closely with the disability rights community and cannot support any efforts to stigmatize that word.

Include a plan for city-wide education and outreach in multiple languages: A 2015 market research report commissioned by the CA Employment Development Department⁶ showed that awareness of Paid Family Leave was low in LA County, and especially among low-income, Latino/a/x, and new immigrant workers. This new effort to expand Paid Family Leave should include a plan for city-wide outreach and education that engages organizers, advocates, and local leaders in health.

Include a path for city workers to receive Paid Family Leave benefits. Right now, the majority of public employees do not pay into California’s Paid Family Leave program and, therefore, miss out on the important wage replacement for bonding and caregiving. This Ordinance would only cover employees who are eligible for California’s Paid Family Leave program. Thus, most city workers would be excluded. There is a growing movement among public employees to opt-in to California’s Paid Family Leave program or establish a public employee fund. We would like to work with your office to strategize a way to extend these benefits or similar benefits to city workers as well.

Thank you for your leadership in working to make sure Paid Family Leave benefits extend to more Los Angeles workers and families. We look forward to collaborating with you in making Los Angeles a model for securing and implementing this crucial benefit to all the families who need it.

Signed,

9to5 California
ACLU of Southern California
Association of California Caregiver Resource Centers
Black Women for Wellness
BreastfeedLA
California Black Women’s Health Network
California Latinas for Reproductive Justice
California Women’s Law Center
California Work & Family Coalition

⁴ Cal. Code Regs., tit. 2, § 11042 (2019).

⁵ Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990).

⁶ Andrew Chang & Co LLC. (2015). Paid Family Leave Market Research. Sacramento.

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Maternal Mental Health NOW
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